

# TEXAS REGISTER

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a section of the Office of the Secretary of State P.O. Box 13824 Austin, TX 78711-3824 (512) 463-5561 FAX (512) 463-5569

Secretary of State Antonio O. Garza, Jr.

Director Dan Procter

Assistant Director Dee Wright

Circulation/Marketing Tamara Joiner Jill S. Ledbetter

TAC Editor Dana Blanton

TAC Typographer Madeline Christer

Documents Section Supervisor Patty Webster

Document Editors Roberta Knight

Open Meetings/Editor Jamie Alworth

Production Section Supervisor Ann Franklin

Production Editors/Typographers Carla Carter Roy Felps Mimi Sanchez

Receptionist Dancane Jaszombek

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How to Use the Texas Register

Information Available: The 11 sections of the Texas Register represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date: 19 TexReg 3."

How to Research. The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, section numbers, or TRI number

Texas Administrative Code

The Texas Administrative Code (TAC) is the official compilation of all final state agency rules published in the Texas Register. Following its effective date, a rule is entered into the Texas Administrative Code. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC. West Publishing Company, the official publisher of the TAC, publishes on an annual basis.

The TAC volumes are arranged into titles (using Arabic numerals) and Parts (using Roman numerals).

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

The Titles of the TAC, and their respective Title numbers are:

- 1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the Texas Administrative Code; TAC stands for the Texas Administrative Code; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the Texas Administrative Code, please look at the Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the Texas Register contains a cumulative Table of TAC Titles Affected for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more Texas Register page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

Update by FAX: An up-to-date Table of TAC Titles Affected is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to Texas Register subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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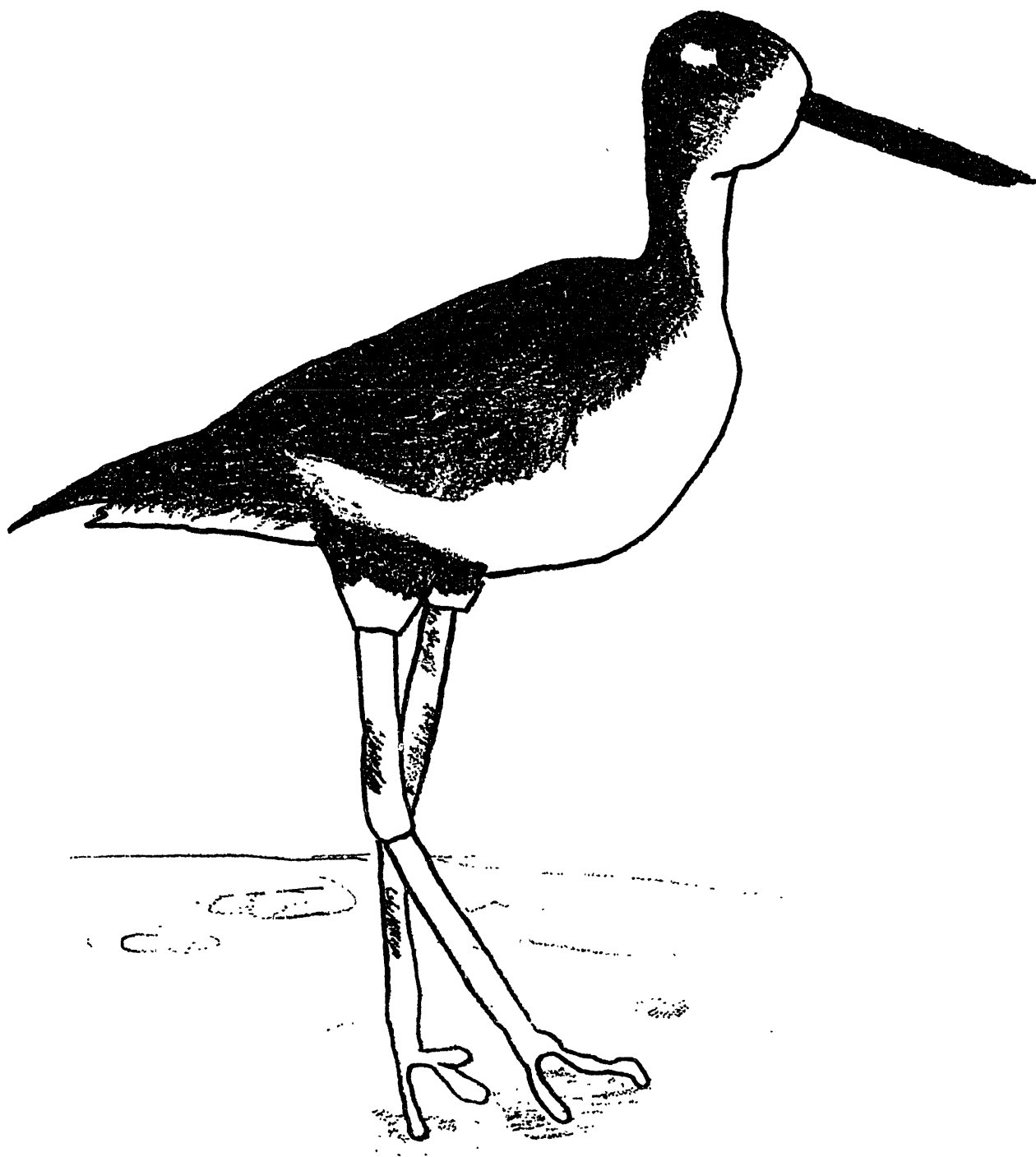
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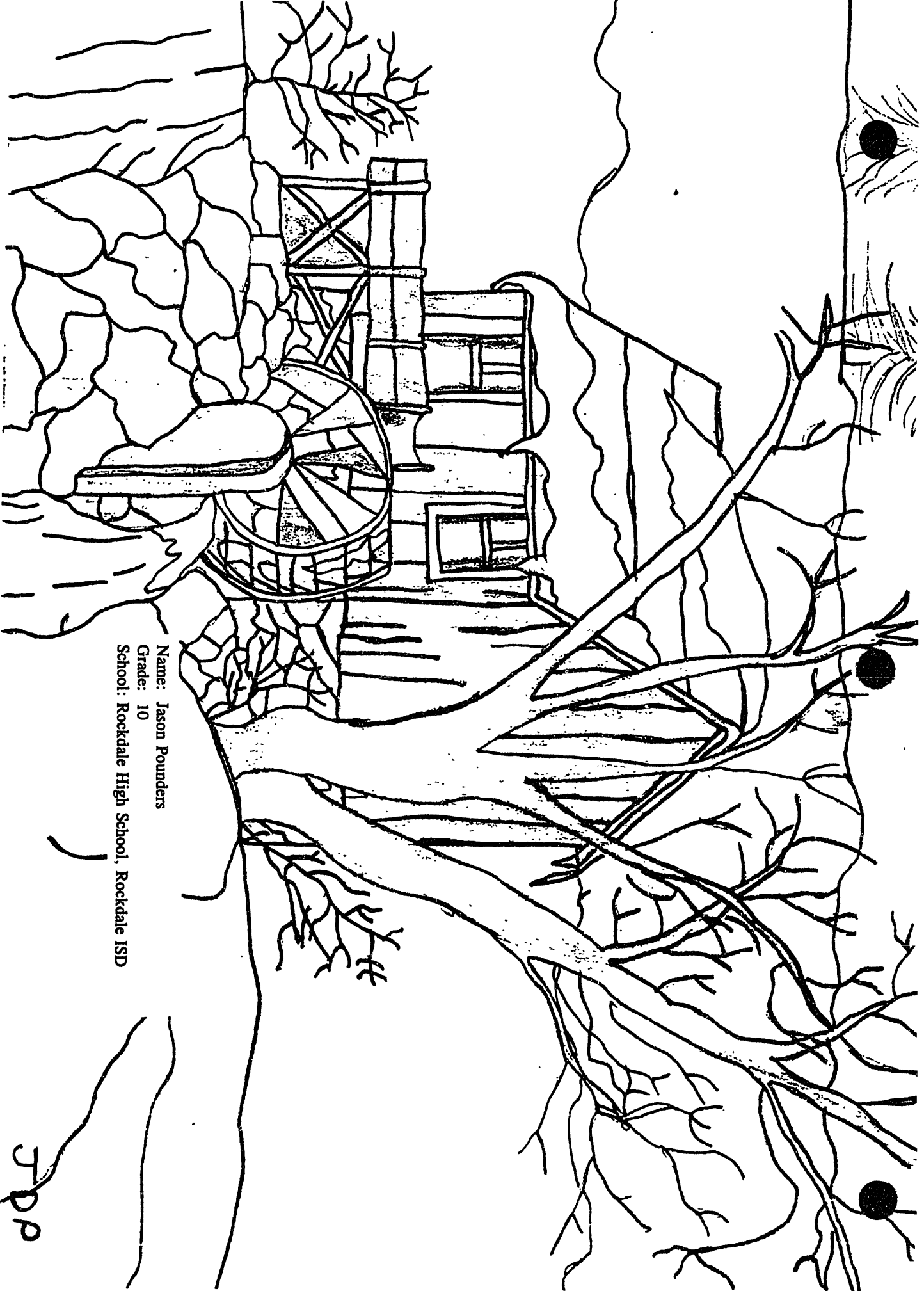
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Name: Justin Kirkman  
Grade: 8  
School: Mt. Vernon Junior High, Mt. Vernon ISD



2009



Name: Jason Pounders  
Grade: 10  
School: Rockdale High School, Rockdale ISD

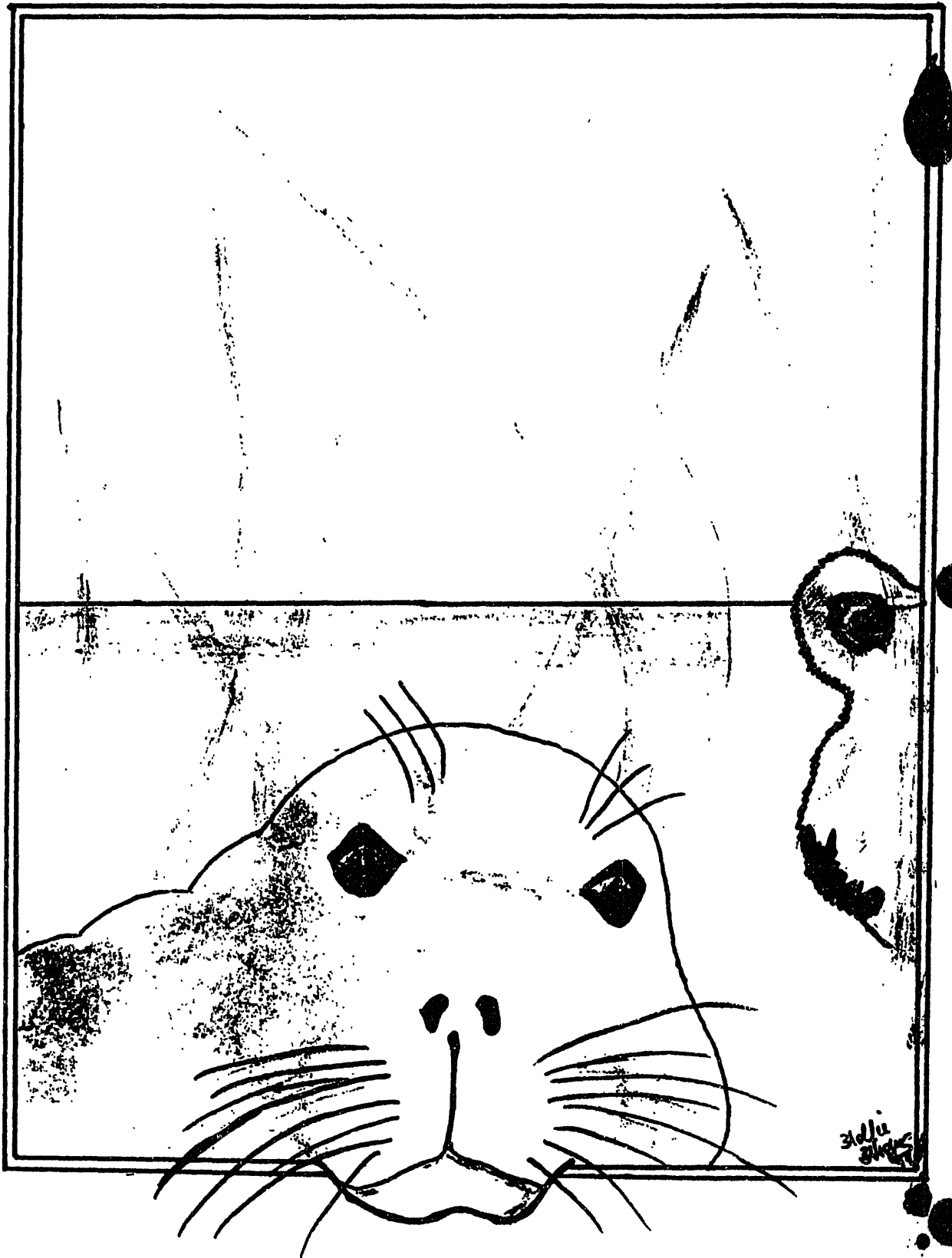
JPP

Name: Cassie Ellison  
Grade: 5  
School: Rockdale Elementary School, Rockdale ISD



Cassie Ellison 94  
Rockdale, TX. 76567  
Grade: 5th Age: 10

Name: Hollie Wiggins  
Grade: 9  
School: Neches High School, Neches ISD

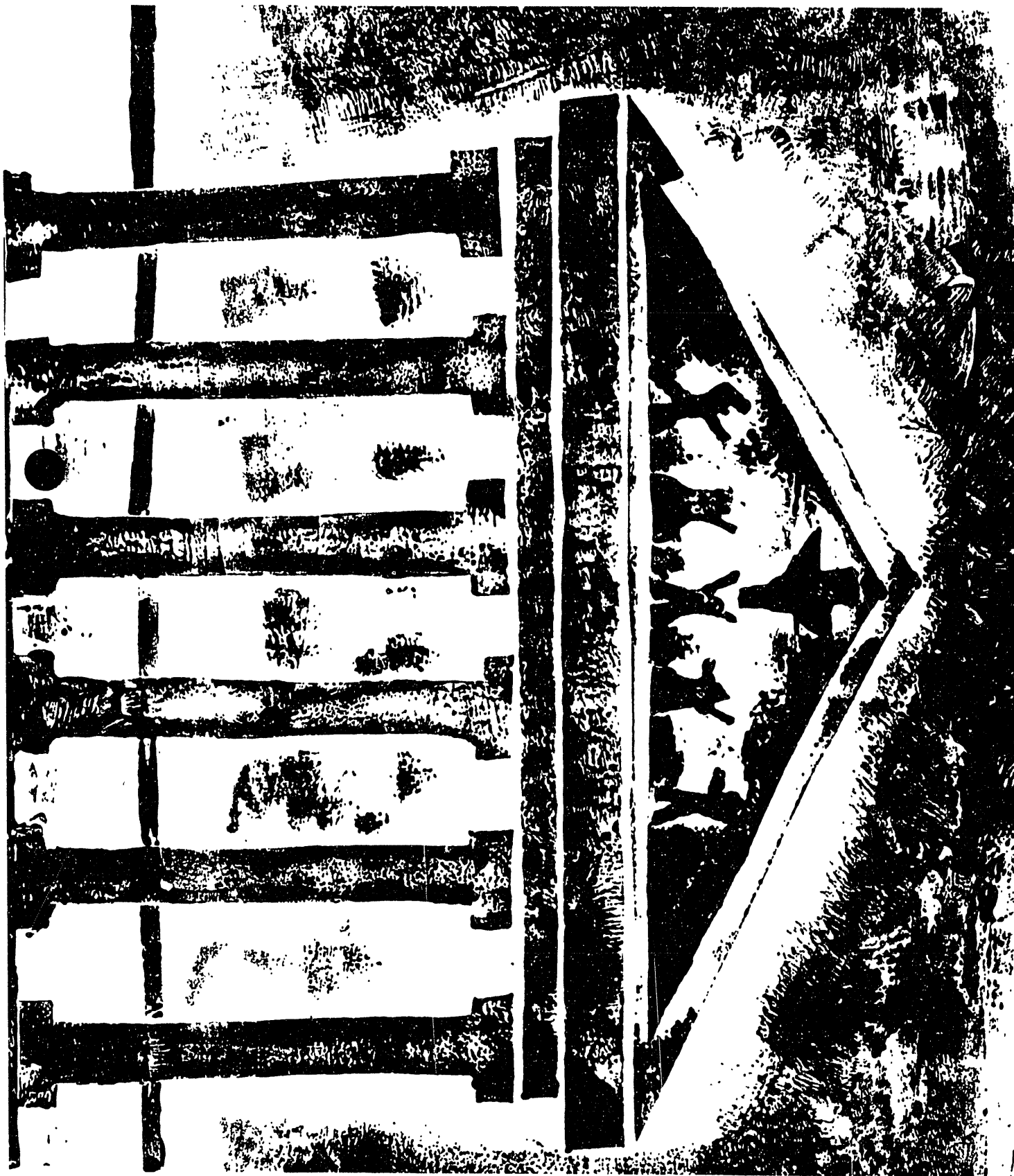




Name: Lindsey Klump

Grade: 6

School: Coppell Middle School West, Coppell ISD



Name: Gabrielle Rogers

Grade: 6

School: Coppell Middle School West, Coppell ISD



# THE GOVERNOR

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

## Appointments Made March 3, 1995

To be **Judge of the 215th Judicial District Court, Harris County**, until the next General Election and until his successor shall be duly elected and qualified: Dwight E. Jefferson, 3742 Maroneal, Houston, Texas 77025. Mr. Jefferson will be replacing Judge Eugene Chambers of Houston who was elected to another judgeship.

To be **Justice of the Court of Appeals, Fifth Court of Appeals District**, until the next General Election and until her successor shall be duly elected and qualified: The Honorable Carolyn Wright, 4837 Cedar Springs, Unit #127, Dallas, Texas 75219. Judge Wright will be replacing Linda Thomas who was elected to the position of Chief Justice.

To be **Justice of the Court of Appeals, Second Court of Appeals District**, until the next General Election and until his successor shall be duly elected and qualified: The Honorable William H. Brigham, 608 Plainview, Hurst, Texas 76054. Judge

Brigham will be replacing Justice Tod Weaver of Fort Worth who resigned.

To be **Commissioner of Health and Human Services** for a term to expire February 1, 1997: Michael D. McKinney, M.D., 3115 Long Bay, Houston, Texas 77059. Dr. McKinney will be replacing DeAnn Friedholm of Austin whose term expired.

## Appointments Made March 15, 1995

To be **Chairman of the Texas Board of Pardons and Paroles** for a term at the pleasure of the Governor. Mr. Keene will be replacing Jack D. Kyle of Huntsville as chairman.

## Appointments Made March 16, 1995

To be **Judge of Criminal District Court Number Two of Tarrant County** until the next General Election and until his successor shall be duly elected and qualified: Wayne F. Salvant, 5810 Arbor Valley Drive, Arlington, Texas 76016. Mr. Salvant will be replacing Judge Lee Ann Dauphinot

of Tarrant County who was elected to the Second Court of Appeals.

To be a member of the **Board of Regents of Stephen F. Austin State University** for a term to expire January 31, 2001: Jimmy W. Murphy, One West Loop South, Suite 714, Houston, Texas 77027. Mr. Murphy will be replacing James M. Windham, Jr. of Houston whose term expired.

To be a member of the **Board of Regents of Stephen F. Austin State University** for a term to expire January 31, 2001. Richard A. Brookshire, 2311 Copeland, Lufkin, Texas 75904. Mr. Brookshire will be replacing Larry J. Christopher of Crockett whose term expired.

To be a member of the **Board of Stephen F. Austin State University** for a term to expire January 31, 2001: Pattye Greer, 4033 Tara Lane, Nacogdoches, Texas 75961. Ms. Greer will be replacing Roy Blake, Sr. of Nacogdoches whose term expired

Issued in Austin, Texas on March 17, 1995

TRD-9503327

George W. Bush  
Governor of Texas



Name: Angel Osborne  
Grade: 8  
School: Mt. Vernon Junior High, Mt. Vernon ISD



## Executive Order

GWB 95-1a

### Relating to Emergency Management

WHEREAS, the Legislature of the State of Texas has heretofore enacted the Texas Disaster Act of 1975, Chapter 418 et seq. of Texas Government Codes to:

- (1) Reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary actions;
- (2) Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by disaster;
- (3) Provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons affected by disaster;
- (4) Clarify and strengthen the roles of the Governor, state agencies, and local governments in the prevention of, preparation for, response to, and recovery from disasters;
- (5) Authorize and provide for cooperation and coordination of activities relating to hazard mitigation, emergency preparedness, incident response, and disaster recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;
- (6) Provide a comprehensive emergency management system for Texas that is a coordinated effort to make the best possible use of existing organizations and resources within government and industry, and which includes provisions for actions to be taken at all levels of government before, during, and after the onset of an emergency situation;
- (7) Assist in the prevention of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
- (8) Provide the authority and mechanism to respond to an energy emergency; and.

WHEREAS, under §418.013, Texas Disaster Act 1975, Texas Government Codes Annotated, the Governor is expressly authorized to establish by executive order an EMERGENCY MANAGEMENT COUNCIL composed of the heads of state agencies, boards, and commissions and representatives of organized volunteer groups to advise and assist the Governor in all matters relating to disaster preparedness, emergency services, energy emergencies, and disaster recovery; and,

WHEREAS, FURTHER UNDER §418.041, Texas Disaster Act of 1975, Texas Government Code, a DIVISION OF EMERGENCY MANAGEMENT is established in the Office of the Governor and the Director of the DIVISION OF EMERGENCY MANAGEMENT is to be appointed by and serve at the pleasure of the Governor; and,

WHEREAS, with the aid and assistance of the EMERGENCY MANAGEMENT COUNCIL and DIVISIONS OF EMERGENCY MANAGEMENT, the Governor may recommend that cities, counties, and other political subdivisions of the state undertake appropriate emergency management programs and assist and cooperate with those developed at the state level;

NOW, THEREFORE, I, George W. Bush, Governor of Texas, under the authority vested in me, do hereby create and establish the EMERGENCY MANAGEMENT COUNCIL, to be composed of the Chief Executive Officers of the following state agencies, boards, commissions, and organized volunteer groups:

Adjutant Generals' Department

American Red Cross

Department of Information Resources

General Land Office

General Services Commission

Governor's Division of Emergency Management

Public Utility Commission of Texas

Railroad Commission of Texas

State Aircraft Pooling Board

State Auditor's Office

State Comptroller of Public Accounts

Texas Attorney General's Office

Texas Commission on Fire Protection

Texas Department of Agriculture

Texas Department of Commerce

Texas Department of Criminal Justice

Texas Department of Health

Texas Department of Housing and Community Affairs  
Texas Department of Human Services  
Texas Department of Insurance  
Texas Department of Mental Health and Mental Retardation  
Texas Department of Public Safety  
Texas Department of Transportation  
Texas Education Agency  
Texas Employment Commission  
Texas Engineering Extension Service, Texas Forest Service  
Texas Natural Resource Conservation Commission  
Texas Parks and Wildlife Department  
Texas Rehabilitation Commission

The specific duties and responsibilities of each member of this group shall be as designated in the State Emergency Management Plan and Annexes thereto. Each member of the group may designate a staff member representative to the COUNCIL.

I further hereby designate the Director of the Texas Department of Public Safety to serve as Chairperson of the COUNCIL and as Director of the DIVISION OF EMERGENCY MANAGEMENT of the Governor's Office. The DIVISION OF EMERGENCY MANAGEMENT shall be my designated agency to exercise the powers granted to me under the Texas Disaster Act of 1975 in the administration and supervision of the Act, including, but not limited to, the power to accept from the federal government, or any public or private agency or individual, any offer of services, equipment, supplies, materials, or funds as gifts, grants, or loans for the purposes of emergency services or disaster recovery, and may dispense such gifts, grants, or loans for the purposes for which they are made without further authorization other than as contained herein. The Director shall establish emergency operations areas to be known as Disaster Districts which shall correspond to the boundaries of the Texas Highway Patrol Districts and Sub-Districts and shall establish in each a Disaster District Committee composed of representatives of the state agencies, boards, and commissions having membership on the COUNCIL. The Highway Patrol Commanding Officer of each Highway Patrol District or Sub-District shall serve as Chairperson of the Disaster District Committee and report to the Director on matters relating to disasters and emergencies. The Chairperson shall be assisted by the COUNCIL representatives assigned to that DISTRICT, who shall provide guidance, counsel, and administrative support as may be required.

The COUNCIL is hereby authorized to issue such directives as may be necessary to effectuate the purpose of the Texas Disaster Act of 1975, as amended, and is further authorized and empowered to exercise the specific powers enumerated in the Act.

Further, in accordance with §§418.102, 418.103, 418.105, Texas Disaster Act of 1975, Texas Government Code, and published rules of the DIVISION OF EMERGENCY MANAGEMENT, I hereby designate the Mayor of each municipal corporation and the County Judge of each county in the state as the Emergency Management Director for each such political subdivision. The County Judge and Mayor shall serve as the Governor's designated agents in administration and supervision of the Texas Disaster Act of 1975, and may exercise the powers, on an appropriate local scale, granted the Governor therein. The Mayor and County Judge may each designate an Emergency Management Coordinator who shall serve as an assistant to the presiding officer of the political subdivision for emergency management purposes when so designated.

By the authority vested in me under §418.104, Texas Disaster Act of 1975, Texas Government Code, I further hereby authorize each political subdivision of the state to establish in the county in which they are sited, inter-jurisdictional agencies by intergovernmental agreement, supported as needed by local City Ordinance or Commissioner's Court Order, in cooperation and coordination with the DIVISION OF EMERGENCY MANAGEMENT of the Governor's Office. In compliance with §418.101, Vernon's Texas Codes Annotated, the presiding officer of each political subdivision shall promptly notify the DIVISION OF EMERGENCY MANAGEMENT of the manner in which it is providing or securing an emergency management program and the person designated to head that program.

This executive order supersedes Executive Order AWR-94-14, and shall remain in effect until modified, amended or rescinded by me.

Issued in Austin, Texas, on March 13, 1995.

TRD-9503255

George W. Bush  
Governor of Texas



# 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 use of **bold text**. [Brackets] indicate deletion of existing material within a section.

## TITLE 16. ECONOMIC REGULATION

### Part III. Alcoholic Beverage Commission

#### Chapter 36. Gun Regulation

##### • 16 TAC §36.1

The Texas Alcoholic Beverage Commission proposes new §36.1, concerning the possession and sale of firearms on licensed premises. The new rule is proposed to define when, and under what circumstances, firearms can be sold or possessed on premises where alcoholic beverages are sold or served.

Brian Guenther, Director of Licensing, 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 this section.

Mr. Guenther also has determined that this rule will benefit the public in that it will allow retail merchandise stores to sell firearms and alcoholic beverages without the additional financial hardship of separate locations. This rule would also benefit local government entities and fraternal and veterans organizations to lease their facilities for gun shows while continuing to sell alcoholic beverages. 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 should be submitted to Lou Bright, General Counsel, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127.

This rule is proposed under the authority of §5.31 of the Texas Alcoholic Beverage Code.

Section 11.61(e) and §61.71(f) of the Texas Alcoholic Beverage Code are affected by this proposed rule.

*§36.1. Possession and Sale of Firearms on Licensed Premises.*

(a) Gun Shows. A permittee/licensee may designate a portion of the grounds, buildings, vehicles and appurte-

nances of the licensed premises for the use of gun shows if the permittee/licensee:

(1) is a governmental entity or a legally formed and duly recognized civic, religious, charitable, fraternal or veterans organization that regularly schedules events and/or leases its facilities for special functions, or

(2) operates its licensed premises at a facility regularly used for special functions, directly or indirectly, under a lease, concession or similar agreement from a governmental entity or legally formed and duly recognized civic, religious, charitable, fraternal or veterans organization.

(3) The designated portion of the facility to be used for gun shows must be segregated by a wall, fence, partition or similar divider that clearly distinguishes it from the licensed premises.

(b) Off-Premise Retailers and Gun Sales. The holder of a retail dealer's off-premise license, a wine and beer retail dealer's off-premise permit or a wine only package store permit may allow the sale or offer for sale firearms at the licensed location if:

(1) the permittee is the holder of a package store permit; or

(A) the licensee/permittee operates a grocery or general merchandise business at the licensed premises; or

(B) the licensed premise is in a portion of a building in which another person operates a grocery or general merchandise business; and if

(2) the firearms are sold in an area that is separate from, and not contiguous to, the alcoholic beverages; and

(3) the firearms are secure from the general public and are only accessible by employees of the person or entity offering the firearms for sale; and

(4) any and all transfers of a firearm to the purchaser shall occur outside

the building where the licensed premises exist.

(5) The holder of a package store permit is not required to comply with paragraph (2) of this subsection.

(c) On-Premise Possession of Firearms. The holder of a permit or license allowing on-premise consumption of alcoholic beverages may possess firearms on the licensed premise if the firearms are:

(1) possessed by the permittee/licensee as defined in the Texas Alcoholic Beverage Code, §1.04(11) and §(16); and

(2) possessed for ceremonial and/or display purposes.

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

Issued in Austin, Texas, on March 16, 1995.

TRD-9503293

Doyle Bailey  
Administrator  
Texas Alcoholic Beverage  
Commission

Earliest possible date of adoption: April 25, 1995

For further information, please call: (512) 206-3204

## TITLE 22. EXAMINING BOARDS

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

#### Chapter 163. Licensure

##### • 22 TAC §163.16

The Texas State Board of Medical Examiners proposes new §163.16, concerning a special temporary license for endorsement applicants. This proposed temporary license will be issued to primary care physicians practicing in rural counties or medically underserved areas in Texas. The executive director will have the discretion to issue this temporary

license if he determines that it is in the best interest of the public and that the health and welfare of the public will not be endangered.

Tim Weitz, General Counsel, has determined that there will not be fiscal implications as a result of enforcing or administering the section.

Mr. Weitz 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 to provide health care to underserved areas sooner than otherwise could have been accomplished.

The cost to individuals who are required to comply with the section as proposed will be the \$50 temporary license fee.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section 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 by-laws 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.

Article 4495b, §3.03, is affected by this new section.

### §163.16. Temporary Licensure of Primary Care Physicians for Practice in Rural Counties or Medically Underserved Areas in Texas.

(a) This rule is adopted to provide assistance to rural counties and medically underserved areas in Texas in meeting their needs in the area of primary medical care.

(b) If the executive director of the board determines that it is in the best interest of the public and that the health and welfare of the public will not be endangered, but will be served, the executive director of the board may, at his discretion, issue a temporary license to an endorsement applicant:

(1) who has a completed application that has been filed, processed, and found to be in order;

(2) who has successfully completed a three-year primary care graduate medical training program in Texas that was approved by the board on the date the training was completed;

(3) who has met all requirements for licensure, except certification by a specialty board that is a member of the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists, if such certification is required for licensure;

(4) who has a valid contract to provide medical services in a rural county or medically underserved area in Texas; and

(5) who has passed the Texas medical jurisprudence examination.

(c) Any temporary license issued under this section shall be valid for a continuous one-year period; however, such a temporary license may be renewed for up to two additional one-year periods, at the discretion of the executive director, only if necessary for the temporary licensee to meet any requirement relating to continuous unsupervised medical practice set as a prerequisite for specialty board examination for the specific medical specialty in which the temporary licensee is seeking specialty board certification.

(d) Any temporary license issued under this section shall be restricted so as to allow the temporary licensee to practice medicine only within the context of the contract for medical services in a rural county or medically underserved area in Texas.

(e) Any temporary license issued under this section shall expire upon termination of the physician's contract to practice medicine in a rural county or medically underserved area in Texas.

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

Issued in Austin, Texas, on March 14, 1995.

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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) 834-7728

## Chapter 165. Medical Records

### • 22 TAC §165.1

The Texas State Board of Medical Examiners proposes new §165.1, concerning medical records. The proposed new section will clarify what is required of physicians with regard to the release of medical records.

Tim Weitz, General Counsel, has determined there will be no fiscal implications as a result of enforcing or administering the section as proposed.

Tim Weitz 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 to set out the requirements for physicians to provide copies of medical records.

There will be minimal or no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section 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 by-laws 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.

Article 4495b, §5.08, is affected by this new section.

### §165.1. Medical Records.

(a) As required by the Medical Practice Act, §5.08, subsection (k), a physician shall furnish copies of medical records requested or a summary or narrative of the records pursuant to a written release of the information as provided by the Medical Practice Act, §5.08, subsection (j), except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient, and the physician may delete confidential information about another person who has not consented to the release.

(b) The requested copies of medical records or a summary or narrative of the records shall be furnished by the physician within 30 days after the date of the request and reasonable fees for furnishing the information shall be paid by the patient or someone on behalf of the patient.

(c) If the physician denies the request for copies of medical records or a summary or narrative of the records, either in whole or in part, the physician shall furnish the patient a written statement, signed and dated, stating the reason for the denial, and a copy of the statement denying the request shall be placed in the patient's medical records.

(d) For purposes of this chapter, "medical records" shall mean any records pertaining to the history, diagnosis, treatment or prognosis of the patient.

(e) The physician responding to a request for such information shall be entitled to receive a reasonable fee for providing the requested information. A reasonable fee shall be no more than \$25 for the first ten pages of records and no more than \$.10 per page thereafter. In addition, a reasonable fee may include actual costs for mailing, shipping, or delivery.

(f) The physician providing copies of requested medical records or a summary or a narrative of such records shall be entitled to payment of a reasonable fee prior to release of the information unless the information is requested by the patient, or a



health care provider or guardian on behalf of the patient, for purposes of acute medical care. In the event the physician receives a proper request for copies of medical records or a summary or narrative of the medical records for purposes other than for acute medical care, the physician may retain the requested information until payment is received. In the event payment is not routed with such a request, within ten calendar days from receiving a request for the release of such records for reasons other than acute medical care, the physician shall notify the requesting party in writing of the need for payment and may withhold the information until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's medical record.

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

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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) 834-7728

## Chapter 166. Physician Registration

### • 22 TAC §166.2

The Texas State Board of Medical Examiners proposes an amendment to §166.2, concerning continuing medical education. The proposed amendment will clarify the penalties for failure to comply with the requirement of obtaining at least 24 hours of continuing medical education each year as a prerequisite to physician annual registration.

Tim Weitz, General Counsel, has determined there will be fiscal implications as a result of enforcing or administering the section; however, administrative penalties levied for non-compliance of this provision should offset the cost of investigation.

Mr. Weitz 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 as proposed will be to ensure that only those physicians who have complied with the continuing medical education requirements will be re-registered each year, and thereby improve the quality of medical care rendered in Texas.

There will be anticipated economic cost to some persons who are required to comply with the section as proposed; however, the exact cost cannot be determined at this time.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 14934, Austin, Texas

78714-9134. A public hearing will be held at a later date.

The amendment is proposed under the Medical Practice Act, Texas Civil, 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.

Article 4495b, §3.025 is affected by this amendment.

### §166.2. Continuing Medical Education.

(a) As a prerequisite to the annual registration of a physician's license, 24 hours of continuing medical education (CME) are required to be completed in the following categories:

(1) at least one-half of the hours are to be from formal courses that are:

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

(C) designated for AOA Category 1-A [1] credit required for osteopathic physicians by an accredited CME sponsor approved by the American Osteopathic association;

(D)-(E) (No change.)

(2) (No change.)

(b)-(d) (No change.)

(e) Exemptions are subject to the approval of the executive director/medical director and must be requested in writing at least 30 days prior to the expiration date of the license.

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

(j) Physicians in residency/fellowship training or who have completed such training within six months prior to their renewal application will satisfy the requirements of subsection (a)(1) and (2) of this section by their residency or fellowship program.

(k) Unless exempted under the terms of this section, a physician licensee's apparent failure to obtain and timely report the 24 hours of CME as required and provided for in this section shall result in nonrenewal of the license until such time as the physician obtains and reports the required CME hours; however, the executive director of the board may issue to such a physician a temporary license numbered so as to correspond to the nonrenewed license. Such a temporary license shall be issued at the direction of the executive director for a period of no longer than 90 days. A temporary license

issued pursuant to this subsection may be issued to allow the board to verify the accuracy of information related to the physician's CME hours and to allow the physician who has not obtained or timely reported the required number of hours an opportunity to correct any deficiency so as not to require termination of ongoing patient care.

[(k) Compliance with subsection (a) of this section will be required by January 1, 1995; all other provisions are effective upon final adoption of these rules.]

(l) The fee for issuance of a temporary license pursuant to the provisions of this section shall be in the amount specified for temporary licenses under §175.1 of this title (relating to Fees); however, the fee need not be paid prior to the issuance of the temporary license, but shall be paid prior to the renewal of a permanent license.

(m) CME hours which are obtained to comply with the CME requirements for the preceding year as a prerequisite for licensure renewal, shall first be credited to meet the CME requirements for the previous year. Once the previous year's CME requirement is satisfied, any additional hours obtained shall be credited to meet the CME requirements for the current year.

(n) An intentionally false report or intentionally false statement to the board by a licensee regarding CME hours reportedly obtained shall be a basis for disciplinary action by the board pursuant to the Act, §§3.08(1), (4), (5), 4.01, and 4.12. A licensee who is disciplined by the board for such a violation may be subject to the full range of actions authorized by the Act including suspension or revocation of the physician's medical license, but in no event shall such action be less than an administrative penalty of \$100 and a public reprimand.

(o) Administrative penalties for failure to timely obtain and report required CME hours may be determined by the Disciplinary Process Review Committee of the board as provided for in §187.39 of this title (relating to Administrative Penalties).

(p) Failure to obtain and timely report the CME hours for renewal of a license shall subject the licensee to a monetary penalty for late registration in the amount set forth in §175.2 of this title (relating to Penalties). Any temporary licensure fee and any administrative penalty imposed for failure to obtain and timely report the 24 hours of CME required for renewal of a license shall be in addition to the applicable penalties for late registration or renewal as set forth in §175.2 of this title (relating to Penalties).

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

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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) 834-7728

## Chapter 187. Procedure

### Subchapter B. Prehearing

#### • 22 TAC §187.17

The Texas State Board of Medical Examiners proposes an amendment to §187.17, concerning depositions. The proposed amendment will provide for the use of certified copies of depositions in the event the original is unavailable.

Tim Weitz, General Counsel, has determined there will be no fiscal implications as a result of enforcing or administering the section.

Mr. Weitz 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 to streamline the administrative process through the use of certified copies of depositions.

There will be no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. 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 by-laws 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.

Article 4495b, §4.05, is affected by this proposed amendment.

*§187.17. Discovery.* Pursuant to the Medical Practice Act (the Act), Texas Civil Statutes, Article 4495b, §4.03(d), after the initiation and filing of a formal complaint under the Act, §4.03, or upon the filing of the board's initial pleading in any other contested matter, the following discovery rules shall apply:

(1)-(3) (No change.)

(4) Depositions.

(A) The taking and use of depositions shall be governed by APA or by an agreement between the parties either on the record or in a writing signed by the parties or their representatives. Except by an agreement between the parties either on the record or in a writing signed by the parties or their representatives, depositions shall be conducted and completed no later than five days prior to the scheduled hearing date. Failure of a properly noticed witness who is a party to the case to attend a deposition for the purpose of taking the testimony of that party witness, or the failure of such a witness to attend such a deposition as agreed to by the parties on the record or in a writing signed by the parties or their representatives, may result in the imposition of the sanctions and remedies set forth in subsection (e) of this section.

(B) In the event that, as provided for in the Administrative Procedure Act, an original deposition transcript is not returned by a deponent or a deponent's counsel, or is not filed by a deponent, a deponent's counsel, or other individual, officer, or entity in possession of or last known to be in possession of the original transcript, a party to the contested case pending before the board or the State Office of Administrative Hearings shall be entitled to have a certified true copy of the deposition transcript filed under seal at the agency where the case is pending by the officer or a court reporter who transcribed the deposition testimony or their designee. Such a copy shall be presumed to be authentic unless an objecting party is able to rebut such a presumption by a preponderance of competent evidence.

(5)-(13) (No change.)

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

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Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
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For further information, please call: (512) 834-7728

## Chapter 199. Public Information

#### • 22 TAC §199.4

*(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 repeal of §199.4, concerning charges for copies of public records. Extensive rewrite of the section was necessary; therefore, the repeal of the existing rule is proposed with simultaneous proposal of a new section.

Tim Weitz, General Counsel, has determined there will be no fiscal implications as a result of enforcing or administering the repeal.

Mr. Weitz also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of enforcing the repeal will be clarification by omission.

There will be no anticipated cost to persons required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. 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 by-laws 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.

Article 4495b, §3.10, is affected by this repeal.

#### *§199.4. Charges for Copies of Public Records.*

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

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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) 834-7728

The Texas State Board of Medical Examiners proposes new §199.4, concerning charges for copies of public records. Extensive rewrite of the section was necessary; therefore, the new section is proposed with simultaneous repeal of the existing rule. The new section will identify the charges for copies of routinely requested items.

Tim Weitz, General Counsel, has determined there will be no fiscal implications as a result of enforcing or administering the section.

Mr. Weitz 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 to establish reasonable charges for copies of public records.

The anticipated cost to individuals who are required to comply with the section as proposed will be a reasonable charge for requested copies as established by the General Services Commission.

Comments on the proposal may be submitted to Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The new section 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 by-laws 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.

Article 4495b, §3.10, is affected by this new section.

#### §199.4. Charges for Copies of Public Records

(a) Charges. The charge to any person requesting copies of any public record of the Texas State Board of Medical Examiners will be the charges established by the General Services Commission.

(b) Routine items. All charges for routinely requested items shall be based upon the charges established by the General Services Commission. A current price list may be requested from the Information Services Department of the Board. Upon written request, the board shall provide copies of routinely requested items, which shall include, but not be limited to, the following:

- (1) Board Rules;
- (2) Medical Practice Act;
- (3) Microfiche with complete physician information:

(A) individual order;

(B) year subscription;

- (4) New Physician List:

(A) list;

(B) year subscription;

- (5) Physician Directory;

- (6) Special Request:

(A) customized mailing list and labels;

(B) computer/electronic media;

(i) computer tape;

(ii) floppy disk.

(c) Certified copies. Upon written request, the Texas State Board of Medical Examiners will certify any public records of the board. The cost for certifying copies of public records provided pursuant to the Texas Open Records Act shall be \$5.00 per record or document. This cost shall be in addition to any other costs charged for providing the requested document or record, including, but not limited to, copying, retrieving, or mailing of the document or record.

(d) Waiver of charges. Copies of public records shall be furnished without charge or at a reduced charge if the executive director determines that waiver or reduction of the fee is in the public interest, and that furnishing the information can be considered as primarily benefiting the general public.

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

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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) 834-7728

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 87. Treatment

##### Program Planning

###### • 37 TAC §87.25

The Texas Youth Commission (TYC) proposes an amendment to §87.25, concerning Title IV-E foster care youth. The amendment will allow an attorney to appear at a dispositional review hearing on behalf of a TYC youth who is on runaway status. The hearing may be conducted by telephone conference.

John Franks, Director of Fiscal Affairs, 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 section.

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more effi-

cient process for holding dispositional review hearings when youth are on runaway status. 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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

The proposed rule implements the Human Resource Code, §61.034.

#### §87.25. Treatment.

(a)-(b) (No change)

(c) Procedures.

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

(5) Dispositional Hearing.

(A)-(K) (No change.)

(L) The hearings examiner holds the dispositional review hearing. If youth is on runaway status at the time of the hearing, the attorney may appear on his/her behalf. The hearing may be conducted by telephone conference. [teleconference].

(M)-(N) (No change.)

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

Issued in Austin, Texas, on March 17, 1995.

TRD-9503383

Steve Robinson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption: April 24, 1995

For further information, please call: (512) 483-5244

#### Chapter 88. Special Management Programs

##### • 37 TAC §88.5

The Texas Youth Commission (TYC) proposes new §88.5, concerning the new aggression intervention and management unit at the TYC Residential Treatment Center at Corsicana. The new rule will provide for the special management of seriously and or chronically assaultive youth who are severely emotionally disturbed. Qualified youth may be moved to the unit for treatment following the appropriate Level I or Level II due process hearing conducted to establish the behavior criteria.

John Franks, Director of Finance, 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 section.

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient treatment in an appropriate placement for severely emotionally disturbed, assaultive youth.

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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The new section is proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order the child's confinement under conditions it believes best designed for the child's welfare and the interests of the public.

The proposed rule implements the Human Resource Code, §61.034.

#### §88.5. Special Management Programs.

(a) Policy. The Texas Youth Commission (TYC) provides for the special management of seriously and/or chronically assaultive youth who are severely emotionally disturbed. Any TYC youth who meets criteria may be moved to the Aggression Intervention and Management (AIM) unit of the Corsicana Residential Treatment Center. Qualified youth are placed for an assessment period and may be accepted for treatment. A youth's behavioral eligibility for movement to a high restriction facility is established through the appropriate level I or level II due process hearing.

(b) Rules.

(1) Admission Criteria.

(A) Youth exhibits chronic, severe aggression that is externally directed (as substantiated through the appropriate level I or level II hearing to move a youth in high restriction).

(B) The aggressive behavior is the result of a current psychiatric diagnosis of serious emotional disturbance, thought disturbance, or neurological deficit that is significantly contributing to the aggressive behavior.

(C) Less restrictive alternative treatments have been ineffective and/or the level of danger is sufficient to warrant

referral to AIM.

(D) There is reason to believe that the youth will benefit from treatment on AIM.

(2) Referral and Admission Process.

(A) The appropriate level I or I due process hearing is held. Findings substantiate that youth's behavior meets requirements for movement into high restriction.

(B) The youth is retained at the referring institution or temporarily at a high restriction placement during the referral process to AIM.

(C) The primary service worker is responsible for completing and submitting a complete referral packet including the referral application and due process hearing documentation as required by the AIM program to the Centralized Placement Unit (CPU) for review.

(D) The CPU determines whether packet is complete and criteria met and submits referral to the AIM unit.

(E) The residential treatment center AIM treatment team and the clinical services director consider the following and submit recommendation to the assistant superintendent.

(i) Type, severity and duration of diagnosis, symptoms and behaviors.

(ii) Previous interventions attempted.

(iii) Response to prior interventions.

(iv) Availability of less restrictive interventions or treatment options.

(v) Probability of success of treatment on aggressive care unit.

(F) The assistant superintendent authorizes or denies a 30-day evaluation request and notifies CPU of the decision.

(G) If placement is authorized, CPU notifies the referring staff of the decision and coordinates transportation of the youth.

(H) Completion of the 30 day evaluation period will result in the as-

sistant superintendent's decision, based on recommendation of AIM treatment staff, to:

(i) admit into the AIM program;

(ii) deny admission into the AIM program; or

(iii) extend the 30-day evaluation period for a specified number of days to allow for additional evaluation/assessment.

(I) If admission is denied, referring staff may submit a request for placement to CPU, if appropriate.

(3) Program Requirements. Privileges afforded in the regular program may be restricted in the following areas:

(A) Types of clothing worn may be controlled. Shoes are not allowed on the unit and may be limited to outdoor activity.

(B) Personal belongings may be restricted initially and then allowed gradually based on progress and need.

(C) Visitation may be restricted to adult family members and attorneys.

(D) Incoming calls may be restricted to family members and only during specific times so as not to interfere with programmatic activities. Outgoing (TexAn) phone calls may be limited to one five minute call per month to parents or guardians.

(4) Release.

(A) Each youth remains in AIM only as long as clinically necessary to successfully complete specific treatment objectives and sufficiently address underlying emotional disturbances so as to enable the youth to demonstrate less aggressive behaviors and be safely managed in a different placement setting.

(B) Within 30 days of the youth's completion of program and release date, AIM submits a request for placement to CPU, if appropriate.

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

Issued in Austin, Texas, on March 17, 1995.

TRD-9503382

Steve Robinson  
Executive Director  
Texas Youth Commission

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For further information, please call: (512) 483-5244

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 48. Community Care for Aged and Disabled

##### In-Home and Family Support Program

- 40 TAC §§48.2702, 48.2707, 48.2710, 48.2711

The Texas Department of Human Services (DHS) proposes amendments to §§48.2702, 48.2707, 48.2710, and 48.2711, concerning the In-Home and Family Support Program application, program restrictions, right to appeal, and recertification, in its Community Care for Aged and Disabled chapter. The purpose of the amendments is to update procedures for applications, receipts, and time frames for client notifications.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a faster reconciliation of subsidy grants in some situations, possible faster services for applicants on the waiting list, and more clearly defined time frames for written notifications. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Debbie Berliner at (512) 450-3199 in DHS's Long-Term Care section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-232, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 35, which provides the department with the authority to administer public and support services for persons with disabilities programs.

The amendments implement the Human Resources Code, §§22.001-22.024 and §§35.001-35.012.

##### §48.2702. Application.

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

(c) When funds become available to serve an applicant, the applicant receives written notification which schedules an appointment to begin the eligibility determination process. When the appointment is scheduled, the applicant must be informed of the consequences of missing the appointment.

- (d) (No change.)

(e) If an applicant fails to keep two scheduled appointments for initial eligibility determination and does not notify the IH/FSP office that he cannot keep the appointments, his application may be denied. Before denying an application for missed appointments, the caseworker must send written notification specifying the reason for the denial and allowing 12 days for applicant response before the denial takes place. If the applicant wants to reapply for services after denial, he must complete a new application form. His name will be placed at the end of the waiting list as described in subsection (b) of this section. [If an applicant cannot keep a scheduled appointment, he must notify the IH/FSP office. If he fails to notify the office, his name is placed at the end of the IH/FSP waiting list. The applicant is entitled to receive notification about his new status on the waiting list and about the reason for the change.]

- (f) (No change.)

(g) An applicant is entitled to a decision on his application within 45 calendar days from the date the application is assigned for eligibility determination [received] by DHS.

- (h) (No change.)

##### §48.2707. Program Restrictions.

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

(c) The applicant must agree to submit receipts for service subsidy funds, and the copayment amount, if any, at intervals designated by the Texas Department of Human Services during the 12-month certification period. A one-time submittal of receipts is required for the capital expenditure grant. If the applicant fails to furnish the required receipts, he is denied eligibility and faces possible restitution. The receipts that are returned to verify how the program funds were spent must be approved allowable purchases and must not be dated prior to the date the individual was certified as eligible for the IH/FSP. Receipts are due within six months from date of approved certification. The caseworker may accept valid receipts for allowable services that were delivered or purchased during the six-month period immediately preceding a client's current subsidy period, if the receipts were not applied to previous receipt reconciliation and the client was

certified for the IH/FSP during the prior six-month period. Any exception to the six-month time frame requires supervisory approval. The receipts must:

- (1)-(6) (No change.)

- (d)-(h) (No change.)

##### §48.2710. Right to Appeal.

- (a) (No change.)

(b) An applicant must exercise his right to appeal within 90 calendar days from the effective date of the decision or from the notice of adverse action date, whichever is later [date he receives written notification about his denial or reduction of benefits].

(c) If a consumer is already receiving IH/FSP services and his benefits are denied or reduced, he must submit to the caseworker a request for a hearing within 12 [10] calendar days from the date on [he receives] the notification letter, to continue receiving services while the appeal is pending. He may be able to continue receiving the subsidy until the hearing is completed if the request is submitted within the 12-day [10-day] time frame. If the results of the appeal agree with the denial or reduction of benefits, the consumer may be asked to pay back the amount of the subsidy provided during the appeal period.

- (d) (No change.)

##### §48.2711. Recertification.

- (a) (No change.)

(b) The caseworker must send written notification to the client within 15 days of the date the client furnishes [applicant is entitled to receive a notification letter within 30 calendar days of furnishing] the required information, informing him about his continued eligibility or ineligibility.

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

Issued in Austin, Texas, on March 16, 1995.

TRD-9503316

Nancy Murphy  
Section Manager, Media  
and Policy Services  
Texas Department of  
Human Services

Proposed date of adoption: May 15, 1995

For further information, please call: (512) 450-3765

## Part II. Texas Rehabilitation Commission

### Chapter 111. Deaf-Blind Multihandicapped Program

#### • 40 TAC §§111.1-111.4

*(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 Rehabilitation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Rehabilitation Commission (TRC) proposes the repeal of §§111. 1-111.4, concerning the Deaf-Blind Multihandicapped Program.

David McKay, Assistant Commissioner for Financial Services, has determined that for each of the first five years the proposal to repeal the sections will be in effect, there will be no significant fiscal implications for state government as a result of repealing these rules.

Mr. McKay also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated will be that new sections 111.1-111.13 will include a Medicaid waiver program. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with repeals as proposed.

Questions about the proposed repeals may be directed to Steve Schoen, Programs Specialist, at (512) 483-4185 in the Texas Rehabilitation Commission. Comments on the proposed repeals may be submitted to Steve Schoen, Programs Specialist, Program and Technical Assistance, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 5444, Austin, Texas 78751-2399, within 30 days of publication in the *Texas Register*.

The repeals are proposed under Texas Human Resources Code, Title 7, §111. 018, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations subject to these repeals as necessary to carry out the purpose of this chapter.

The repeals affect Chapter 113 of the Vernon's Texas Code Annotated, §113. 001.

#### §111.1. Purpose.

#### §111.2. Basic Requests for Eligibility.

#### §111.3. Ineligibility.

#### §111.4. Programs.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503278

Charles W. Schlessner  
General Counsel  
Texas Rehabilitation  
Commission

Earliest possible date of adoption: April 24, 1995

For further information, please call: (512) 483-4051

### Chapter 111. Medicaid Waiver Program for People with Deaf-Blindness and Multiples Disabilities

#### • 40 TAC §§111. 1-111.13

The Texas Rehabilitation Commission (TRC) proposes new §§111.1-111.13, concerning the Medicaid Waiver Program for People with Deaf-Blindness and Multiples Disabilities.

David McKay, Assistant Commissioner for Financial Services, has determined that for each of the first five years the proposed new rules will be in effect, the rules will increase the amount of federal financial participation for this program without any increase in state funds.

Mr. McKay also has determined that for each year of the first five years the new rules are in effect, the public benefit anticipated will be that new sections §§111.1-111.13 will include a Medicaid waiver program. 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.

Questions about the proposed new rules may be directed to Steve Schoen, Programs Specialist, at (512) 483-4185 in the Texas Rehabilitation Commission. Comments on the proposed new rules may be submitted to Steve Schoen, Programs Specialist, Program and Technical Assistance, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 5444, Austin, Texas 78751-2399, within 30 days of publication in the *Texas Register*.

The new rules are proposed under Texas Human Resources Code, Title 7, §111.018, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations subject to these sections as necessary to carry out the purpose of this chapter.

These proposed new rules implement Title 7, Chapter 113, of the Vernon's Texas Code Annotated, §113.001.

**§111.1. Purpose.** The purpose of the Medicaid Waiver Program for People with Deaf-Blindness and Multiple Disabilities is to provide residential support to people who are deaf-blind with multiple disabilities by helping them attain self-sufficiency and independent living. The Texas Rehabilitation Commission also operates a parent training and summer outdoor training program which are not Medicaid programs.

**§111.2. Programs.** Programs to serve people who are deaf-blind with multiple disabilities include the following:

(1) contract services with private and public entities to provide home and community based support services through a Medicaid waiver;

(2) a program of parental counseling for the parents of deaf-blind individuals; and

(3) a summer outdoor training program for deaf-blind individuals.

**§111.3. Introduction.** Enrollment and provider payments for home and community-based services for people with deaf-blindness and multiple disabilities are contingent upon approval by the Health Care Financing Administration.

**§111.4. Definitions.** The following words and terms, when used in this designated head, shall have the following meanings, unless the context clearly indicates otherwise.

A Person with Deaf-Blindness and Multiple Disabilities must have:

(A) The presence of a deaf-blind multiple disability that constitutes or results in a substantial impediment to the individual's ability to function independently in the family and community; and

(B) A reasonable expectation that services will benefit the individual by improving his ability to function independently in the family and community; and

(C) The individual must not be eligible for vocational rehabilitation services through the Texas Commission for the Blind. (i.e. Level of severity must be such that V.R. services will not result in employment.)

Deaf-blind means Any individual who:

(A) has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field sub-

tends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both of these conditions; and

(B) has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition. (An exception to this definition may be made for an individual with significant auditory and visual impairment with a poor prognosis, or for an individual whose ability to use hearing and/or vision is so limited, as a result of protracted inadequate use of either or both of these senses, that the individual functions as a deaf-blind person.)

**With Multiple Disabilities**—In addition to deafness and blindness, the individual has one or more other disabling conditions which results in impairment to independent functioning. The combination of impairments must result in the same Level of Care criteria established by the State of Texas to certify individuals eligible for ICF-MR/RC VIII Services under the Title XIX State Plan.

**Participant**—A person who receives Home and Community based support through the Medicaid Waiver Program for Persons with Deaf-Blindness and Multiple Disabilities (DB-MD).

**Waiver program**—A Medicaid program that provides home and community-based services to persons with related conditions as an alternative to institutional care in accordance with waiver provisions of the Social Security Act, §1915(c) (42 United States Code §1396n).

**Waiver program services**—Services provided under waiver provisions of the Social Security Act, §1915(c) (42 United States Code §1396n).

#### §111.5. Participant Eligibility Criteria.

(a) To be determined eligible by the Texas Rehabilitation Commission (TRC) for waiver program services, an applicant must:

(1) be eligible for Supplemental Security Income (SSI) benefits; or

(2) have been eligible for and received SSI benefits and continue to be eligible for Medicaid as a result of protective coverage mandated by federal law; or

(3) be an individual who would be financially eligible for Medicaid if residing in a Medicaid-certified institution. For these individuals, the policies specified in subparagraphs (A) and (B) of this paragraph apply.

(A) Spousal impoverishment provisions.

(i) For waiver participants with spouses who live in the community, the income and resource eligible requirements are determined according to the spousal impoverishment provisions in the Social Security Act, §1924, and as specified in the Medicaid State Plan and this subsection.

(ii) After the participant is determined to be eligible for Medicaid, DHS determines the amount of the participant's income applicable to payment.

(iii) To determine the amount of the participant's income applicable to payment, DHS uses the same methodology as if the participant were residing in an institution, except that the personal needs allowance is equal to the institutional cap.

(iv) Texas Department of Human Services (DHS) applies post-eligibility treatment of income rules to individuals eligible under a special income level, as specified in 42 Code of Federal Regulations (CFR) 435.726, for use only by states that do not use the 209(b) option. For individuals receiving home and community-based services who are subject to the post-eligibility treatment of income rules, the Medicaid payment to the provider for home and community-based services will be reduced by the amount that remains after deducting the appropriate amounts from the individual's income. The DHS Copayment Worksheet form is used to calculate the client copayment amount.

(B) Calculation of participant copayment.

(i) A participant who is financially eligible based on the special institutional income limit must share in the cost of waiver services. The method for determining the participant copayment is specified in this subparagraph and is documented on DHS's Medical Assistance Only Worksheet form. When calculating the copayment amount for a participant with income that exceeds the SSI federal benefit rate, DHS deducts the following:

(I) the cost of participant(s) maintenance needs, which must equal the special institutional income limit for eligibility under the Texas Medicaid program;

(II) the cost of the maintenance needs of the participant's dependent children. This amount is equivalent to the Aid to Families with Dependent Children (AFDC) program basic monthly grant for children or for a spouse with children, using the recognizable needs amount in the AFDC Budgetary Allowance Chart;

(III) the costs incurred for medical or remedial care that are necessary, but not covered by Medicare, Medicaid, or any other third party. This included the cost of health insurance premiums, deductibles, and coinsurance; and

(IV) the cost of the maintenance needs of the participant's spouse. This amount is equivalent to the amount of the SSI federal benefit rate, less the spouse's own income.

(ii) The copayment amount is the participant's remaining income after all allowable expenses have been deducted. The copayment amount is applied only to the cost of home and community-based services which are funded through the Medicaid Waiver for People with Deaf-Blindness and Multiple Disabilities (DB-MD waiver) program and specified on the participant's individual plan of care. The copayment amount must not exceed the cost of services actually delivered.

(iii) Participants must pay the copayment amount to the provider contracted to deliver authorized waiver services.

(b) To be determined eligible by TRC for DB-MD waiver program services, participants must also meet the following requirements.

(1) Have a completed "Project Link" Referral form on file with the Texas Rehabilitation Commission Program for People Who are Deaf-Blind with Multiple Disabilities. This form is forwarded by TRC to providers in the region of the state of Texas designated as preferred by the participant. When placements are available, providers are to consider each participant in the order of received referral form.

(2) Medical documentation must verify existence of Deaf-Blindness with multiple disabilities.

(3) Participants must meet the intermediate care facility for the mentally retarded with related conditions (ICF-MR/RC VIII) level-of-care criteria as determined by the Texas Department of Human Services (DHS) according to applicable state and federal regulations, and as verified by a current level of care assessment.

(A) A preadmission level of care assessment by DHS expires 90 calendar days from its issuance. For participants who are enrolled in the waiver program within 30 calendar days of discharge from an ICF-MR/RC VIII or another waiver program provider, the current level-of-care assessment may be used for enrollment and is valid until the expiration date on the level-of-care assessment.

(B) Re-evaluation of ICF-MR/RC level-of-care criteria is performed annually by the Texas Department of Human Services using the same criteria as used initially. An initial re-evaluation of level of care must be performed no later than 364 calendar days from the date of enrollment. Subsequent level-of-care re-evaluations must be performed no later than 364 calendar days from the effective date of the prior level-of-care assignment.

(C) Any gaps in the level-of-care coverage periods result in loss of payment to the provider.

*§111.6. Planning for and Provision of Services.*

(a) Applicants must have an individual plan of care for home and community-based services, developed by the interdisciplinary team composed of a case manager and other appropriate professional staff who meet the qualifications specified in the waiver request. The individual plan of care for home and community-based services must specify the type of waiver services required to keep an individual in the community, the units of waiver services, and their frequency and duration. The individual plan of care for home and community-based services must be signed and dated by the interdisciplinary team prior to implementation. The interdisciplinary team must certify in writing that the waiver program services authorized on the individual plan of care are necessary to avoid ICF-MR/RC VIII institutional placement and are appropriate to meet the applicant's needs in the community.

(b) The individual plan of care for home and community-based services must be approved by TRC and updated by the provider at least annually. Any gaps in the coverage periods of the individual plan of care approved by TRC result in loss of payment to the provider.

(c) The estimated annual cost of the applicant's individual plan of care for a period of 364 days from the initial enrollment for home and community-based services must not exceed 115% of the average cost of institutional care in an ICF-MR/RC VIII facility.

(d) Enrollment into this waiver program is limited to the number of participants approved by HCFA and allocated to the provider. When the number of participants can be increased, TRC DB-MD waiver program will analyze need based on number of Project Link referral forms received per Region. At that point, a Request for Proposals (RFP) will be issued in that Region. A team of experts will evaluate received proposals based on approved common standards. A contract will be signed by

the approved providers and Texas Rehabilitation Commission (TRC), detailing standards to be followed in provision of home and community based services. Services will then be provided to participants in the order of receipt of Project Link form.

(e) Participants may be enrolled in only one waiver program at a time. Participants may not receive both DB-MD waiver services and other Medicaid community care services at the same time.

*§111.7. Client's Right to Appeal.* Any applicant or client who is denied waiver program services is entitled to a fair hearing conducted by the Texas Rehabilitation Commission (TRC) according to TRC's fair hearing rules included in Chapter 104 of this title (relating to Informal and Formal Appeals by Applicants/Clients of Decisions by a Rehabilitation Counselor or Agency Official).

*§111.8. Provider Claims Payment.*

(a) The provider delivering waiver program services is reimbursed based on a fee-for-service reimbursement methodology. The following conditions must be met for payment.

(1) Services must be delivered to eligible clients based on an individual plan of care.

(2) Units of service that have been provided must be documented according to the individual plan of care.

(3) The agency providing waiver program services must accept the Texas Rehabilitation Commission (TRC) payment as payment in full for waiver program services. (When participant co-pay is required, total amount billed to participant and TRC will equal usual fee for service.)

(b) Room and board are not included in the reimbursement rate to providers except in the case of respite care services, which must not exceed 30 calendar days per year per client.

(c) The agency providing waiver program services is not entitled to payment if:

(1) the client is ineligible for Medicaid benefits or is an inpatient of a hospital, intermediate care facility, skilled nursing facility, or intermediate care facility for the mentally retarded;

(2) TRC has not authorized client enrollment;

(3) the initial claim for service is not received by the TRC DB-MD waiver program within 95 calendar days from the end of the month of service;

(4) the provider fails to deliver the services authorized on the individual

plan of care for home and community-based services for persons who are deaf-blind with multiple disabilities;

(5) gaps exist in the coverage periods for the level-of-care assessment or the individual plan of care for waiver program services. Coverage periods are defined by the begin and end dates on the individual plan of care for home and community-based services form and the effective end dates on the level-of-care assessment form.

*§111.9. Delegation of Signature Authority.* Agencies providing waiver program services and delegating a signature authority to employees or to a billing service for claims preparation are responsible for the accuracy of the claim submitted for payment.

*§111.10. Rejected Claims.* If the Texas Rehabilitation Commission (TRC) rejects a claim for payment of waiver program services because of errors, the provider must research the errors, initiate appropriate corrective action, and resubmit a corrected claim to TRC with supporting documentation within 95 calendar days from the date of rejection.

*§111.11. Provider's Right to Appeal.* Any provider who is denied payment for waiver program services is entitled to a contract appeal conducted by the Texas Rehabilitation Commission (TRC) according to TRC's contract appeal rules included in TRC's Administrative Policies and Procedures Manual (APPM), Volume V, Chapter 9.

*§111.12. Cost Report.*

(a) At least annually, providers must submit financial and statistical information concerning their home and community-based services for persons who are deaf-blind with multiple disabilities. This information must be submitted on cost report forms provided by the Texas Rehabilitation Commission (TRC) or on facsimiles which are formatted according to TRC specifications and are pre-approved by TRC staff.

(b) Providers must submit cost reports referred to in subsection (a) of this section to TRC no later than 90 calendar days following receipt of the cost report forms unless a written extension is granted by TRC.

(c) If a provider fails to file a cost report referred to in subsection (a) of this section according to all applicable rules and instructions and within the allowable time period, TRC may withhold all provider payments until the provider submits an acceptable cost report.



§111.13. *Provider Requirements.* Beginning December 1, 1991, program providers must comply with the Omnibus Budget Reconciliation Act of 1990, 42 United States Code, §1396a(w)(1), regarding advanced directives under state plans for medical assistance.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503277

Charles W. Schiesser  
General Counsel  
Texas Rehabilitation  
Commission

Earliest possible date of adoption: April 24, 1995

For further information, please call. (512) 483-4051

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 2. Environmental Policy

##### Subchapter C. Environmental Review and Public Involvement for Transportation Projects

###### • 43 TAC §2.51

The Texas Department of Transportation proposes new §2.51, concerning coastal management program.

Texas Natural Resources Code, Chapter 33, Subchapter F (Coastal Coordination Act), requires the Coastal Coordination Council (CCC) to promulgate rules adopting the goals and policies of the state's Coastal Management Program (CMP). It also requires actions taken or authorized by state agencies that may adversely affect coastal natural resource areas to comply with the goals and policies of the CMP; and the CCC to review those actions to insure consistency with the goals and policies. Pursuant to those requirements, the CCC adopted a rule, 31 TAC §505.26, which authorizes an agency to propose thresholds for referral of actions to the CCC. Proposed adoption of new §2.51 is necessary to: state that transportation projects and programs for which an environmental document is prepared will be approved unless found to be inconsistent with the goals and policies of the CMP; establish as thresholds for referral of actions to the CCC the approval of transportation projects and programs requiring an environmental impact statement except that for actions concerning the Gulf Intracoastal Waterway, the threshold shall be Texas Transportation Commission approval of the acquisition of rights of way for dredged mate-

rial disposal, and channel expansion, relocation, or alteration; provide that the department will request preliminary review by the CCC for all transportation projects and programs requiring an environmental impact statement; and provide that if the CCC does not issue a consistency finding within 30 days of the date a request is submitted, the department will assume that the project or program is consistent with the goals and policies of the CMP, and the department will proceed with final action

Dianna Noble, Director of Environmental Affairs, has determined that for the first five years the section is in effect there will not be fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Noble has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section.

Ms. Noble 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 will be that the department will comply with the goals and policies of the CMP while providing a safe, effective and efficient transportation system for the state. 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 Dianna Noble, Director of Environmental Affairs, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of written comments will be at 5:00 p.m. on April 21, 1995.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed section. The public hearing will be held at 9:00 a.m., on Friday, April 7, 1995, in Room 102, Building 200, 200 East Riverside Drive, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. 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 Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangement can be made.

The new section is proposed under Texas Civil Statutes, Articles 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation.

No statutes, codes, or rules will be affected by the new section.

###### §2.51. *Coastal Management Program.*

(a) Scope. The approval of transportation projects and programs located in whole or in part within the coastal boundary as defined in 31 TAC §503.1 (relating to Coastal Management Program Boundary) are actions subject to the Texas Coastal Management Program (CMP), 31 TAC Part XVI. Such projects will be approved unless found to be inconsistent with the goals and policies of the CMP, as described in 31 TAC §§501.10-501.15 (relating to Council Procedures). For purposes of this section, the term transportation projects and programs includes: maintenance programs, highway construction projects, public transportation projects, and aviation projects for which an environmental document is prepared under this subchapter; maintenance programs; and Gulf Intracoastal Waterway projects for which the commission authorizes right-of-way acquisition.

###### (b) Thresholds.

(1) In accordance with 31 TAC §505.26 (relating to Council Review and Approval of Thresholds for Referral), the department's thresholds for referral of actions to the Coastal Coordination Council (CCC) shall be the approval of transportation projects and programs requiring an environmental impact statement; provided, however, that the threshold for actions concerning the Gulf Intracoastal Waterway shall be approvals by the commission for acquisitions of rights of way for dredged material disposal, and channel expansion, relocation, or alteration.

(2) The department will request from the CCC, as authorized by 31 TAC §505.31 (relating to Preliminary Review of Individual Agency Actions by the Coastal Coordination Council), preliminary review of all transportation projects and programs requiring an environmental impact statement. If the CCC does not issue a consistency finding within 30 days of the date a request is submitted, the department will assume that the project or program is consistent with the goals and policies of the CMP, and the department will proceed with final action.

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

Issued in Austin, Texas, on March 20, 1995.

TRD-9503397      Robert E. Shaddock  
                         General Counsel  
                         Texas Department of  
                         Transportation

Earliest possible date of adoption: April 24, 1995

For further information, please call: (512) 463-8630

◆            ◆            ◆

# WITHDRAWN RULES

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**.

## TITLE 22. EXAMINING BOARDS

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

#### Chapter 166. Physician Registration

- 22 TAC §166.2

The Texas State Board of Medical Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §166.2, which appeared in the December 6, 1994, issue of the *Texas Register* (19 TexReg 9584). The effective date of this withdrawal is March 17, 1995.

Issued in Austin, Texas, on March 17, 1995.

TRD-9503345

Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: March 17, 1995

For further information, please call: (512)  
834-7728



## TITLE 22. EXAMINING BOARDS

### Part XIV. Texas Board of Veterinary Medical Examiners

#### Chapter 573. Rules of Professional Conduct

#### Other Provisions

- 22 TAC §573.65

The Texas Board of Veterinary Medical Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §573.65, which appeared in the January 3, 1995, issue of the *Texas Register* (20 TexReg 11). The effective date of this withdrawal is March 16, 1995.

Issued in Austin, Texas, on March 16, 1995.

TRD-9503302

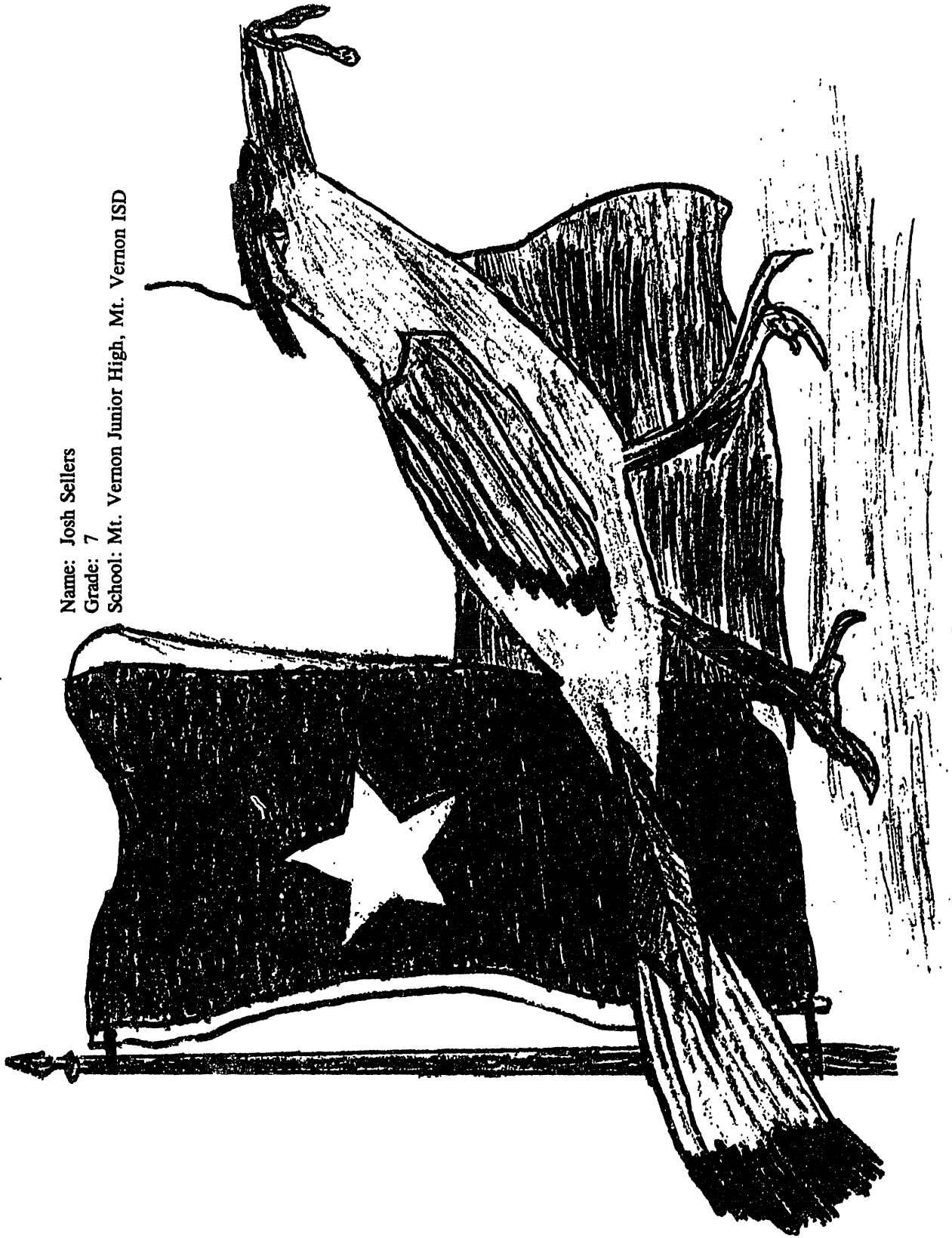
Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: March 16, 1995

For further information, please call: (512)  
447-1183



Name: Josh Sellers  
Grade: 7  
School: Mt. Vernon Junior High, Mt. Vernon ISD



# ADOPTED RULES

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.

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 30. Young Farmer Loan Guarantee Program

#### Subchapter A. General Proce- dures

##### • 4 TAC §30.8

The Board of Directors of the Texas Agricultural Finance Authority (TAFA), a public authority within the Texas Department of Agriculture, adopts an amendment to §30.8, concerning the origination fee for loans made under the Texas Young Farmer Loan Guarantee Program, without changes to the proposed text as published in the December 27, 1994, issue of the *Texas Register* (19 TexReg 10291).

The amendment is adopted in order to provide conformance of the young farmer loan guarantee program with the operation of the TAFA loan guaranty program, providing greater consistency among the TAFA programs.

The amendment will function by basing the origination fee upon the loan guarantee amount, not the total loan amount.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §253.007(e), which provides the Board of Directors of the Texas Agricultural Finance Authority with the same authority in administering the Young Farmer Loan Guarantee Program as it has in administering programs established by the board under the Code, Chapter 58; Texas Agriculture Code, §58.022, which provides the board with the authority to adopt rules and procedures for administration of its programs; Texas Agriculture Code, §58.023, which provides the TAFA Board with the authority to adopt rules to establish criteria for eligibility of applicants and lenders under the TAFA Loan Guaranty Program; and, Texas Government Code, §2001.004, which requires that the department adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Subchapter A: General Procedures.

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

Issued in Austin, Texas, on March 15, 1995.

TRD-9503260 Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: April 5, 1995

Proposal publication date: December 27,  
1994

For further information, please call: (512)  
463-7583

## TITLE 19. EDUCATION Part II. Texas Education Agency

### Chapter 33. Investment Program of the Permanent School Fund

- 19 TAC §§33.1, 33.10, 33.15,  
33.20, 33.25, 33.30, 33.35, 33.40,  
33.45, 33.50, 33.60, 33.65, 33.70,  
33.75, 33.85, 33.90, 33.95,  
33.100, 33.105

The Texas Education Agency (TEA) adopts the repeal of §§33.1, 33.10, 33.15, 33.20, 33.25, 33.30, 33.35, 33.40, 33.45, 33.50, 33.60, 33.65, 33.70, 33.75, 33.85, 33.90, 33.95, 33.100, and 33.105, concerning the Texas Permanent School Fund (PSF), without changes to the proposed text as published in the January 31, 1995 issue of the *Texas Register* (20 TexReg 533).

The sections establish investment objectives, policies, and guidelines for the PSF.

The repeals are necessary to allow the State Board of Education (SBOE) to adopt new sections that will implement the strategic asset allocation plan the SBOE approved in October 1994. The new rules will cause the income of the PSF to flow to school districts and reduce the tax burden to the public and the state. The TEA is adopting new Chapter 33 in a separate submission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Constitution, Article VII, §5(d), which authorizes the SBOE to manage the PSF assets.

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

Issued in Austin, Texas, on March 20, 1995.

TRD-9503408 Criss Cloutd  
Executive Associate  
Commissioner, Policy  
Planning and  
Information  
Management  
Texas Education Agency

Effective date: April 10, 1995

Proposal publication date: January 31, 1995

For further information, please call: (512)  
463-9701

### Chapter 33. Statement of Investment Objectives, Policies, and Guidelines

- 19 TAC §§33.1, 33.5, 33.10,  
33.15, 33.20, 33.25, 33.30, 33.35,  
33.40, 33.45, 33.50, 33.55, 33.60,  
33.65

The Texas Education Agency (TEA) adopts new §§33.1, 33.5, 33.10, 33.15, 33.20, 33.25, 33.30, 33.35, 33.40, 33.45, 33.50, 33.55, 33.60, and 33.65, concerning the Texas Permanent School Fund (PSF). Sections 33.15, 33.20, 33.25, and 33.45 are adopted with changes to the proposed text as published in the January 31, 1995, issue of the *Texas Register* (20 TexReg 533). Sections 33.1, 33.5, 33.10, 33.30, 33.35, 33.40, 33.50, 33.55, 33.60, and 33.65 are adopted without changes and will not be republished.

The sections establish investment objectives, policies, and guidelines for the PSF and are necessary to implement the strategic asset allocation plan the State Board of Education (SBOE) approved in October 1994. The new rules will cause the income of the PSF to flow to school districts and reduce the tax burden to the public and the state. The TEA is adopting the repeal of current Chapter 33 in a separate submission.

The change to §33.15(a) adds language emphasizing the requirements of the Texas Constitution with regard to the contribution of the PSF to the purchase of textbooks.

The change to §33.20(c)(10) adds language clarifying the desire of SBOE to meet the minimum income expectations of the PSF.

In §33.25, information concerning currency hedging strategies was deleted from subsection (a)(2) and added as new subsection (a)(5) to clarify the text.

The change to §33.25(c)(2)(C)(ii) adds language clarifying that errors and omissions insurance coverage should be specific to the assets of the PSF.

Provisions of the proxy voting policy in §33.45(4), were changed to increase the frequency with which the PSF executive administrator must report to SBOE instances in which the executive administrator voted against management.

No comments were received regarding adoption of the new rules

The new rules are adopted under the Texas Constitution, Article VII, §5(d), which authorizes the SBOE to manage the PSF assets. §33.1. Constitutional Authority and Constitutional Restrictions. The Texas Permanent School Fund (PSF) shall be invested according to the Texas Constitution, Article VII, §5(d), under the direction of the State Board of Education (SBOE)

#### *§33.15. Responsible Parties and Their Duties.*

(a) The Texas Constitution, Article VII, §§1-8, establishes the Available School Fund, the Texas Permanent School Fund (PSF), and the State Board of Education (SBOE), and specifies the standard of care SBOE members must exercise in managing PSF assets. In addition, the constitution directs the legislature to establish suitable provisions for supporting and maintaining an efficient public free school system, defines the composition of the PSF and the Available School Fund, and requires the SBOE to set aside sufficient funds to provide free textbooks for the use of children attending the public free schools of this state. The Texas Education Code, Chapter 15, regulates the use of state funds to support public schools, and the provisions of this chapter govern the investment objectives, policies, and guidelines of the PSF.

(b) The SBOE shall be responsible for overseeing all aspects of the PSF and may employ any of the following parties, whose duties and responsibilities are as follows.

(1) An investment manager is a person, firm, corporation, bank, or insurance company the SBOE retains to manage a portion of the PSF assets under specified guidelines.

(2) A custodian is an organization, normally a bank, the SBOE retains to

safekeep, and provide accurate and timely reports of, PSF assets.

(3) A consultant is a person or firm the SBOE retains to advise the PSF based on professional expertise.

(4) Investment counsel is a person or firm retained under criteria specified in the PSF Investment Procedures Manual to advise PSF investment staff and the SBOE Committee on the Permanent School Fund within the policy framework established by the SBOE. Counsel may advise PSF internal managers regarding various issues, including: selecting companies in different industries; specific stock or corporate bond issues or other investment instruments; and timing of purchases and sales. Counsel advises on the economic and market environment and asset allocation and provides PSF investment staff direction on diversifying investments between asset classes and among respective industries.

(5) A performance measurement consultant is a person or firm retained to provide the SBOE Committee on the Permanent School Fund an analysis of the PSF portfolio performance. The outside portfolio performance measurement service firm shall perform the analysis on a quarterly or as-needed basis. Quarterly reports shall be distributed to each member of the SBOE Committee on the Permanent School Fund, and a representative of the firm shall be available as necessary to brief the committee.

(6) The Internal Audit Division of the Texas Education Agency (TEA) reviews the internal control procedures of the PSF Investment Office annually at the direction of the SBOE. The division conducts the audit according to standards advocated by the Institute of Internal Auditors, Inc., and reports all findings to the commissioner of education. The purpose of the internal audit shall be to evaluate the controls over assets and test compliance with TEA rules and procedures.

(7) The State Auditor's Office is an independent state agency that performs an annual financial audit of the TEA at the direction of the Texas Legislature. The financial audit, conducted according to generally accepted auditing standards, is designed to test compliance with generally accepted accounting principles. The state auditor performs tests of the transactions of the PSF Investment Office as part of this annual audit, including compliance with governing statutes and SBOE policies and directives.

(8) The SBOE may retain independent external auditors to review the PSF accounts annually or on an as-needed basis.

(c) The SBOE shall meet on a regular or as-needed basis to conduct the affairs of the PSF.

(d) In case of emergency or urgent public necessity, the SBOE Committee on

the Permanent School Fund or the SBOE, as appropriate, may hold an emergency meeting under the Texas Government Code, §551.045.

(e) The SBOE shall have the following exclusive duties:

(1) determining the strategic asset allocation mix between asset classes based on the attending economic conditions and the PSF goals and objectives;

(2) ratifying the investment transactions pertaining to the purchase, sale, or reinvestment of fixed income, equity, or cash securities by all internal and external managers for the current reporting period;

(3) appointing members to the SBOE Investment Advisory Committee;

(4) approving all contracts with external professional investment managers, financial advisors, financial consultants, or other external professionals employed to help the SBOE invest the PSF;

(5) approving the performance measurement contract with a well recognized and reputable firm employed to evaluate and analyze PSF investment results. The service shall compare investment results to the written investment objectives of the SBOE and also compare the investment of the PSF with the investment of other public and private funds against market indices and by managerial style;

(6) setting policies, objectives, and guidelines for investing PSF assets; and

(7) representing the PSF to the state.

(f) The SBOE may establish committees to administer the affairs of the PSF. The duties and responsibilities of any committee established shall be specified in the PSF Investment Procedures Manual.

(g) The PSF shall have an executive administrator, with a staff to be adjusted as necessary, who functions directly with the SBOE through the SBOE Committee on the Permanent School Fund concerning investment matters, and who functions as part of the internal operation under the commissioner of education. At all times, the PSF executive administrator and staff shall invest PSF assets as directed by the SBOE according to the Texas Constitution and all other applicable Texas statutes, as amended, and SBOE rules governing the operation of the PSF. The PSF staff shall:

(1) administer the PSF according to SBOE goals and objectives;

(2) execute all directives, policies, and procedures from the SBOE and the SBOE Committee on the Permanent School Fund;

(3) keep records and provide a continuous and accurate accounting of all PSF transactions, revenues, and expenses and provide reports on the status of the PSF portfolio;

(4) advise any officials, investment firms, or other interested parties about the powers, limitations, and prohibitions regarding PSF investments that have been placed on the SBOE or PSF investment staff by statutes, attorney general opinions and court decisions, or by SBOE policies and operating procedures;

(5) continuously research all internally managed securities held by the PSF and report to the SBOE Committee on the Permanent School Fund or the SBOE any information requested, including reports and statistics on the PSF, for the purpose of administering the PSF;

(6) establish and maintain a procedures manual that implements this section to be approved by the SBOE;

(7) make recommendations regarding investment and policy matters to the SBOE Committee on the Permanent School Fund and the SBOE;

(8) establish and maintain accounting policies and internal control procedures concerning all receipts, disbursements and investments of the PSF, according to the procedures adopted by the SBOE.

### §33.20. Objectives.

#### (a) Investment objectives.

(1) Investment objectives have been formulated based on the following considerations:

(A) the anticipated financial needs of the Texas public free school system in light of expected future contributions to the Texas Permanent School Fund (PSF);

(B) the need to preserve capital;

(C) the risk tolerance set by the State Board of Education (SBOE) and the need for diversity;

(D) observations about historical rates of return on various asset classes;

(E) assumptions about current and projected capital market and general economic conditions and expected levels of inflation;

(F) the need to invest according to the prudent person rule; and

(G) the need to document investment objectives, guidelines, and performance standards.

(2) Investment objectives represent desired results and are long-term in nature, covering typical market cycles of three to five years. Any shortfall should be explainable in terms of general economic and capital market conditions.

(3) The investment objectives are consistent with generally accepted standards of fiduciary responsibility.

(4) Under the provisions of this chapter, investment managers shall have discretion and authority to implement security selection and timing.

(b) Goal and objectives for the PSF.

(1) Goal. The goal of the SBOE for the PSF shall be to obtain the greatest amount of income and capital appreciation consistent with the safety of principal, in light of the strategic asset allocation plan adopted. To achieve this goal, PSF investment shall be carefully administered at all times.

#### (2) Objectives.

(A) The preservation and safety of principal shall be a primary consideration in PSF investment.

(B) Fixed income securities shall be purchased at the highest yield consistent with the preservation and safety of principal, emphasizing current rather than deferred income.

(C) To the extent possible, the PSF administrators shall hedge against inflation by purchasing equities that emphasize stability and growth of future earnings and dividends rather than current return.

(D) Securities, except investments for cash management purposes as specified in §33.25 of this title (relating to Permissible and Restricted Investments and General Guidelines for Investment Managers), shall be selected for investment on the basis of long-term investment merits rather than short-term gains.

(c) Investment rate of return and risk objectives.

(1) Because the education needs of the future generations of Texas school children are long-term in nature and directly related to income growth and income potential, the return objective of the PSF shall also be long-term and focused on maintaining asset growth while preserving real capi-

tal value. Maintaining value under an income and capital appreciation concept encompasses a policy that over the long term will provide the PSF a positive return when adjusted for inflation and spending.

(2) Investment rates of return shall be based on a time-weighted calculation, compounded and annualized over a rolling period of three to five years, and shall take into account all cash income plus realized and unrealized capital gains and losses, and calculated gross and net of fees and expenses.

(3) The overall risk level of PSF assets in terms of potential for price fluctuation shall not be extreme. The primary means of achieving such a risk profile are:

(A) a broad diversification among asset classes that, as nearly as possible, react independently through varying economic and market circumstances;

(B) careful control of risk level within each asset class by avoiding over-concentration and not taking extreme positions against the market averages; and

(C) a degree of emphasis on stable growth.

(4) Over time, the volatility of returns (or risk) for the total fund, as measured by standard deviation of investment returns, should be less than the risk from comparable investments in market indices in the proportion in which the PSF invests.

(5) The objective of the domestic equity fund shall be to earn, over time, an average annual total rate of return that exceeds that of a representative benchmark index, combining dividends and capital appreciation, while maintaining a lower risk level than that of the representative benchmark index.

(6) The objective of the international equity fund shall be to earn, over time, an average annual total rate of return that exceeds that of a representative international benchmark index in U.S. dollars, combining dividends and capital appreciation, while maintaining a lower risk level than that of the representative benchmark index.

(7) The objective of the domestic fixed income fund shall be to earn, over time, an average annual total rate of return that exceeds that of a representative benchmark index, combining interest income and capital appreciation, while maintaining a lower risk level than that of the representative benchmark index.

(8) The objective of the international fixed income fund shall be to earn, over time, an average annual total rate of

return that exceeds the return of a representative Non- U.S. world benchmark index in U.S. dollars, combining interest income and capital appreciation, while maintaining a lower risk level than that of the representative benchmark index.

(9) The objective of the short-term cash fund shall be to provide liquidity for the timely payment of security transactions, while earning a competitive return. The expected return, over time, shall exceed that of the representative benchmark index, while maintaining a lower risk level than that of the representative benchmark index.

(10) Notwithstanding the risk parameters specified in paragraphs (4) -(9) of this subsection, consideration shall be given to marginal risk variances exceeding the representative benchmark indices if returns are commensurate with the risk levels of the respective portfolios. Additional consideration shall be given to meeting the projected income expectations of the PSF in each respective biennium as a guideline in allocating assets to the respective PSF investment managers, if this guideline is consistent with the prudent person mandate of the Texas Constitution, Article VII, §5(d), and the SBOE asset allocation strategy.

(d) Asset allocation policy.

(1) The SBOE shall adopt and implement a strategic asset allocation plan based on a well diversified, balanced investment approach that uses a broad range of asset classes indicated by the following characteristics of the PSF:

(A) the long-term nature of the PSF;

(B) the spending policy of the PSF;

(C) the relatively low liquidity requirements of the PSF;

(D) the investment preferences and risk tolerance of the SBOE;

(E) the rate of return objectives; and

(F) the diversification objectives of the PSF, specified in the Texas Constitution, Article VII, §5(d), the Texas Education Code, Chapter 15, and the provisions of this chapter.

(2) The strategic asset allocation plan shall contain guideline percentages, at market value of the total fund's assets, to be invested in various asset classes. The target mix may not be attainable at a specific point in time since actual asset allocation will be

dictated by current and anticipated market conditions, as well as the overall directions of the SBOE.

(3) The SBOE Committee on the Permanent School Fund, with the advice of the PSF investment staff, shall review the provisions of this section at least annually and, as needed, rebalance the assets of the portfolio according to the asset allocation rebalancing procedure specified in the PSF Investment Procedures Manual. The SBOE Committee on the Permanent School Fund shall consider the industry diversification and the percentage allocation between fixed income and equity securities within the following asset classes:

(A) domestic equities;

(B) international equities;

(C) domestic fixed income;

(D) international fixed income; and

(E) cash.

(4) Investments shall not exceed the strategic ranges the SBOE establishes for each asset class.

(5) Periodically, the SBOE shall allocate segments of the total fund to each investment manager and specify guidelines, investment objectives, and standards of performance that apply to those assets.

*§33.25. Permissible and Restricted Investments and General Guidelines for Investment Managers.*

(a) Permissible investments.

(1) Equities are considered to be common or preferred corporate stocks; corporate bonds, debentures, or preferreds that may be converted into corporate stock; and investment trusts. Stocks listed on well recognized or principal U.S. or foreign exchanges are permitted.

(2) Fixed income securities are considered to be U.S. or foreign treasury or government agency obligations, U.S. or foreign corporate bonds, asset- or mortgage-backed securities, taxable municipal obligations, Canadian bonds, Yankee bonds, supranational bonds (denominated in U.S. dollars), and 144A securities.

(3) Cash equivalents are securities with maturities of less than or equal to one year that are considered to include interest bearing or discount instruments of the U.S. government or its agencies, money market funds, corporate discounted instruments, corporate-issued commercial paper,

time deposits of U.S. or foreign banks, bankers acceptances, and fully collateralized repurchase agreements. Both U.S. and foreign offerings are permitted. All residual cash in the Texas Permanent School Fund (PSF) portfolio must be swept and invested on a daily basis.

(4) Any new form of investment or new nonpublicly traded investment may be considered by the State Board of Education (SBOE) based on risk and return characteristics, provided the investment is consistent with PSF goals and objectives.

(5) The State Board of Education (SBOE) may approve currency hedging strategies for the international portfolios and delineate the related procedures in the "Standards of Performance" section of the PSF Investment Procedures Manual.

(b) Prohibited transactions and restrictions. Unless the SBOE gives its written approval, the following prohibited transactions and restrictions apply for all PSF managers:

(1) short sales of any kind;

(2) purchasing letter or restricted stock;

(3) buying or selling on margin;

(4) engaging in purchasing or writing options or similar transactions;

(5) purchasing or selling futures on commodities contracts;

(6) borrowing money, or pledging or otherwise encumbering PSF assets;

(7) purchasing the equity or debt securities of the portfolio manager's organization or an affiliated organization;

(8) engaging in any purchasing transaction, after which the cumulative market value of common stock in a single corporation exceeds 2.5% of the PSF total market value or 5.0% of the manager's total portfolio market value;

(9) engaging in any purchasing transaction, after which the cumulative number of shares of common stock in a single corporation held by the PSF exceeds 5.0% of the outstanding voting stock of that issuer;

(10) engaging in any purchasing transaction, after which the cumulative market value of fixed income securities or cash equivalent securities in a single corporation (excluding the U.S. government or its agencies) exceeds 2.5% of the PSF total market value or 5.0% of the manager's total portfolio market value;

(11) purchasing tax exempt bonds;

(12) purchasing guaranteed investment contracts (GICs) from an insur-



ance company or bank investment contracts (BICs) from a bank not rated at least AAA by Standard & Poor's or Moody's;

(13) purchasing any fixed income security not rated at least BBB- by Standard & Poor's or Baa3 by Moody's, subject to the provisions in the PSF Investment Procedures Manual related to the fixed income portfolio mandates regarding quality and duration;

(14) purchasing short-term money market instruments rated below A-1 or P-1 by Standard and Poor's and Moody's, respectively;

(15) engaging in any transaction that results in unrelated business taxable income (excluding current holdings);

(16) engaging in any transaction considered a "prohibited transaction" under the Internal Revenue Code or the Employee Retirement Income Security Act (ERISA);

(17) purchasing precious metals or other commodities;

(18) engaging in any transaction that would leverage a manager's position;

(19) lending securities owned by the PSF, but held in custody by another party, such as a bank custodian, to any other party for any purpose, unless lending securities according to a separate written agreement the SBOE approved; and

(20) purchasing fixed income securities without a stated par value amount due at maturity.

(c) General guidelines for investment managers.

(1) Each investment manager retained to manage a portion of PSF assets shall be aware of, and operate within, the provisions of this chapter and all applicable Texas statutes.

(2) As fiduciaries of the PSF, investment managers shall discharge their duties solely in the interests of the PSF according to the prudent expert rule, engaging in activities that include the following.

(A) Diversification. The investment policy shall be to diversify each manager's common stock portfolio by participating in industries and companies with above average prospects or sound fundamentals.

(B) Securities trading.

(i) Each manager shall send copies of each transaction record to the PSF investment staff and custodians.

(ii) Each manager shall be required to reconcile the accounts under

management on a monthly basis with the PSF investment staff and custodians.

(iii) Each manager shall be responsible for complying fully with PSF policies for trading securities and selecting brokerage firms, as specified in §33.40 of this title (relating to Trading and Brokerage Policy). In particular, the emphasis of security trading shall be on best execution; that is, the highest proceeds to the PSF and the lowest costs, net of all transaction expenses. Placing orders shall be based on the financial viability of the brokerage firm and the assurance of prompt and efficient execution.

(iv) The SBOE shall require each external manager to indemnify the PSF for all failed trades not due to the negligence of the PSF or its custodian.

(C) Acknowledgments in writing.

(i) Each external investment manager retained by the PSF must be a person, firm, or corporation registered as an investment adviser under the Investment Adviser Act of 1940, a bank as defined in the Act, or an insurance company qualified to do business in more than one state, and must acknowledge its fiduciary responsibility in writing. A firm registered with the Securities and Exchange Commission (SEC) must annually provide a copy of its Form ADV, Section II.

(ii) The SBOE may require each external manager to obtain coverage for errors and omissions in an amount set by the SBOE, but the coverage shall be at least the greater of \$500,000 or 1.0% of the assets managed, not exceeding \$10 million. The coverage should be specific as to the assets of the PSF. The manager shall annually provide evidence in writing of the existence of the coverage.

(iii) Each external manager may be required by the SBOE to obtain fidelity bonds, fiduciary liability insurance, or both.

(iv) Each manager shall acknowledge in writing receiving a copy of, and agreeing to comply with, the provisions of this chapter.

(D) Subject to the provisions of this chapter, any investment manager of marketable securities or other investments, retained by the PSF, shall have full discretionary investment authority over the assets for which the manager is responsible.

(d) Reporting procedures for investment managers. The investment manager shall:

(1) prepare a monthly report for delivery to the SBOE, the SBOE Committee on the Permanent School Fund, and the

PSF investment staff that shall include, in the appropriate format, items requested by the SBOE. The reports shall cover any change in the firm's structure, professional team, or product offerings; the firm's economic review; a review of recent and anticipated investment activity; an analysis of major changes that have occurred in the investment markets and in the portfolio, particularly since the last report; a detail of the portfolio holdings and each transaction that has been completed or is in process since the last report; and a summary of the key characteristics of the PSF portfolio. Periodically, the PSF investment staff shall provide the investment manager a detailed description of, and format for, these reports;

(2) when requested by the SBOE Committee on the Permanent School Fund, make a presentation describing the professionals retained for the PSF, the investment process used for the PSF portfolio under the manager's responsibility, and any related issues;

(3) when requested by the PSF investment staff, meet to discuss the management of the portfolio, new developments, and any related matters; and

(4) implement a specific investment process for the PSF. The manager shall describe the process and its underlying philosophy in an attachment to its investment management agreement with the PSF and manage according to this process until the PSF and manager agree in writing to any change.

§33.45. *Proxy Voting Policy.* The State Board of Education (SBOE) recognizes its fiduciary obligations with respect to the voting of proxies of companies with securities that are owned by the Texas Permanent School Fund (PSF). Because the issues related to proxy voting are complex and directly impact investment values, the SBOE believes the PSF is best suited to vote the proxies of shares held in the PSF portfolio. Therefore, as part of the PSF investment policy, the SBOE instructs the PSF executive administrator and investment staff to vote all of the PSF proxies of companies according to the following guidelines.

(1) Routine matters. Routine proxy proposals shall be voted in support of company proposals unless there is a clear reason not to do so. Routine matters include:

(A) electing directors;

(B) determining the size of a board;

(C) changing a corporate name;

(D) appointing an auditor;

(E) splitting stock;

(F) amending articles of incorporation that are required to comply with federal or state regulation; and

(G) changing the date, time, or location of an annual meeting.

(2) Business matters. Business proposals that do not eliminate the rights of shareholders, especially minority shareholders, or the status of securities held, including ownership status, shall not be treated as routine; rather, they shall be carefully analyzed. These issues may be voted with management. However, business proposals that are nonroutine or would impair the economic interests of shareholders shall be voted against management. Examples of such proposals include:

(A) requests to alter bylaws to require a super majority to approve mergers;

(B) anti-takeover proposals that could restrict tender offers or deny majority owners from exercising judgment;

(C) proposals to dilute existing shares by issuing substantially more stock without adequate explanation by management; and

(D) proposals that would enrich management excessively or substantially increase compensation awards or employment contracts to senior management that become effective when ownership of the company changes (also known as "golden parachute" awards).

(3) Other matters. On all other matters, the PSF executive administrator and investment staff shall vote proxies judged to be in the best interests of the PSF.

(4) At each regularly scheduled SBOE meeting, the PSF executive administrator shall advise the SBOE of all instances in which the PSF executive administrator voted against management.

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

Issued in Austin, Texas, on March 20, 1995.

TRD-9503407

Cris Cloud  
Executive Associate  
Commissioner, Policy  
Planning and  
Information  
Management  
Texas Education Agency

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For further information, please call: (512) 463-9701

◆ ◆ ◆  
Chapter 75. Curriculum  
Subchapter F. Graduation Requirements

• 19 TAC §75.152, §75.153

The Texas Education Agency (TEA) adopts amendments to §75.152 and §75.153, concerning graduation requirements. Section 75.152 is adopted with changes to the proposed text as published in the November 22, 1994, issue of the *Texas Register* (19 TexReg 9262). Section 75.153 is adopted without changes and will not be republished.

The amendments are necessary to establish a new advanced high school program that will focus on the quality, rather than quantity, of student work. The components being considered as advanced measures provide a broad mix of options for students and encourage the development of strong community/school district relations through the use of mentorships and panels that require professional expertise.

The amendments abolish the current advanced high school program and the advanced high school program with honors, and eliminate approval of honors courses by agency staff. The new advanced high school program focuses on outstanding student performance as determined by measures approved by the State Board of Education (SBOE).

Provisions in the rules permit the board to review additional advanced measures and to modify the list as needed in the future. This should lead to a statewide advanced program that is more uniform, while still providing districts the flexibility to use those advanced measures that meet the needs of their students. The new program will replace the other advanced programs in school year 1999-2000 and operate concurrently with the other programs until that date.

The amendments also delete the current set of graduation seals and the academic achievement record form.

The changes to §75.152(a) and (h) add language to indicate that, beginning with the 1999-2000 school year, the new advanced high school program will be called the distinguished achievement program. The new name will help differentiate the new program from the current program.

The changes to §75.152(c)(1)(A) and (h)(1)(A)(ii) clarify that English as a Second Language (ESL) I and II may be substituted for English I and II; however, ESL III may not be substituted for English III.

The change to §75.152(c)(1)(B) removes ESL IV from the list of courses that may be taken to satisfy the fourth credit of the English language arts requirement for the new advanced high school program.

The change to §75.152(d)(2) adds language to ensure that students who have taken

courses that are being deleted from the current advanced high school program do not lose credit when the new program takes effect.

In §75.152(f), the date by which a school district must submit honors courses for state approval was changed from March 31, 1995, to April 30, 1995 to correct an editorial error.

The change to §75.152(h)(3) adds language specifying the circumstances under which a principal may waive suspension from extracurricular activities for a student who receives a grade below 70 for a six-week period in a class leading to an advanced measure.

New §75.152(h)(4) allows, with appropriate approval, substitutions to be made for the courses required as part of the advanced high school program.

The following comments were received regarding adoption of the amendments.

The Texas Association for the Gifted and Talented (TAGT) and four members of the public approved of the proposed advanced high school program.

One member of the public recommended maintaining a system of honors courses for the advanced high school program.

The SBOE discussed this possibility, but did not add the measure. The rules state that local districts are encouraged to establish local honors courses based on the needs of their students.

One member of the public expressed concern that students who had taken courses that were being deleted from the rule would be penalized

The SBOE added §75.152(d)(2) to ensure that a student who has already received credit in a course is not penalized.

Numerous members of the public expressed concern about the fact that, for five years, there would be two advanced high school programs

The SBOE added language to §75.152(a) and (h) to indicate that, beginning with the 1999-2000 school year, the new advanced high school program will be called the distinguished achievement program. The new name will help differentiate the new program from the current program.

The amendments are adopted under the Texas Education Code, §21.257, which authorizes SBOE to prescribe by rule standards for determining what constitutes an advanced high school program. The section also authorizes the board to adopt a transcript form for the advanced high school program which is designed to clearly distinguish it from a transcript used for the academic achievement record of a student who has not completed an advanced high school program.

*§75.152. Advanced High School Program.*

(a) Beginning with school year 1999-2000, the advanced high school program shall be known as the distinguished achievement program. Subsections (b)-(g) of this section shall expire at the end of school year 1998-1999.

(b) A student who wishes to complete an advanced high school program and have the accomplishment recognized and distinguished on the academic achievement record (transcript) must complete requirements in addition to those prescribed in §75.151 of this title (relating to High School Graduation Requirements). Programs shall be of two types.

(1) The advanced high school program shall consist of 22 credits selected from the provisions of subsection (c)(1)-(11) of this section.

(2) The advanced high school honors program shall consist of 22 credits selected from the provisions of subsection (c)(1)-(11) of this section. Five of these credits must be designated by the board of trustees as honors courses under subsection (e) of this section.

(c) The required credits shall include the following.

(1) English language arts—four credits.

(A) Three credits must consist of English I, II, and III. English as a Second Language (ESL) I and II may be substituted for English I and II.

(B) The fourth credit of English may be satisfied by English IV, English IV Honors, English IV (Academic), English IV (Academic) Honors, or College Board advanced placement English literature and composition.

(2) Languages—two credits. The credits must be earned for the same language.

(3) Mathematics—three credits. The credits must consist of Algebra I, Algebra II, and Geometry.

(4) Science—three credits. The credits must be selected from Physical Science or Science III, Biology I or Science IV, Biology II, Chemistry I, Chemistry II, Physics I, Physics II, Geology, Meteorology, Astronomy, Aquatic Science, Environmental Science, or Anatomy and Physiology.

(5) Social studies—two and one-half credits. The credits must consist of:

(A) World History Studies or World Geography Studies—one credit;

(B) United States History—one credit; and

(C) United States Government—one-half credit.

(6) Economics with emphasis on the free enterprise system and its benefits—one-half credit.

(7) Physical education—one and one-half credits.

(A) The school district board of trustees may allow a student to substitute certain physical activities for the one and one-half required credits of physical education. The substitutions shall be based on the physical activity involved in drill team, marching band, and cheerleading during the fall semester; Reserve Officer Training Corps (ROTC); athletics; Dance I-IV; and two- or three-hour block vocational gainful employment credits.

(B) A student may not earn more than two credits in physical education toward state graduation requirements.

(C) A school district may award state credit for physical education not exceeding two credits for appropriate private or commercially sponsored physical activity programs conducted either on or off campus. A district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in physical education.

(8) Health education—one-half credit.

(9) Computing proficiency—one credit. The credit must be selected from a variety of computer-related courses listed in Subchapter D of this chapter (relating to Essential Elements—Grades 9-12), including:

(A) Computer Mathematics;

(B) Business Computer Applications I or II;

(C) Business Computer Programming I or II;

(D) Computer Science I or II;

(E) Business Information Processing; and

(F) Microcomputer Applications.

(10) Fine arts or speech—one credit. The credit must be selected from the list of courses approved by the State Board of Education (SBOE) in Subchapter D of

this chapter (relating to Essential Elements—Grades 9-12).

(11) Electives—three credits. Each elective must be selected from the list of courses approved by SBOE in Subchapter D of this chapter (relating to Essential Elements—Grades 9-12).

(d) When necessary and justified, the commissioner of education may authorize a substitution in the requirements for the advanced high school program under the following conditions.

(1) A student must complete 22 credits from state-approved courses specified in this section.

(2) A student must complete the number of credits in each subject area specified in this section from courses listed in these subject areas in Subchapter D of this chapter (relating to Essential Elements—Grades 9-12). A student who has already taken one or more of the following classes as part of the advanced high school program shall receive credit for each class taken: Precalculus, Trigonometry, Elementary Analysis, Analytic Geometry, Computer Mathematics I, Computer Mathematics II, Probability and Statistics, Calculus, Number Theory, Linear Algebra, Linear Programming, History of Mathematics, Survey of Mathematics, Laboratory Management, Physiology and Anatomy, or Computer Mathematics.

(3) Any course substituted for another course must maintain the same level of academic excellence as the courses specified in this section.

(4) A course described as introductory, remedial, or compensatory may not substitute for any course specified in this section.

(5) The district must request in writing approval from the commissioner of education to substitute specific courses, citing justification for such requests.

(e) A school district board of trustees that wishes to offer the advanced high school honors program must adopt policies that provide for special honors courses and programs. The policies must provide for modification of the courses of study in subsection (c) of this section by accelerating, providing greater depth, and expanding the courses and their essential elements described in this section and in Subchapter D of this chapter (relating to Essential Elements—Grades 9-12). In addition, the courses must be consistent with subsection (f) of this section. A school district must ensure that students participating in honors courses or programs are instructed in all essential elements and demonstrate an acceptable degree of mastery of those elements.

(f) An honors course shall be defined as having: specific criteria for entry of highly motivated students; a definite scope and sequence that reflects the nature of the subject; a differentiated curriculum that includes a wider range and greater depth of subject matter than those of the regular course; an emphasis on higher level and critical thinking skills; provision for creative, productive thinking; a stress on cognitive concepts and processes; instructional strategies that accommodate the learning styles of the students involved; and independent as well as guided research. A school district wishing to offer honors courses or programs under subsection (e) of this section must submit descriptions of the courses or programs to the commissioner of education, who shall review and may approve the descriptions. The commissioner of education shall inform SBOE of the actions. A district that wishes to develop new honors courses or programs must submit descriptions for consideration for approval no later than April 30, 1995. After that date, the Texas Education Agency (TEA) shall not approve additional honors courses, although school districts are encouraged to develop such courses based on the needs of students in the district.

(g) All College Board advanced placement and International Baccalaureate courses are designed as honors courses. A district is not required to submit these courses for approval.

(h) Beginning in the 1999-2000 school year, a student who wishes to complete an advanced high school program (called the distinguished achievement program) and have the accomplishment recognized and distinguished on the academic achievement record (transcript) must complete the following requirements.

(1) Academic core components. College Board advanced placement and International Baccalaureate courses may be substituted for requirements in appropriate proficiency areas. The student must demonstrate proficiency in the following.

(A) English—four credits. The credits must consist of:

- (i) English I, English II, English III, English IV; or
- (ii) a passing score on an appropriate end-of-course assessment. English as a Second Language I and II may be substituted for English I and II for recent immigrants.

(B) Mathematics—three credits. The credits must consist of:

- (i) Algebra I, Geometry, Algebra II; or

(ii) a passing score on an appropriate end-of-course assessment.

(C) Science—three credits. The credits must consist of:

- (i) three credits selected from Physical Science, Biology I and II, Chemistry I and II, Physics I and II, or Science III and IV. A student may not take more than two credits from any combination of Physical Science, Science III and IV, and Biology I; or

(ii) a passing score on an appropriate end-of-course assessment.

(D) Social studies—four credits. The credits must consist of:

- (i) U. S. History (one credit), World History Studies (one credit), World Geography (one credit), U. S. Government (one-half credit), and Economics (one-half credit); or

(ii) a passing score on an appropriate end-of-course assessment.

(E) Second language—three credits. The credits must consist of:

- (i) three credits in the same language; or
- (ii) a passing score on a second-language proficiency assessment.

(F) Health—one-half credit or a passing score on an appropriate end-of-course assessment.

(G) Fine arts—one credit or a passing score on an appropriate end-of-course assessment.

(H) Physical education—one and one-half credits or a passing score on an appropriate end-of-course assessment.

(I) Computing—one credit. The credit must consist of:

- (i) one credit in computer science; or
- (ii) a passing score on an appropriate computing proficiency assessment.

(2) Additional components. College Board advanced placement and International Baccalaureate courses may be submitted for requirements in appropriate proficiency areas. The student must choose one of the following options for additional components.

(A) Option I: math, science, elective. The student must demonstrate proficiency in the following.

(i) Math—one credit. The credit must consist of:

(I) Precalculus (one credit); or

(II) Trigonometry (one-half credit) and either Elementary Analysis (one-half credit) or Analytic Geometry (one-half credit).

(ii) Science—one credit. The credit must be selected from Biology I or II, Chemistry I or II, Physics I or II, or Science III or IV. A student may not take more than two credits from any combination of Physical Science, Science III and IV, and Biology I.

(iii) Elective—one credit.

(B) Option II: career and technology. The student must demonstrate proficiency equivalent to three credits in a state-approved, coherent sequence of courses for career and technology preparation. To be included in the recommended high school program, a technology preparation program approved by TEA must meet recommended high school program criteria in English language arts, mathematics, science, social studies, foreign language, health, fine arts, and computing proficiency.

(C) Option III: specialization. The student must demonstrate proficiency equivalent to three credits in a specialization consisting of state-approved, college-preparatory courses from language arts (including speech and journalism), science, social studies, mathematics, foreign language, fine arts, or computer science.

(3) Advanced measures. A student also must receive any combination of four of the advanced measures approved by SBOE. The measures must be reviewed at least once each biennium and meet the standards specified in subparagraphs (A) and (B) of this paragraph. If a student who is not subject to suspension under §75.411(e) of this title (relating to Student Absences for Extracurricular or Other Activities) receives a six-week grade average lower than 70 in any course that is taken to meet the requirements of an advanced measure, a principal may remove the student's suspension from participation in any extracurricular activity.

(A) The measures must focus on demonstrated student performance at the college or professional level.

(B) Student performance on advanced measures must be assessed through an external review process.

(4) Any program or course substitution to the courses included in subsection (h)(1) and (2) of this section must be approved by the commissioner of education or SBOE, respectively.

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

Issued in Austin, Texas, on March 20, 1995.

TRD-9503408

Crisis Cloudt  
Executive Associate  
Commissioner, Policy  
Planning and  
Information  
Management  
Texas Education Agency

Effective date: April 10, 1995

Proposal publication date: November 22, 1994

For further information, please call: (512) 463-9701

## TITLE 22. EXAMINING BOARDS

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

#### Chapter 161. General Provisions

##### • 22 TAC §161.1

The Texas State Board of Medical Examiners adopts an amendment to §161.1, without changes, to the proposed text as published in the December 8, 1994, issue of the *Texas Register* (19 TexReg 9584).

The section as adopted will further define the responsibilities of the Reciprocity and Examination Committees and allow overlapping between the two committees.

The section as adopted will function by allowing either committee to act on licensure cases which will streamline the process.

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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 14, 1995.

TRD-9503346

Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: April 7, 1995

Proposal publication date: December 6, 1994

For further information, please call: (512) 834-7728

### Chapter 170. Authority of Physician to Prescribe for the Treatment of Pain

#### • 22 TAC §§170.1-170.3

The Texas State Board of Medical Examiners adopts new §170.1-170.3, with changes, to the proposed text as published in the February 7, 1995, issue of the *Texas Register* (20 TexReg 874).

The sections as adopted will provide guidelines and definitions for the proper treatment of pain and related recordkeeping.

The sections as adopted will function by clarifying guidelines for physicians when treating for pain, and thereby improve the quality of medical care provided to the public.

Several comments were received in support of the proposed new sections. These comments were received from individual physicians and patients, as well as the Texas Medical Association and the Texas Osteopathic Medical Association.

The new sections are 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.

**§170.1. Purpose.** The purpose of this chapter is to recognize that some dangerous drugs and controlled substances listed in Chapter 481 and 483 of the Texas Health and Safety Code are indispensable for the treatment of pain, and are useful for relieving and controlling many other related symptoms that patients may suffer. It is the position of the board that these drugs may be prescribed for the treatment of pain and other related symptoms after a reasonably based medical diagnosis has been made, in adequate doses, and for appropriate lengths of time, which in some cases may be as long as the pain or related symptoms persist. The board recognizes that pain, including intractable pain, and many other related symptoms are subjective complaints and that the appropriateness and the adequacy of drug and dose will vary from individual to individual. The practitioner is expected to exercise sound medical judgment in treating

pain and related symptoms with dangerous drugs and controlled substances.

**§170.2. Definitions.** The following words and terms, as used in the Medical Practice Act, Article 4495b, §3.08, shall have the following meanings in the context of providing medications for pain and related symptoms.

Abuser of narcotic drugs, controlled substances and dangerous drugs—A person who takes a drug or drugs for other than legitimate medical purposes.

Intractable pain—A pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts.

Non-therapeutic in nature or manner—A medical use or purpose that is not legitimate.

Prescribing pharmaceuticals or practicing consistent with the public health and welfare—Prescribing pharmaceuticals and practicing medicine for a legitimate medical purpose in the usual course of professional practice.

**§170.3. Guidelines.** 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)(E), 3.08(4)(F), and 3.08(18) in regard to the prescribing, administering, ordering, or dispensing of pain medications and other drugs necessary to address their side effects.

(1) The treatment of pain, including intractable pain, with dangerous drugs and controlled substances is a legitimate medical purpose when done in the usual course of professional practice.

(2) A physician or surgeon duly authorized to practice medicine in Texas and to prescribe controlled substances and dangerous drugs in this state shall not be subject to disciplinary action by the board for prescribing, ordering, administering, or dispensing dangerous drugs or controlled substances for the treatment and relief of pain, including intractable pain, in the usual course of professional practice for a legitimate medical purpose in compliance with applicable state and federal law.

(3) Prescribing, ordering, administering, or dispensing dangerous drugs or controlled substances for pain will be considered to be for a legitimate medical purpose if based upon accepted scientific knowledge of the treatment of pain, including intractable pain, not in contravention of applicable state or federal law, and if prescribed, ordered, administered, or dispensed in compliance with the following guidelines

where appropriate and as is necessary to meet the individual needs of the patient:

(A) After a documented medical history, which may be provided orally or in writing by the patient, and physical examination by the physician providing the medication including an assessment and consideration of the pain, physical and psychological function, any history and potential for substance abuse, coexisting diseases and conditions, and the presence of a recognized medical indication for the use of a dangerous drug or controlled substance;

(B) Pursuant to a written treatment plan tailored for the individual needs of the patient by which treatment progress and success can be evaluated with stated objectives such as pain relief and/or improved physical and psychosocial function. Such a written treatment plan shall consider pertinent medical history and physical examination as well as the need for further testing, consultations, referrals, or use of other treatment modalities;

(C) The physician should discuss the risks and benefits of the use of controlled substances with the patient or guardian;

(D) Subject to documented periodic review of the 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 course of medications prescribed, ordered, administered, or dispensed as well as any new information about the etiology of the pain;

(E) Complete and accurate records of the care provided as set forth in subparagraphs (A)-(D) of this paragraph should be kept. When controlled substances are prescribed, names, quantities prescribed, dosages, and number of authorized refills of the drugs should be recorded, keeping in mind that pain patients with a history of substance abuse or who live in an environment posing a risk for medication misuse or diversion require special consideration. Management of these patients may require closer monitoring by the physician managing the pain and consultation with appropriate health care professionals.

(4) A decision by a physician not to strictly adhere to the provisions of paragraph (3) of this section will, for good cause shown, be grounds for the board to take no disciplinary action in regard to the physician. Each case of prescribing for pain will be evaluated on an individual basis. The physician's conduct will be evaluated

to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized to be appropriate for the diagnosis, the patient's individual needs including any improvement in functioning, and recognizing that some types of pain cannot be completely relieved.

(5) If the provisions as set out in paragraphs (1)-(4) of this section are met, and if all drug treatment is properly documented, the board will consider such practices as prescribing in a therapeutic manner, and prescribing and practicing medicine in a manner consistent with public health and welfare.

(6) Quantity of pharmaceutical and chronicity of prescribing will be evaluated on the basis of the documented appropriate diagnosis and treatment of the recognized medical indication, documented persistence of the recognized medical indication, and properly documented follow-up evaluation with appropriate continuing care as set out in this chapter.

(7) A physician may use any number of treatment modalities for the treatment of pain, including intractable pain, which are consistent with legitimate medical purposes.

(8) These rules shall not be construed so as to apply to the treatment of acute pain with dangerous drugs or controlled substances for purposes of short-term care.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503352 Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

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Proposal publication date: February 7, 1995

For further information, please call: (512) 834-7728

## Chapter 173. Applications

### • 22 TAC §173.1

The Texas State Board of Medical Examiners adopts an amendment to §173.1, without changes, to the proposed text as published in the December 6, 1994, issue of the *Texas Register* (19 TexReg 9585).

The section as adopted will delete titles of applications no longer being used by the board and add new titles to update the existing rules.

The section as adopted will function as a clarification of the applications used by the board.

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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9503347 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) 834-7728

## Chapter 175. Schedule of Fees and Penalties

### • 22 TAC §175.1, §175.2

The Texas State Board of Medical Examiners adopts amendments to §175.1 and §175.2, without changes to the proposed text as published in the December 6, 1994, issue of the *Texas Register* (19 TexReg 9585).

The sections as adopted will update the board's fees for processing applications for various permits and licenses, and penalties for late annual registration for acupuncturists and physician assistants.

The sections as adopted will function as a clarification of the fees charged by the board.

No comments were received regarding adoption of the amendments.

The amendments are 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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-9503348 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) 834-7728

## Chapter 183. Acupuncturists

### • 22 TAC §183.4, §183.19

The Texas State Board of Medical Examiners adopts an amendment to §183.4 and new §183.19, without changes to the proposed text as published in the December 6, 1994, issue of the *Texas Register* (19 TexReg 9586).

The amendment as adopted will clarify that an acupuncture school approved by the National Accreditation Council on Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) may refer to itself as a college as long as it maintains NACSCAOM accreditation. The section as adopted will also change the requirement of at least 48 semester hours of preacupuncture training to 60 semester hours of preacupuncture training. The new §183.19 as adopted will clarify the professional titles a licensed acupuncturist may use.

The sections as adopted will function as a clarification of existing rules and to raise the evaluation standard for licensure as an acupuncturist.

No comments were received regarding adoption of the amendment and new section.

The amendment and new section are 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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 14, 1995.

TRD-9503349      Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: April 7, 1995

Proposal publication date: December 6, 1994

For further information, please call: (512) 834-7728

## Chapter 185. Physician Assistants

### • 22 TAC §185.7

The Texas State Board of Medical Examiners adopts an amendment to §185.7, without changes to the proposed text published in the January 27, 1995, issue of the *Texas Register* (20 TexReg 420).

The section will protect the public by providing a mechanism by which a temporary license may be issued to physician assistants in order to allow them to begin work, especially in underserved areas, sooner than otherwise would be possible.

The section will function by providing the executive director of the board with the ability to issue a limited temporary license to a physician assistant whose file is substantially complete.

The comments received from individuals related to a fee for temporary licenses which did not pertain to this particular rule change.

The amendment is adopted under the Physician Assistant Licensing Act, Texas Civil Statutes, Article 4495b-1, §22, 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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 14, 1995.

TRD-9503351      Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: April 7, 1995

Proposal publication date: January 27, 1995

For further information, please call: (512) 834-7728

### • 22 TAC §§185.16, 185.18, 185.19, 185.23

The Texas State Board of Medical Examiners adopts amendments to §§185.16, 185.18, 185.19, and 185.23, without changes to the proposed text published in the December 6, 1994, issue of the *Texas Register* (19 TexReg 9587).

The sections as adopted will protect the public by: requiring a supervising physician of a physician assistant to have an active and unrestricted license; notifying a complainant, at least quarterly, of the status of the complaint; and disciplining physician assistants for professional failure to practice as a physician assistant in an acceptable manner consistent with public health and welfare.

The sections as adopted will function by clarifying the discretion of the Physician Assistant Advisory Council and streamlining the administrative process.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Physician Assistant Licensing Act, Texas Civil Statutes, Article 4495b-1, §22, 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 rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 14, 1995.

TRD-9503350      Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: April 7, 1995

Proposal publication date: December 6, 1994

For further information, please call: (512) 834-7728

## TITLE 22. EXAMINING BOARDS

### Part XII. Board of Vocational Nurse Examiners

#### Chapter 235. Licensing

##### Application for Licensure

### • 22 TAC §235.17

The Board of Vocational Nurse Examiners adopts an amendment to §235.17, relative to temporary permits, without changes to the proposed text as published in the December 20, 1994, issue of the *Texas Register* (19 TexReg 10066).

The amendment allows for explanation of what happens on temporary permits for those individuals who do not appear for the examination or fail to schedule for examination.

The amendment will allow for a clearer understanding expiration dates of temporary permits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules and regulations as may be necessary to carry in effect the purposes of the law.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503282      Marjorie A. Bronk  
Executive Director  
Board of Vocational Nurse  
Examiners

Effective date: April 6, 1995

Proposal publication date: December 20, 1994

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**Part XXIV. Texas Board  
of Veterinary Medical  
Examiners**

**Chapter 571. Licensing**

**Examinations**

• **22 TAC §571.4**

The Texas Board of Veterinary Medical Examiners adopts an amendment to §571.4, concerning Special Licenses, with changes to the proposed text published in the November 25, 1994, issue of the *Texas Register* (19 TexReg 9335).

The change expands board-approved programs to include programs at institutions in the process of becoming accredited. The previous language only allowed for institutions already recognized and accredited.

The amendment will define "board-approved veterinary programs" as cited in the Veterinary Licensing Act §10, Article 8890, as programs recognized and accredited by the appropriate authority of the American Veterinary Medical Association.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

The amendment affects §10A, of the Veterinary Licensing Act, Article 8890, which provides the Board with the authority to issue special licenses to individuals employed in a Board-approved veterinary program at an institution of higher education.

*§571.4. Special Licenses.*

(a) Section 10A provisions. Under the provisions of the Veterinary Licensing Act, §10A, the State Board of Veterinary Medical Examiners shall offer the State Board Jurisprudence Examination to applicants for Special Licensure at least annually under the following conditions:

(1) Candidates for Special Licensure must be identified to the Board, in writing, from the employing or controlling authority as meeting the provisions of §10A. The letter will state the candidates name, mailing address, and specific official duties that require a Special License. A board-approved program at an institution of higher education shall mean any program which is recognized and accredited, or in the accreditation process, by an appropriate body of the American Veterinary Medical Association.

(2) The applicant must submit a completed application for examination to the Board Offices no later than 45 days prior to the examination date. The completed application includes payment of examination fees and certification from the employing official attesting to the applicant's employment position.

(3) Upon completion of the State Board Jurisprudence Examination, each applicant shall receive a letter of notification from the Board notifying the applicant of the pass/fail results. A grade of 75% has been established as the minimum passing grade. For successful candidates, the letter shall constitute authority for limited practice in the State of Texas in accordance with each applicants's certified employment position.

(4) A Special License will be issued for the calendar year in which the requirements for licensure have been met. Annually thereafter, a special license will be issued upon receipt of a registration renewal form which has been recertified by the employing official and also upon payment of the annual registration fee.

(5) Renewals will follow the provision set forth in the Veterinary Licensing Act, Article 8890, §12(1)-(6).

(6) Applicants who fail the State Board Jurisprudence Examination, and wish to be reexamined, will be required to resubmit an application and fees for the next scheduled, or later, Special Licensing Examination.

(b) Applicant Criteria. Applicants for a Special License applying under the Veterinary Practice Act, §10A(4) (un/under-represented) of shall meet the following criteria:

(1) be a graduate of an AVMA accredited college of veterinary medicine or possess an ECFVG Certificate issued by the AVMA;

(2) be licensed in another U. S. jurisdiction;

(3) not be holding a special license under any other paragraph of Veterinary Practice Act, §10A;

(4) shall have an employing sponsor approved by the Board who will certify that the need for a Special License exists; and

(5) be deemed competent in the field for which the Special License is requested.

(c) Need Criteria. In making a determination if a field is un/underrepresented, the Board shall consider empirical and statistical evidence that:

(1) there is a need or demand for that veterinary discipline, and

(2) that there is a shortage of DVM's practicing that veterinary discipline.

(d) Competency Criteria. In determining competency, the Board shall consider one or more of the following:

(1) that the applicant has taken and passed the required licensing examinations in another state or jurisdiction;

(2) that the applicant holds a certificate of special competency issued by a specialty board as recognized by the AVMA

(3) that the applicant take and pass the Texas Jurisprudence examination.

(e) General. A change in status from one special license category to another must be approved by the Board.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503304

Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: April 6, 1995

Proposal publication date: November 25, 1994

For further information, please call: (512) 447-1183

◆ ◆ ◆  
**Chapter 573. Rules of  
Professional Conduct**

**Responsibilities to Clients**

• **22 TAC §573.27**

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.27, concerning Observance of Confidentiality, with changes to the proposed text published in the October 21, 1994, issue of the *Texas Register* (19 TexReg 8346).

The change expands the practitioner's authority to release records to include those records which are subpoenaed.

This section was adopted on October 21, 1994, on an emergency basis so that client names and addresses might be released in order that rabies vaccination records can be provided to health care and public health professionals in cases of animal bites.

Ellis Gilleland commented that the rule is not necessary since there is extensive language in the Veterinary Licensng Act. Mr. Gilleland also felt that practitioners should also be authorized to release records which are subpoenaed.

**BOARD RESPONSE:** The Board feels that the rule is needed to clarify the wording in the Veterinry Licensing Act. It was agreed that veterinarians should be authorized to release records which are requested through sub-



poena duces tecum, and added that authority to the rule.

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§573.27. *Observance of Confidentiality.* In accordance with §18E of the Veterinary Licensing Act, a licensed veterinarian shall not violate the confidential relationship between the veterinarian and a client and may not be required to disclose any information concerning the veterinarian's care for an animal except on written authorization or another form of waiver executed by the client or on receipt by the veterinarian of an appropriate court order, or subpoena duces tecum. Another form of waiver includes verbal authorization by the client. Confidentiality extends to care and treatment of the animal, but does not preclude the veterinarian from divulging the name and address of the animal owner to any health authority, veterinarian, or physician who requests the identity of the client for purposes of obtaining the information to verify rabies vaccinations or other treatment involving life threatening situations.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503305

Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: April 6, 1995

Proposal publication date: October 21, 1994

For further information, please call: (512) 447-1183

## Prescribing and/or Dispensing Medications

### • 22 TAC §573.44

The Texas Board of Veterinary Medical Examiners adopts new §573.44, concerning Compounding Drugs, with changes to the proposed text published in the November 25, 1994, issue of the *Texas Register* (19 TexReg 9336).

This new section provides veterinarians with guidelines for compounding drugs, which are based on the Federal Drug Administration's Compliance Policy Guide (CPG) concerning drug compounding and the illegal manufacture of drugs. The changes made since the rule was proposed are grammatical in nature and do not effect the intent of the rule.

Following are comments received concerning the new rule, with the Board's response following each comment:

Dr. Gordon Brumbaugh, Member, Texas Veterinary Medical Association's Pharmacy and Therapeutic Committee supports the rule and makes a number editorial changes which improves and clarifies the rule, but does not impact rule content. He points out that "valid prescription" as stated in subsection (f)(3)(A) should be defined. Dr. Brumbaugh contends that subsection (f)(3) contradicts the requirements for compounding, in that if a marketed, approved animal drug dosage form is available, compounding is not necessary. Paragraph (2) states that it is preferable to use approved labeled drugs in an extra-label manner over compounding products. He also asserts that a lengthy preamble is not needed in a rule of this nature.

BOARD RESPONSE: The editorial suggestions were incorporated. The definition of a valid prescription is contained in the Act and Board rules and need not be recited in this rule. The contradictory language was clarified through editorial changes. The comment regarding the length of the preamble was not addressed.

Mr. A. Wes Siegner, Jr., Attorney At Law, Hyman Phelps, & McNamara, Washington, D.C. addressed the rule on behalf of licensed veterinarians in Texas. He supports adoption of the rule and offers several suggestions. Mr. Siegner suggests that the first sentence of subsection (a) be amended to read "The Board acknowledges the historic medical need for compounding. . . ." He also suggests the 4th sentence in subsection (a) be amended to read: "Consequently, in order to comply with the requirements of Texas law and the Veterinarian's Oath, veterinarians are required to . . ." The cautionary statement, the capitalized last portion of subsection (a), should be amended to read as: "THIS RULE IS ADOPTED BY THE BOARD TO CLARIFY THE CIRCUMSTANCES IN WHICH PRACTITIONERS ARE LEGALLY ENTITLED TO COMPOUND DRUGS. FEDERAL AND STATE LAWS OR REGULATIONS MAY PLACE ADDITIONAL CONDITIONS ON SUCH COMPOUNDING." He feels "unapproved new animal drugs" should be replaced with "compounded medicament" throughout subsection (e) since the Animal Drug Clarification Act removes drugs used off-label from the category of animal drugs requiring FDA approval.

He interprets subsection (e)(3) as prohibiting the naming of compounded formulations, as well as any addition of color or additive. He points out that since a large percentage of West Texas and Panhandle feed lot employees speak very little or no English and few DVMs speak fluent Spanish, labels for medications are often color coded and simple prescription numbers and names are used to avoid improper medication and assure proper withdrawal times. He suggests prohibiting fanciful names which are meant to sell the products, but serve no apparent treatment function. Names such as "bloet treatment", "wound lotion", "pinkeye ointment" should be acceptable; however, "pink lady", "silver bullet", etc. which are clearly intended to sell the product, should be banned. The use of coloring is often useful in formulations requiring extended withdrawal times as a means of assuring elimination of unwanted residues.

He asserts that prohibiting "other additives" in subsection (e)(3) is overly broad and undefined. He points out that some additives are useful. Some examples are preservatives, stabilizers, anti-oxidants, substances that tie up or neutralize antitoxins, chemicals to adjust pH, and substances such as lidocaine which are added to prevent pain at the injection site. Mr. Siegner suggests the following replacement wording for subsection (e)(3): "Preparation for sale of compounded medications which employ fanciful names, colorings or other additives that in any way imply that the compounds have some unique effectiveness (other than names, colorings or ingredients intended to serve as valid treatment function)." Mr. Siegner states "veterinarians can develop and use historical or comparative data to establish the increased efficacy of compounded preparations, particularly when working with large groups of animals. An example of this would be records establishing decreased death loss from the use of drugs with proven synergisms and/or additive beneficial effects, compared to the use of approved drug products with a single active ingredient." Therefore, he suggests that subsection (f)(2) be rewritten in the following manner: "Historical or comparative data establishing the increased efficacy of compounded formulations compared to FDA-approved human or animal drugs would normally be sufficient to support a decision to compound, assuming adequate withdrawal times are established." BOARD RESPONSE: A majority of Mr. Seigner's comments are editorial in nature and have been addressed. The remaining comments do not reflect substantial changes to the rule and can be addressed at a later date through amendments should the need arise.

Mr. Gilleland commented that compounding drugs is a violation of federal statute until the Food and Drug Administration develops regulations. Further, he contends that the Board members are not trained clinical pharmacologists, and therefore not qualified to determine dosage of compounded drugs. He feels the words "at wholesale" should be removed from subsection (e)(5). Lastly, Mr. Gilleland alleges that regulations have not been written on compounding drugs and thus it is illegal for the Board to adopt a rule when no regulations exist.

BOARD RESPONSE: Since there are no federal regulations dealing with compounding drugs, the Board put in the cautionary statement that veterinarians should keep abreast of changing federal and state laws and this rule enables the Board to take disciplinary action against those practitioners compounding drugs in violation of federal and state laws. The wording "at wholesale" was removed from subsection (e)(5). It is not necessary for regulations to be issued prior to the Board adopting a rule dealing with compounding drugs. Further, determining dosage of compounded drugs is not restricted to clinical pharmacologists.

Dr. Nixon Varner commented on subsection (f)(1) which addresses the first step in determining whether compounding is necessary. The section states compounding should only be considered if the animal is threatened or suffering as a result of withholding a com-

pounded treatment. Dr. Varner feels that synchronizing mares might be an example of a need to compound drugs, but the animals are not threatened or suffering by withholding treatment.

**BOARD RESPONSE:** Disciplinary action would only be taken if a complaint was filed. It is not likely administering drugs to synchronize mares would generate a complaint. In order to address Dr. Varner's concern the rule would be withdrawn and reposted. If Dr. Varner's concern becomes an issue, the Board will amend the rule in the future.

The new section is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

#### §573.44. *Compounding Drugs.*

(a) Policy Preamble. The Board acknowledges the medical need for compounding, within certain aspects of veterinary practice, to enable the profession to use drugs in a responsible manner. The current state of veterinary medicine requires products to treat hundreds of conditions in more than 100 species, some of which are known to have unique physiological characteristics. While efforts have and are being made to expand the number of drug approvals for all applications of new animal drugs, only a fraction of the products explicitly labeled for each of these indications have U.S. Food and Drug Administration (FDA) approval. Consequently, veterinarians are required to relieve pain and suffering, treat diseases or conditions, and save animal lives in clinical situations in which no FDA approved product is properly formulated and labeled to address the specific medical need. However, there is a potential for harm to the public and health of animals when drug products are compounded, distributed and used on a large scale in the absence of adequate safeguards and practices. Therefore, the Board will implement and enforce the following guidelines regarding veterinarians who find the need to compound. These guidelines are based on the FDA's Compliance Policy Guide (CPG) concerning compounding and illegal manufacturing of drugs. **CAUTION: VETERINARIANS SHOULD BE AWARE THAT FEDERAL AND STATE DRUG LAWS CAN CHANGE. THIS RULE IS ADOPTED BY THE BOARD TO ENABLE PRACTITIONERS TO COMPOUND DRUGS WHEN DOING SO IS NOT IN CONFLICT WITH FEDERAL AND STATE DRUG LAWS OR REGULATIONS.**

(b) Definition of "drug". When used in this rule, the definition of drug shall be as defined in the Texas Food, Drug, and Cosmetic Act, §431.002 (14). Section 431.002(14) currently reads: "Drug" means

articles recognized in the official United States Pharmacopoeia National Formulary, or any supplement to it, articles designed or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, articles, other than food, intended to affect the structure of any function of the body of man or other animals, and articles intended for use as a component of any article specified in this subdivision. The term does not include devices or their components, parts, or accessories. A food for which a claim is made in accordance with §403(r) of the federal Act, and for which the claim is approved by the secretary, is not a drug solely because the label or labeling contains such a claim.

(c) Definition of Compounding. Any manipulation to produce a dosage form drug, (formulation of a drug for administration), except for that manipulation which is provided for in directions for use on the labeling of an approved drug product, e.g., reconstitution of a sterile powder with water for injection.

(d) Definition of Illegal Manufacturing. Any such manipulation that occurs outside the confines of a legitimate practice, e.g., where a veterinarian-client-patient relationship does not exist.

(e) Illegal Manufacturing or Unacceptable Compounding Prohibited. The following situations would likely be considered illegal manufacturing, or, if within the confines of a legitimate practice, unacceptable compounding. These situations will be considered of high regulatory priority by the Board, likely to result in an enforcement action against the person or persons responsible for such violative behavior, and reported to the FDA:

(1) Preparation for sale of large quantities of unapproved new animal drugs on an ongoing basis and where no valid medical need or veterinary/client/patient relationship exists;

(2) Promotion and/or distribution of compounded medicaments that are essentially similar to FDA-approved products;

(3) Preparation for sale of unapproved new animal drugs which employ fanciful or trade names, colorings or other additives, or that in any way imply that the compounds have some unique effectiveness or composition;

(4) Advertising, promotion, display, resale, or other means of marketing prepared unapproved new animal drugs; and

(5) Offering compounded medicaments to other state licensed veterinarians, pharmacists or other commercial entities for resale.

(f) Acceptable Compounding. Limited compounding by or on the order of a

licensed veterinarian (or pharmacist on a veterinarian's prescription) is acceptable within the following guidelines. The practitioner would utilize the following decision process to determine whether or not compounding is necessary and justifiable. This process is designed to ensure that compounding is initiated only in those situations where the needs of the patient are great and the risks to the patient and consumer are small.

(1) The first question or step of the process is a determination as to whether the health of the animal would be threatened or whether suffering would result from withholding treatment. If the answer to this question is in the affirmative, then the second consideration of the practitioner should be whether there is a need to create an appropriate dosage form drug for the species, age, anatomy, size, medical conditions, or safety of the patient or practitioner, or whether compounding is necessary because of a desire to increase effectiveness, decrease side effects or minimize the need for restraint of dangerous animals.

(2) If the answer to this question of the need to create a drug is also in the affirmative, the practitioner should consider whether there is a marketed approved animal drug dosage form which, when used as labeled, or used in an extra-label manner, might acceptably treat the condition. The practitioner should also consider whether there is a human-labeled drug available that can be used in accordance with CPG 7125.35 to acceptably treat the condition. The use of approved animal drugs in an extra-label manner or the use of human-labeled drugs would both be preferred over the use of compounded products due to the concern that compounded products may pose purity, potency and stability problems.

(3) All of the alternatives to treatment in listed in paragraph (2) of this subsection must be ruled out before a decision is made by the practitioner to compound. A positive response to any would negate the need to compound. When a decision is made to compound, all the following criteria and precautions must be met by the practitioner.

(A) Compounding can only be performed by the veterinarian or by a pharmacist on the receipt of a valid prescription from a veterinarian. Compounding can only be performed within the confines of a legitimate veterinarian-client-patient relationship.

(B) Veterinarians must exercise professional judgement to determine when compounding requires the services of a pharmacist. Professional assistance is necessary when the complexity of compound-

ing exceeds the veterinarian's knowledge, skill, facilities, or available equipment.

(C) The safety and efficacy of the compounded drug product is consistent with current standards of pharmaceutical and pharmacological practices, that is, known incompatibilities and inappropriate combinations are avoided and minimum current good compounding practices for the preparation of drug products by State-licensed pharmacies is met.

(D) The veterinarian is responsible for ensuring, when a compounded drug product is used in a food-producing animal, that no violative tissue residues occur from such use.

(E) Procedures are instituted to assure that appropriate patient records for the treated animals are maintained.

(F) All drugs dispensed to the animal owner by the veterinarian or pharmacist must bear labeling information and an expiration date which is adequate to properly use the product. A complete label should bear the following information:

- (i) name and address of the attending veterinarian.
- (ii) date dispensed and expiration date. The expiration date should not exceed the length of the prescribed treatment.
- (iii) medically active ingredients.
- (iv) identity of treated animals.
- (v) directions for use.
- (vi) cautionary statements if needed.
- (vii) withdrawal/withholding times if needed.
- (viii) condition or disease to be treated.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503307 Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: April 6, 1995

Proposal publication date: November 25, 1994

For further information, please call: (512) 447-1183

## Responsibilities to Clients

### • 22 TAC §573.69

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.69, concerning Reporting Criminal Activity, without changes to the text published in the October 21, 1994, issue of the *Texas Register* (19 TexReg 8347).

This amendment will require the Board to report all non-drug related cases to proper authorities. Previously the Board was required to report all non-narcotic related cases to proper authorities.

Mr. Gilleland expressed concern that there is no distinction between "non-drug related" and "drug-related" activity in the rule. It was suggested that in addition to reporting criminal activity to the Department of Public Safety and the Drug Enforcement Administration officials, criminal activity should be reported to county/district attorneys.

**BOARD RESPONSE:** A representative from the Drug Enforcement Administration (DEA) present at the meeting pointed out that DEA has its own procedures that do not involve the district or county attorneys, and normally attorneys will refer to the DPS and/or DEA for investigation. With this information the Board felt it would be redundant to require that criminal activity be reported to county and district attorneys.

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503306 Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: April 6, 1995

Proposal publication date: October 21, 1994

For further information, please call: (512) 447-1183

## Chapter 577. General Administrative Duties

### Staff and Miscellaneous

#### • 22 TAC §577.15

The Texas Board of Veterinary Medical Examiners adopts an amendment to §577.15, concerning Fee Schedule, without changes to the proposed text published in the November 4, 1994, issue of the *Texas Register* (19 TexReg 8747).

This amendment is necessitated by a reduction in the license renewal fee.

This section was adopted on an emergency basis on November 4, 1995, since the Board does not meet prior to commencement of the 1995 renewal period. The rule will set out the fees charged by the Board for examinations, license renewals, open records and mailing lists and labels. It will reduce the license renewal fee by \$16.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

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

Issued in Austin, Texas, on March 14, 1995.

TRD-9503303 Ron Allen  
Executive Director  
Texas Board of Veterinary  
Medical Examiners

Effective date: April 6, 1995

Proposal publication date: November 4, 1994

For further information, please call: (512) 447-1183

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 88. Special Management Programs

##### • 37 TAC §88.1, §88.3

The Texas Youth Commission (TYC) adopts new §88.1 and §88.3, concerning special management and treatment program for assaultive youth, and intensive resocialization program, without changes to the proposed text as published in the February 10, 1995, issue of the *Texas Register* (20 TexReg 935).

The justification for the new sections are that youth who engage in activities which incite and cause major disruption and endangerment of staff and youth will be better served by placement in highly structured treatment programs.

New §88.1 will allow youth who pose a serious threat to life, property, self, staff, or other youth, to be moved to a special management and treatment program for aggressive and assaultive behaviors in a TYC institution. New §88.3 replaces the existing §91.73 which was simultaneously proposed for repeal. The rule has been moved to a more appropriate chapter and renumbered.

No comments were received regarding adoption of the new rules.

The new rules are adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order confinement under conditions it believes best designed for the child's welfare and the interests of the public.

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

Issued in Austin, Texas, on March 17, 1995.

TRD-9503385 Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: April 7, 1995

Proposal publication date: February 10, 1995

For further information, please call: (512) 483-5244

## Chapter 91. Discipline and Control

### Control

#### • 37 TAC §91.73

The Texas Youth Commission (TYC) adopts the repeal of §91.73, concerning resocialization program, without changes to the proposed text as published in the February 10, 1995, issue of the *Texas Register* (20 TexReg 937).

The repeal is justified in order to move the rule to a more appropriate chapter.

The repeal will allow the rule to be moved to a new chapter and be renumbered.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

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

Issued in Austin, Texas, on March 17, 1995.

TRD-9503384 Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: April 7, 1995

Proposal publication date: February 10, 1995

For further information, please call: (512) 483-5244

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 15. Medicaid Eligibility

##### Subchapter B. Medicare and Third-Party Resources

###### • 40 TAC §15.201

The Texas Department of Human Services (DHS) adopts an amendment to §15.201, concerning qualified Medicare beneficiaries.

The purpose of the amendment is to update the rulebase to reflect policy and federal requirements in the Omnibus Budget Reconciliation Act of 1990, effective January 1, 1991. The income eligibility limit for the Qualified Medicare Beneficiary Program (QMB) program is raised to 100% of federal poverty levels, and the social security cost-of-living adjustment during January, February, and March of each year is excluded.

The amendment will function by ensuring more people are eligible for the QMB program.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment is adopted in compliance with federal requirements effective January 1, 1991.

The amendment implements the Human Resources Code 22.001-22.024 and 32.001-32.042.

*§15.201. Qualified Medicare Beneficiaries (QMB) (Type Program 24).*

(a) Public Law 100-360, the Medicare Catastrophic Coverage Act of 1988, requires the Texas Department of Human

Services (DHS) to pay Medicare premiums, deductibles, and coinsurance for certain clients. Effective January 1, 1989, DHS pays Medicare premiums, deductibles, and coinsurance premiums for clients who

(1) are enrolled in Medicare Part A,

(2) have income that is equal to or less than

(A) 85% of the federal poverty level in calendar year 1989,

(B) 90% of the federal poverty level in calendar year 1990, and

(C) 100% of the federal poverty level in calendar year 1991 and thereafter.

(3) have resources no more than twice the limits for the SSI program.

(b)-(g) (No change.)

(h) For QMB eligibility, the cost-of-living adjustment (COLA) in Social Security benefits is excluded for the months of January, February, and March of each year, beginning in 1991. To determine eligibility for applications and recertifications, DHS uses the pre-COLA benefit amount during those months.

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

Issued in Austin, Texas, on March 16, 1995.

TRD-9503317 Nancy Murphy  
Section Manager, Media  
and Policy Services  
Texas Department of  
Human Services

Effective date: January 1, 1991

Proposal publication date: N/A

For further information, please call: (512) 450-3765

# OPEN MEETINGS

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).

## Texas Alcoholic Beverage Commission

Monday, March 27, 1995, 9:30 a.m.

5806 Mesa Drive

Austin

### AGENDA:

9:00 a.m.—Call to order.

Convene in open meeting.

Announcement of executive session.

#### 1. Executive session:

a. briefing regarding operations of the general counsel's office.

9:30 a.m.—Continue open meeting.

2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.

3. Approval of minutes of February 20, 1995, meeting.

4. Recognition of TABC employees with 20 and above years of service.

5. Administrator's report.

6. Consider request for rule concerning late hours licenses and permits issued under §§105.03-105.05 of the Texas Alcoholic Beverage Code.

7. New 16 TAC §41.73 as published in the February 24, 1995, issue of the *Texas Register* (20 TexReg 1319); discussion, comment and possible adoption. (Regular Registration)

#### 8. Public comment.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: March 17, 1995, 8:36 a.m.

TRD-9503330

## Texas School for the Blind and Visually Impaired

Friday, March 24, 1995, 9:00 a.m.

1100 West 45th Street, Room 151

Austin

Board of Trustees, Subcommittee on Personnel

### AGENDA:

Consideration of superintendent's evaluation

Consideration of Factor 1000 impairment testing device

Consideration of approval of proposed contract renewals and non-renewals for non-probationary staff

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: March 16, 1995, 3:55 p.m.

TRD-9503322

Friday, March 24, 1995, 9:00 a.m.

1100 West 45th Street, Room 110

Austin

Board of Trustees, Subcommittee on Policies

### AGENDA:

Consideration of approval of 1995 school calendar year and waiver request

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: March 16, 1995, 3:55 p.m.

TRD-9503323

Friday, March 24, 1995, 9:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees, Subcommittee on Finance and Audit

### AGENDA:

Approval of minutes from January 20, 1995 meeting

Report from internal auditor

Report on the status of the telephone system acquisition

Report of the status of the revenue bond financed projects

Budget status report

Contingency fund report

Legacy fund reports

Report on investments

Curriculum sales activity report

Legislative update

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas (512) 454-8631, Ext. 133.

Filed: March 16, 1995, 3:55 p.m.

TRD-9503324

Friday, March 24, 1995, 10:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees

AGENDA:

Approval of minutes of January 20, 1995 Board meeting; approval of Factor 1000 impairment testing device; approval of the continuance of a day care center on the TSBVI Campus; approval of 1995-1996 school calendar and waiver request; consideration of superintendent's evaluation; internal auditor's report; summer program update.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, Ext. 133.

Filed: March 16, 1995, 3:54 p.m.

TRD-9503321



Texas Department of Criminal Justice

Friday, March 24, 1995, 8:30 a.m.

Brown-Heatly Building, 4900 North Lamar Boulevard

Austin

Texas Board of Criminal Justice

AGENDA:

Reconvene Texas Board of Criminal Justice

I. Regular Session:

A. Recognitions

B. Consent items

1. Hazardous duty pay authorization requests

2. Dual employment

3. Payment to court appointed attorneys for indigent inmates

4. Personal property donations

5. Vending machine requests

6. Approval of 45th Board of Criminal Justice meeting minutes

C. Board committee reports/Division executive summaries-non-action items

D. Judicial Advisory Council presentation

E. Construction briefing

F. Good conduct time policy changes

G. Proposed revisions to state jail standards

H. Use of state jails to hold transfer inmates

1. Resolution of Board policy

2. Adoption of amendment to 37 TAC §157.31

I. Proposed adoption of MOU with other state agencies, governing continuity of care for special needs offenders

J. Board policy on requesting Attorney General Opinions

K. Briefing on re-engineering project

L. Update of legislative packet

M. Update on implementation of tobacco-free policy

N. Discussion of revision of agency policies and procedures

O. Designation of TDJC facility names

P. Funding for Parents Anonymous Prison Population Advocacy (PAPPA)

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: March 16, 1995, 4:04 p.m.

TRD-9503325



Texas Commission for the Deaf and Hearing Impaired

Friday, March 31, 1995, 9:00 a.m.

Brown-Heatly Building, Room 1430, 4900 North Lamar Boulevard

Austin

Revised Agenda

Board

AGENDA:

Call to order; approval of minutes for January 27, 1995; executive director's report including legislative update, discussion of and possible decisions on financial/budget information, update on direct services and approval of new task force members; Board for Evaluation of Interpreters' report including certifications, revocations, proposed rule change and approval of new board members; information items; public comment; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: March 20, 1995, 10:59 a.m.

TRD-9503423



Employees Retirement System of Texas

Thursday, March 30, 1995, 10:00 a.m.

18th and Brazos, Auditorium, First Floor Austin

Group Benefits Advisory Committee

AGENDA:

1. Call to order

2. Recognition of visitors and guests

3. Approval of minutes from previous meeting

4. Announcements/updates-chair

5. ERS update

6. Standing subcommittee reports

7. Other related benefits business

8. Adjournment

Contact: James W. Sarver, 18th and Brazos, Austin, Texas 78701, (512) 867-3217.

Filed: March 17, 1995, 1:58 p.m.

TRD-9503386



Texas Employment Commission

Tuesday, March 28, 1995, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 13; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: March 20, 1995, 4:07 p.m.

TRD-9503463



General Services Commission

Tuesday, March 28, 1995, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

AGENDA:

Item 1) Consideration of final adoption of amendments to §§125.3, 125.11, 125.19, and 125.21 concerning the State Travel Management Program; 2) Consideration of

requests for financing of construction project in Tarrant County and various air quality projects for state-owned buildings in Austin; 3) Consideration of modifications to the Commission's retention and delegation of authority; 4) Authorization of quarterly reviews of TEX-AN III rates; 6) Status report of pending legislation affecting the commission; 6) Consideration of proposed change orders-various projects; 7) Division issues.

Contact: Judith Monaco Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3960.

Filed: March 17, 1995, 10:39 a.m.

TRD-9503344

Wednesday, April 19, 1995, 1:00 p.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

Texas School Bus Committee Meeting

AGENDA:

The purpose of the meeting is to discuss school bus bodies, chassis, engines, options, safety items, various accessories, and the approved products list. For further information, please contact Ron Dyer, phone (512) 463-3412.

Assistance to persons with disabilities at public meeting:

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 Ron Dyer at (512) 463-3412 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Judith Monaco Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3960.

Filed: March 16, 1995, 1:20 p.m.

TRD-9503292

## Office of the Governor

Thursday, March 14, 1995, 10:00 a.m.

Driskill Hotel, 604 Brazos

Austin

Automobile Theft Prevention Authority

AGENDA:

I. Call to order, introductions, and approval of minutes of last meeting.

II. Discussion/approval of grant match requirements proposed by Grantee Committee.

III. Executive session to deliberate the employment and duties of ATPA staff pursuant to Texas Government Code §551.074.

IV. Return to open session for further discussion and possible action regarding employment and duties of ATPA staff, pursuant to Texas Government Code, §551.074.

V. Adjournment.

Contact: Linda Young, 4000 Jackson Avenue, Austin, Texas 78731, (512) 467-3999.

Filed: March 16, 1995, 3:07 p.m.

TRD-9503314

Friday, March 24, 1995, 10:00 a.m.

Driskill Hotel, 604 Brazos

Austin

Revised Agenda

AGENDA:

I. Call to order, introductions, and approval of minutes of last meeting.

II. Discussion/approval of grant match requirements proposed by Grantee Committee.

III. Executive session to deliberate the employment and duties of ATPA staff pursuant to Texas Government Code, §551.074.

IV. Return to open session for further discussion and possible action regarding employment and duties of ATPA staff, pursuant to Texas Government Code, §551.074.

V. Adjournment.

Contact: Linda Young, 4000 Jackson Avenue, Austin, Texas 78731, (512) 467-3999.

Filed: March 17, 1995, 9:16 a.m.

TRD-9503332

## Texas Department of Health

Friday, March 24, 1995, 2:00 p.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

HIV/AIDS Interagency Coordinating Council

AGENDA:

The council will discuss and possibly act on the formation and membership of the advisory committees.

Contact: Linda Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-6403. For ADA assistance, contact Richard Butler at (512) 458-6410 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 16, 1995, 2:03 p.m.

TRD-9503299

## Statewide Health Coordinating Council

Monday, March 27, 1995, 9:00 a.m.

Room M-652, Texas Department of Health, 1100 West 49th Street

Austin

Rules Committee

AGENDA:

The committee will discuss and possibly act on: proposed rulemaking for the council; and next meeting date and agenda planning.

Contact: Trish O'Day, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler, (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 16, 1995, 2:02 p.m.

TRD-9503296

Monday, March 27, 1995, 9:30 a.m.

Room M-652, Texas Department of Health, 1100 West 49th Street

Austin

Legislative Committee

AGENDA:

The committee will discuss and possibly act on: process for selecting bills of interest and hearing date notification; legislative priorities; filed legislation to support; and next meeting date and agenda planning.

Contact: Trish O'Day, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: March 16, 1995, 2:02 p.m.

TRD-9503297

Monday, March 27, 1995, 3:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

AGENDA:

The council will discuss and possibly act on: approval of minutes from the March 1, 1995 meeting; report from the Legislative Committee; report from the Rules Committee; and next meeting date and agenda planning.

Contact: Trish O'Day, 1100 West 49th Street, Austin, Texas 78756, (512)

458-7261. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708, at least two days prior to the meeting.

Filed: March 16, 1995, 2:03 p.m.

TRD-9503298

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**Texas Department of Housing and Community Affairs**

**Tuesday, March 28, 1995, Noon.**

1700 North Congress Avenue, Room 118, Stephen F. Austin State Office Building

Austin

Programs Committee

AGENDA:

The Programs Committee will meet to consider and possibly act on the following: Housing Trust Fund Project-Proyecto Axteca to amend contract to provide for a reduction in units; modification of award and/or loan agreement for Park Manor Apartments, Fort Worth, Texas; multi-family properties-review of income limits; transfer of interest by general partner for Colorado Club; inducement resolution to approve refunding of bonds associated with Summer Bend; resolution authorizing changes to 1994 single family bond documents; authorizing the allocation of \$500,000 from Housing Trust Fund to Single Family Down Payment Assistance Program; capacity building funds to increase amount previously approved from \$200,000 to \$500,000; HOME Program Awards-funding recommendations fiscal year 1994 program; discussion on implementation of rent caps on developers; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: March 20, 1995, 1:06 p.m.

TRD-9503435

**Tuesday, March 28, 1995, 2:00 p.m.**

1700 North Congress Avenue, Room 118, Stephen F. Austin State Office Building

Austin

Low Income Housing Tax Credit Committee Meeting

AGENDA:

The Low Income Housing Tax Credit Committee will meet to consider and possibly act on the following: Low Income Housing Tax Credit Program-allocation for Plan 1995A; Crofton Place 11, LIHTC Property; "draft" Qualified Allocation Plan 1995B; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: March 20, 1995, 1:05 p.m.

TRD-9503434

**Wednesday, March 29, 1995, 9:00 a.m.**

1701 North Congress Avenue, Room 1.111, William B. Travis State Building

Austin

Board Meeting

AGENDA:

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on: minutes of meeting of February 23, 1995; authorizing the allocation of \$500,000 from Housing Trust Fund to Single Family Down Payment Assistance Program; community development block grant proposed final statement; Housing Trust Fund Project of Proyecto Axteca to amend contract to provide for a reduction in units; modification of award and/or loan agreement for Park Manor Apartments, Fort Worth, Texas; Low Income Housing Tax Credit Program-allocation for Plan 1995A; Crofton Place 11, LIHTC Property; "draft" Qualified Allocation Plan 1995B; review of income limits for multi-family properties; transfer of interest by general partner for Colorado Club; inducement resolution to approve refunding of bonds associated with Summer Bend; resolution authorizing changes to 1994 single family bond documents; capacity building funds to increase amount previously approved from \$200,000 to \$500,000; HOME Program awards-funding recommendations fiscal year 1994 program; executive session on anticipated litigation Residential Mortgage Revenue Bonds and personnel matters; action on items discussed in executive session; executive directors report on contract deed, homeless survey, other items. Adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: March 20, 1995, 1:07 p.m.

TRD-9503437

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**Texas State Affordable Housing Corporation**

**Wednesday, March 29, 1995, 1:00 p.m.**

1701 North Congress Avenue, Room 1.111, William B. Travis State Building

Austin

Board of Directors Meeting

AGENDA:

The Board of Texas State Affordable Housing Corporation will meet to consider and possibly act upon the following: minutes of February 23, 1995; consider awarding counseling and collections contract for the El Cenizo Project with Tejas Community Credit Corporation, a Texas non-profit; discussion on El Cenizo Project; and adjourn.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: March 20, 1995, 1:06 p.m.

TRD-9503436

◆ ◆ ◆  
**Texas Department of Human Services**

**Friday, March 24, 1995, 11:00 a.m.**

701 West 51st Street, First Floor, East Tower, Public Hearing Room

Austin

Texas Board of Human Services

AGENDA:

1. Approval of the minutes of February 17, 1995. 2. Chair's comments and announcements. 3. Report on Massachusetts welfare reform legislation. 4. Recommended policy options to implement immunizations as a condition of eligibility in the AFDC program. 5. Federal enforcement rules for Medicaid nursing facilities. 6. Licensure contract requirements for the following programs: primary home care, client-managed attendant services, and special services to persons with disabilities-24-hour attendant care. 7. Adoption of amendments to personal care licensure rules. 8. Plan to monitor requisition fee amounts for the nursing facility waiver program. 9. Adjustment to requisition fee schedule for the nursing facility waiver program. 10. Rate adjustment for prosecutors. 11. Budget adjustments for fiscal year 1994 and fiscal year 1995. 12. Amendments to policies and procedures. 13. Commissioner's report. a. announcements and comments. b. tracking of board action items.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: March 16, 1995, 11:29 a.m.

TRD-9503291

**Monday, April 3, 1995, 9:00 a.m.**

701 West 51st Street, Room 212 East Tower, Dining Room

Austin

Family Violence Advisory Committee

AGENDA:



1. Call to order. 2. Welcome and introductions. 3. Review and approval of minutes of January 31, 1995 meeting. 4. Announcements: explanation of absences, and scheduling of agenda items. 5. New business: presentation of handbook to board, and discussion of Advisory Committee meeting in June. 6. Old business: participation of shelters in EBT system, and discussion of proposed shelter survey. 7. Reports: Department of Human Services, Family Violence Contract Unit, and Texas Council on Family Violence. 8. Adjourn.

Contact: Cynthia Henton, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4184.

Filed: March 17, 1995, 1:16 p.m.

TRD-9503378

## Texas Department of Insurance

Monday, April 3, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0434.C

To consider whether disciplinary action should be taken against William Keith Coats, Houston, Texas, who holds a Group II Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code, #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:07 p.m.

TRD-9503438

Monday, April 3, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0152.C

To consider whether disciplinary action should be taken against Bobbie Wilcox doing business as Royalty Insurance Agency, Plano, Texas, who holds a Group V Local Recording Agent's License issued by the Texas Department of Insurance (continued from February 24, 1995).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:07 p.m.

TRD-9503439

Monday, April 3, 1995, 10:00 a.m.

New Hampshire Department of Safety, Richard M. Flynn Fire Academy, 222 Sheep Davis Road (Route 106)

Concord, New Hampshire

AGENDA:

To consider the Form A application of ZCI Investments Limited and Zurich Insurance Company for the acquisition of Home Lloyd's Insurance Company of Texas, and the related proposed merger.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 3:50 p.m.

TRD-9503458

Monday, April 3, 1995, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0452.C

To consider whether disciplinary action should be taken against Cecil Burns Eubanks, Jr., San Antonio, Texas, who holds a Local Recording Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:07 p.m.

TRD-9503440

Tuesday, April 4, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0355.A

To consider whether the application of International Association of Entrepreneurs of America Benefit Trust, Inc., for an initial certificate of authority for a multiple employer welfare arrangement should be granted.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:08 p.m.

TRD-9503441

Friday, April 7, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0435.C

To consider the application of Brian Lane Davidson, Arlington, Texas, for an Insurance Adjuster's License, to be issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:08 p.m.

TRD-9503442

Friday, April 7, 1995, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0450.C

To consider whether disciplinary action should be taken against J. R. Williams, Austin, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License, issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:50 p.m.

TRD-9503449

Friday, April 7, 1995, 1:30 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0433.C

To consider whether disciplinary action should be taken against Jarvis Kelvin Thibodeaux, Houston, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License and Local Recording Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 20, 1995, 1:50 p.m.

TRD-9503450

## Texas Department of Licensing and Regulation

Wednesday, March 29, 1995, 9:00 p.m.

920 Colorado, E.O. Thompson Building, Third Floor

Austin

Inspections and Investigations: Manufactured Housing

AGENDA:

According to the complete agenda, the department will hold an administrative hearing to consider the application of Demacio Sencundino Herrera for registration as a Manufactured Housing Salesperson in accordance with the Statutes, Articles 5221f, §7(k)(8), and 9100; 16 Texas Administrative Code (TAC), §125(j), and the Texas Government Code, Chapter 2001.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: March 21, 1995, 9:37 p.m.

TRD-9503470

## Texas Lottery Commission

Saturday, March 25, 1995, 10:00 a.m.

6937 North IH-35, American Founders Building, First Floor Auditorium

Austin

AGENDA:

According to complete agenda, the Texas Lottery Commission will call the meeting to order; approval of minutes of the January 25, 1995 meeting; consideration and possible action, including adoption of a rule, 16 TAC §402.554, relating to instant bingo; consideration and possible action, including adoption, of a rule, 16 TAC §402.558, relating to disposable bingo cards; consideration and possible action, including adoption of a rule, 16 TAC §402.545, relating to licenses for the conduct of bingo games; consideration and possible action, including appointment, of persons to the Bingo Advisory Committee; consideration and possible action on an appeal of a determination by the executive director of a protest of a contract award, such contract relating to the procurement of instant ticket vending machines, Commission may meet in executive session with its attorneys to receive legal advice in accordance with §551.071(2) of the Texas Government Code; Commission may meet in executive session with its attorneys to receive legal advice pursuant to §551.071(1) of the Texas Government Code regarding pending litigation, including but not limited to: Wolverine Council Auxiliary v. Texas Lottery Commission, Capitol Bingo Inc. v. Texas Lottery Commission, Frenzel v. Sadberry, et al, Scott Wenner v. Texas Lottery Commission, et al, and Morgan v. Singer Friedlander; may consider the status and possibly entry of an order in any contested case if a proposal for decision has been received from the assigned administrative law judge and the time period has lapsed for the filing of exceptions and replies, including but not limited to the following cases: Number 362-94-1907, Iman Odeh doing business as Jack's Grocery; Number 362-94-2040, Bobby Joe Parker doing business as Bob's Grocery; Number

362-94-2041, Charles B. Knight, Sr., doing business as Winkler Kountry Store; Number 362-94-2044, The Olde Store; Number 362-94-2045, Peter Tuan Tran doing business as Go 4 It Store; Number 362-94-2046, Sonny Wylie doing business as MLK Quick Stop; Number 362-94-2047, Omar Dieyleh doing business as Six Twelve #11; Number 362-94-2053; Janet Mata doing business as Falls Mini Mart; Number 362-94-1898.B, Wolverine Council Auxiliary, Callaghan Plaza; Number 362-94-1899.B, Wolverine Council Auxiliary, Unique Ballroom; Number 362-94-1900.B, Wolverine Council Auxiliary, Krystal Palace; report by the executive director and possible discussion on the financial status of the agency and any legislation pending before the Texas Legislature; and adjournment.

For ADA assistance, call Michelle Guerrero at (512) 323-3791 at least two days prior to meeting.

Contact: Michelle Guerrero, 5937 North IH-35, Austin, Texas 78752, (512) 323-3791.

Filed: March 16, 1995, 3:35 p.m.

TRD-9503315

## Texas Natural Resource Conservation Commission

Wednesday, March 29, 1995, 9:30 a.m.

12119 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The Commission will consider approving the following matters: Class 2 modification to hazardous waste permit; amendment to municipal solid waste permit; on-site sewage facilities; superfund contract; municipal waste discharge enforcement; industrial waste discharge enforcement; industrial hazardous waste enforcement; industrial solid waste enforcement; water operator certification enforcement; petroleum storage tank enforcement; agency enforcement report; rules; executive session; in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time.

(Registration begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: March 16, 1995, 3:07 p.m.

TRD-9503313

Monday, April 10, 1995, 10:00 a.m.

Texas Natural Resource Conservation Commission, Building A, Room 310-D, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by Medina Valley Water Supply Company, Inc. doing business as Deer Valley Water Supply Company for a Certificate of Convenience and Necessity (CCN) to allow it to provide water utility service in Medina County, Texas. The proposed utility service area is located approximately two miles southeast of downtown Castroville, Texas and is generally bounded on the east by the City of La Coste, on the south by the Medina River, on the west by the City of Castroville, and on the north by U.S. Highway 90. The total area being requested includes approximately 3,200 acres and zero current customers. TNRCC Docket Number 95-0301-UCR.

Contact: Leslie Limes, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: March 16, 1995, 2:49 p.m.

TRD-9503309

Tuesday, April 25, 1995, 10:00 a.m.

Building A, Room 310-D, 12124 Park 35 Circle

Austin

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an appeal by ratepayers concerning an out-of-city water rate increase by City of Quinlan. City of Quinlan's rate increase was effective November 15, 1994. TNRCC Docket Number 95-0306-UCR.

Contact: Sylvia McClellan, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: March 16, 1995, 2:49 p.m.

TRD-9503310

Thursday, April 27, 1995, 10:00 a.m.

Lubbock County Courthouse, Room 103, 904 Broadway

Lubbock

Office of Hearings Examiners

AGENDA:

For a hearing before a hearings examiner on an application by Franklin Water Service Company for a water rate increase effective November 15, 1995, for its service located

in Lubbock County, Texas. TNRCC Docket Number 95-0341-UCR.

Contact: Jim Bateman, Mail Code 102, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4100.

Filed: March 16, 1995, 2:50 p.m.

TRD-9503311

### Pecos River Commission

Thursday, April 20, 1995, 9:00 a.m.

103 West Callaghan

Fort Stockton

AGENDA:

1. Call to order by Chairman Villa; 2. Introduction-Commissioner Newton, commissioner from new Mexico; 3. Approval of minutes of meeting held August 17, 1994; 4. Report of chairman; 5. Report of secretary; 6. Report of treasurer; 7. Report of audit; 8. Reports of commission committees, (a) Budget, (b) Legal, (c) Engineering; 9. Reports of cooperating agencies and others; 10. Unfinished business; 11. New business; 12. Adjournment.

Contact: Herman Settemeyer, 12100 Park 35 Circle, Austin, Texas 78701, (512) 239-4707.

Filed: March 20, 1995, 4:18 p.m.

TRD-9503465

### State Pension Review Board

Tuesday, March 28, 1995, 10:00 a.m.

State Capitol Building, Third Floor, Room 3A.4, Outside Front Door of Senate Chambers

Austin

PRB Legislative Subcommittee

AGENDA:

Preparation of actuarial impact statements on bills from which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: March 16, 1995, 11:14 a.m.

TRD-9503286

### Public Utility Commission of Texas

Thursday, March 23, 1995, 11:00 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

AGENDA:

In addition to the previously submitted agenda, the Commissioners will also consider the Motions for Rehearing in Docket Number 12957-application of Houston Lighting and Power Company for approval of experimental tariff for special contract pricing-rate schedule SCP.

Reason for emergency: Prompt commission action is necessary to preserve jurisdiction over the subject matter of the motions.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 20, 1995, 11:22 a.m.

TRD-9503426

### Railroad Commission of Texas

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

1-Division director's report and commission action on AFRED administration, procedures, budget, personnel and policy matters, and contract awards relating to alternative fuels research, marketing and public education programs.

2-Alternative fuels curriculum. The Commission will consider a proposal to use available grant funds to produce, distribute and promote alternative fuels curricular materials and train teachers in their use.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: March 17, 1995, 10:36 a.m.

TRD-9503337

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference, Room 1-111

Austin

AGENDA:

The Commission will consider and act on the agency budget, fiscal and administrative matters and the Administrative Services Division director's report on division administration, budget, procedures and personnel matters including the Kilgore District Office proposal.

Contact: Roger Dillon, P.O. Box 12967, 1701 North Congress Avenue, Austin, Texas 78711-2967, (512) 463-7257.

Filed: March 17, 1995, 10:37 a.m.

TRD-9503338

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.E., P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: March 17, 1995, 10:37 a.m.

TRD-9503339

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on agency administration, budget, policy and procedures, and personnel matters for all divisions. The commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6981.

Filed: March 17, 1995, 10:37 a.m.

TRD-9503340

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The Commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The Commission will consider and act on the Information Resource Manager's report on information resource planning documents.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: March 17, 1995, 10:37 a.m.

TRD-9503341

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

**AGENDA:**

The Commission will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: March 17, 1995, 10:38 a.m.

TRD-9503342

Tuesday, March 28, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

**AGENDA:**

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: March 17, 1995, 10:38 a.m.

TRD-9503343

**Red River Compact Commission**

Tuesday, April 25, 1995, 9:00 a.m.

Ramada Inn, 2515 East Broadway

Altus, Oklahoma

**AGENDA:**

I. Call to order; II. Oklahoma welcome; III. Approval of agenda; IV. Approval of minutes of March 24, 1994 meeting; V. Report of chairman-Gary Sherrer; VI. Report of treasurer-Pres Houchens; VII. Report of commissioners, A. Arkansas, B. Louisiana, C. Texas, D. Oklahoma; VIII. Report of committees, A. Legal-Jerry Barnett, Oklahoma, B. Engineering-Harold Springer, Oklahoma, C. Environmental-Wiley Felty, Oklahoma, D. Budget-Harold Springer, Oklahoma; IX. Federal agency reports (COE, NRSC, BOR, USGS, etc.); X. Unfinished business, A. Annual report for 1994, B. Task assignments to committees: 1. Budget, 2. Engineering, 3. Environmental, 4. Legal, C. Election of officers, D. Membership appointments to committees, E. Sixteenth annual meeting, F. Other business;

XII. Public comment; XIII. Lunch; XIV. Tour of the Altus-Lugert Irrigation District; XV. Adjourn; XVI. Bar-B-Que Lake Altus.

Contact: Herman Settemeyer, 12100 Park 35 Circle, Austin, Texas (512) 239-4707.

Filed: March 20, 1995, 10:59 a.m.

TRD-9503424

**Texas State Senate**

Friday, March 31, 1995, 3:30 p.m.

Dallas City Council Chamber, 1500 Marilla Dallas

Committee of the Whole on Legislative and Congressional Redistricting

**AGENDA:**

- I. Call to order
- II. Introductory remarks
- III. Brief presentation on redistricting matters
- IV. Public testimony
- V. Other business
- VI. Recess or adjourn

Purposes: The Committee is meeting to take testimony related to congressional and legislative redistricting. The Senate has no definite plans at this time to reapportion congressional, state senate or state house districts during the current regular session; however, this could change. Because several cases challenging legislative and congressional districts may require that the legislature redraw lines in regular or special session, the Senate would like to begin receiving public input on these matters. The purpose of the hearing is to gather information, including whether the legislature should enact a contingency plan or wait until after the Supreme Court rules on similar cases. Proposals for specific districts and discussions of current lines are also welcome. No particular plan or piece of legislation will be laid out by the committee. The committee will meet from 3:30 until 7:00 p.m. or later, depending on the number of witnesses who register to testify.

Contact: Kimberly Herry, 1005-B Sam Houston Building, Austin, Texas 78701, (512) 463-0067.

Filed: March 20, 1995, 3:39 p.m.

TRD-9503457

Friday, April 7, 1995, 2:30 p.m.

Houston City Council Chamber, 900 Bagby Houston

Committee of the Whole on Legislative and Congressional Redistricting

**AGENDA:**

- I. Call to order
- II. Introductory remarks
- III. Brief presentation on redistricting matters
- IV. Public testimony
- V. Other business
- VI. Recess or adjourn

Purpose: The committee is meeting to take testimony related to congressional and legislative redistricting. The Senate has no definite plans at this time to reapportion congressional, state senate or state house districts during the current regular session; however, this could change. Because several cases challenging legislative and congressional districts may require that the legislature redraw lines in regular or special session, the Senate would like to begin receiving public input on these matters. The purpose of the hearing is to gather information, including whether the legislature should enact a contingency plan or wait until after the Supreme Court rules on similar cases. Proposals for specific districts and discussions of current lines are welcome. No particular plan or piece of legislation will be laid out by the committee. The committee will meet from 2:30 p.m. until 7:00 p.m. or later, depending on the number of witnesses who register to testify.

Contact: Kimberly Herry, 1005-B Sam Houston Building, Austin, Texas 78701, (512) 463-0067.

Filed: March 20, 1995, 4:29 p.m.

TRD-9503467

**Texas Guaranteed Student Loan Corporation**

Monday, March 27, 1995, 9:30 a.m.

13809 North Highway 183, 1000

Austin

Executive Committee

**AGENDA:**

- 1. Approval of minutes: Meeting of March 2, 1995
- 2. Discussion of whether to respond to a request for proposal for the servicing of federal "direct lending" loans
- 3. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: March 17, 1995, 3:39 p.m.

TRD-9503393

## Board of Tax Professional Examiners

Wednesday, April 5, 1995, 1:30 p.m.

333 Guadalupe Street, Hobby Building,  
Hearing Room 102

Austin

Board of Tax Professional Examiners

### AGENDA:

Special Called Meeting: Call to order, determine the presence of a quorum, recognition of visitors, swearing in of the Board officers for calendar year 1995, amend the Professional Standards Committee (PSC) Resolution to include in its membership two representatives from the Texas Rural Chief Appraisers, discussion and appropriate action on the appointment of Dana Riley and Victor Perry to the PSC, discussion and any appropriate action on the BTPE Plan for the development of its curriculum courses and adjournment.

Contact: Peter A. Stone, 333 Guadalupe Street, Tower Two, Suite 520, Austin, Texas 78701-3942, (512) 305-7300.

Filed: March 17, 1995, 3:08 p.m.

TRD-9503389

## Texas Southern University

Friday, April 6, 1995, 7:00 p.m.

3810 Willowick

Houston

Board of Regents-Dinner Meeting

### AGENDA:

Meeting to consider strategic issues including personnel/litigation.

Contact: Madison H. Scott, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: March 16, 1995, 2:50 p.m.

TRD-9503312

## Texas State Technical College System

Friday, March 24, 1995, 1:30 p.m.

TSTC Waco Campus Center Ideas Center,  
3801 Campus Drive

Waco

Board of Regents

### AGENDA:

Discussion and review of the following TSTC Policy Committee minute orders and reports:

Committee of the Whole-1:30 p.m.

Policy Committee for Instruction and Student Services-2:30 p.m.

Policy Committee for Human Resources and Development-3:00 p.m.

Policy Committee for Facilities-3:30 p.m.

Policy Committee for Fiscal Affairs-3:30 p.m.

Committee of the Whole-4:30 p.m.

Contact: Sandra Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 16, 1995, 11:21 a.m.

TRD-9503287

Saturday, March 25, 1995, 8:30 a.m.

TSTC Waco Campus IDEAS Center, 3801 Campus Drive

Waco

Board of Regents

### AGENDA:

The Board of Regents will discuss and act on the following minute orders:

Classes meeting with less than ten students, Associate of Applied Science Degree in Biotechnology, Associate of Applied Science Degree in Dental Hygiene, certificate level instruction in diesel mechanics, statement of institutional purpose and expanded statement of purpose for TSTC Waco/Marshall, expanded statement of institutional purpose for TSTC Harlingen, statement of institutional purpose and expanded statement of purpose for TSTC Amarillo, requests for budget change, amended audit plan, approval of student assessment testing fee, ground lease with ABX, Air, Inc., contract with Bobbie Moss, doing business as Casual Catering for management and operation of a snack bar/grill, lease agreement with Maverick Boys and Girls Club, renewal of lease agreement with Filterspun Division of Service Filtration Corporation, renewal of lease agreement with Panhandle Amateur Radio Club (PARC), sale of excess property, research facility agreement with American Ostrich Research Foundation, declaration of Building R for use as Work Force Center, policy on optional retirement program participation, resolution in memory of H. W. (Pete) Monzingo, minute orders to be rescinded, Chancellor's contract.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 16, 1995, 11:22 a.m.

TRD-9503288

Saturday, March 25, 1995, 8:45 a.m.

TSTC Waco Campus IDEAS Center, 3801 Campus Drive

Waco

Board of Regents, Executive Session

### AGENDA:

Following Item VI of the agenda and shown as Item VII the Board of Regents will go into executive session in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §551.071 and §551.075 and will discuss the following: Jasie, Inc. v. TSTC, et al.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 16, 1995, 11:22 a.m.

TRD-9503289

Saturday, March 25, 1995, 8:45 a.m.

TSTC Waco Campus IDEAS Center, 3801 Campus Drive

Waco

Revised Agenda

Board of Regents Executive Session

### AGENDA:

Add item:

Blankenship v. TSTC

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 20, 1995, 3:12 p.m.

TRD-9503455

Saturday, March 25, 1995, 11:30 a.m.

TSTC Waco Campus Student Center,  
Rooms 102-103, 3801 Campus Drive

Waco

Board of Regents

### AGENDA:

The Board of Regents will meet for a luncheon meeting with McLennan Community College Board of Trustees to discuss the delivery of technical education in Texas as well as Texas State Technical College proposed mergers with other institutions and legislation concerning the role and mission of TSTC.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 16, 1995, 11:22 a.m.

TRD-9503290

## Texas Woman's University

Friday, March 24, 1995, 9:00 a.m.

14th Floor, Administration and Conference Tower, 1322 Oakland

Denton

Board of Regents, Finance and Audit Committee

**AGENDA:**

I. Consider approval of the minutes of the committee meeting of December 9, 1994.

II. Consider recommending approval of personal additions and changes.

III. Consider recommending acceptance of gifts and grants.

IV. Consider recommending approval of contracts and agreements.

V. Consider recommending approval of allocation of federal funds.

VI. Consider recommending approval of the renewal and extension of insurance.

VII. Consider recommending approval of the Certificates of Substantial Completion on the Dallas Dormitory renovation project (Project Number 394053); addition to the East Parking Lot project; and retaining wall and walkway on Bell Avenue South project (Project Number 94-20).

VIII. Consider recommending approval of change order number one to the Energy Conversion Enhancements of Mechanical Systems project and change order number one to the Lamp Replacements and Lighting Control Modification in Dallas and Houston project.

IX. Consider recommending approval to authorize Sharon Hopkins, business accountant-Houston, to sign checks on the "Texas Woman's University Houston Emergency Loan Fund"; and the "Texas Woman's University Northwest Center Hospital Auxiliary Student Loan Fund" bank accounts at First State Bank, Denton, Texas and to reauthorize E. W. Petersen, controller, S. S. Fry, accountant, C. W. Coleman, accountant, Kathryn S. Stream, associate vice president, and Phyllis McCutchen, financial aid counselor, to sign on same.

X. Receive the second quarter 1994-1995 internal audit report.

XI. Presentation of the Campus Master Plan.

XII. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: March 20, 1995, 1:03 p.m.

TRD-9503429

Friday, March 24, 1995, 9:30 a.m.

1322 Oakland, Administration and Conference Tower, 14th Floor

Denton

Board of Regents, Student Affairs Committee

**AGENDA:**

I. Consider approval of the minutes of the committee meeting of December 9, 1994.

II. Consider recommending approval of increase in University Housing rates fiscal year 1995-1996.

III. Report on activities of the Office of Student Life.

IV. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: March 20, 1995, 1:03 p.m.

TRD-9503430

Friday, March 24, 1995, 10:00 a.m.

1322 Oakland, Administration and Conference Tower, 14th Floor

Denton

Board of Regents, Academic Affairs Committee

**AGENDA:**

I. Consider approval of the minutes of committee meeting of December 9, 1994.

II. Receive information regarding the Small Class Report.

III. Consider recommending approval of the TWU request for authority for instructional telecommunications.

IV. Report on activities in the Office of Academic Affairs.

V. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: March 20, 1995, 1:04 p.m.

TRD-9503431

Friday, March 24, 1995, 10:30 a.m.

1322 Oakland, Administration and Conference Tower, 14th Floor

Denton

Board of Regents, Committee on Institutional Advancement

**AGENDA:**

I. Consider approval of the minutes of the committee meeting of December 9, 1994.

II. Consider recommending approval of Texas Woman's University gift acceptance policy.

III. Report on alumnae relations, development, and public information activities of the Office of Institutional Advancement.

IV. Report of the committee chair.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: March 20, 1995, 1:04 p.m.

TRD-9503432

Friday, March 24, 1995, 1:30 p.m.

1322 Oakland, Administration and Conference Tower, 16th Floor

Denton

Board of Regents

**AGENDA:**

I. Executive session: real estate; litigation, including Myers et al vs. Lipe, et al; and personnel matters under V.T.C.A., Government Code §§551.072, 551.071, and 551.074. II. Consider approval of the minutes of the Board of Regents meeting of December 9, 1994. III. Finance and Audit Committee items: Consider approval of personnel additions and changes; consider acceptance of gifts and grants; consider approval of contracts and grants; consider approval of allocation of federal funds; consider approval of the schedule of renewal and extension of insurance; consider approval of Certificates of Substantial Completion on the Dallas dormitory renovation project (Project Number 394053); addition to the East Parking Lot project; and retaining wall and walkway on Bell Avenue South project (Project Number 94-20); consider approval of change order number one to the Energy Conversion Enhancements of Mechanical Systems project and change order number one to the Lamp Replacements and Lighting Control Modification to Dallas and Houston project; consider approval to authorize Sharon Hopkins, business accountant-Houston, to sign checks on the "Texas Woman's University Houston Emergency Loan Fund" and the "Texas Woman's University Northwest Center Hospital Auxiliary Student Loan Fund" bank accounts at First State Bank, Denton, Texas and to reauthorize E. W. Petersen, controller, S. S. Fry, accountant, C. W. Coleman, accountant, Kathryn S. Stream, associate vice president, and Phyllis McCutchan, financial aid counselor to sign on same; presentation of the Campus Master Plan; report of the committee chair. IV. Student Affairs Committee items: consider approval of increase in University Housing rates for fiscal year 1995-1996; report of the committee chair. V. Academic Affairs Committee items: Consider approval of the TWU request for authority for instructional telecommunications; report of the committee chair. VI. Committee on institutional advancement items: Consider approval of the Texas Woman's University gift acceptance policy; report of the committee chair. VII. Report from the president.

Contact: Carol D. Surles, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: March 20, 1995, 1:05 p.m.

TRD-9503433

## Texas State Treasury

Tuesday, March 28, 1995, 11:00 a.m.

200 East Tenth Street, Room 227

Austin

TexPool Advisory Board

### AGENDA:

Discussion of potential legislative changes; discussion and amendment of TexPool investment policy; establishment of reserve account; discussion of rating for TexPool by rating agency firm; feasibility of price comparison program; operation and financial status reports; TexPool's investment report.

Contact: Ellen Rathgeber, 200 East Tenth Street, Suite 309, Austin, Texas 78701, (512) 463-5971.

Filed: March 20, 1995, 2:15 p.m.

TRD-9503453

## University of Houston System

Friday, March 24, 1995, 4:00 p.m.

Conference Room One, 1600 Smith, Suite 3400, UH System Offices

Houston

Finance and Audit Committee

### AGENDA:

To discuss and/or act upon the following: executive session: informational reports from employees; and review of selected audit reports.

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: March 16, 1995, 4:07 p.m.

TRD-9503326

## Texas Board of Veterinary Medical Examiners

Tuesday, April 11, 1995, 11:00 a.m.

Room 140, Memorial Student Center, Texas A&M University

College Station

Examination Review Committee

### AGENDA:

The Committee will meet to review the April examination results. The Committee will convene in open session and then go into executive session in accordance with AG Opinions H-484, 1974 and JM 640, 1987.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: March 16, 1995, 2:03 p.m.

TRD-9503301

## Regional Meetings

Meetings Filed March 16, 1995

**The Alamo Area Council of Governments Management Committee** met at 118 Broadway, Suite 400, San Antonio, March 21, 1995, 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9503320.

**The Bosque County Central Appraisal District Board of Directors** met at 202 South Highway 6, Meridian, March 23, 1995, at 7:00 p.m. Information may be obtained from Janice Henry, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9503308.

**The Hays County Appraisal District Appraisal Review Board** will meet at 2100 North IH-35, Kyle, March 28, 1995, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9503284.

**The Lamar County Appraisal District (Rescheduled from February 21, 1995.) Board of Directors** met at 521 Bonham, Paris, March 21, 1995, at 4:00 p.m. Information may be obtained from Joe A. Welch, P.O. Box 400, Paris, Texas 75460, (903) 785-7822. TRD-9503285.

**The Lower Neches Valley Authority (Revised Agenda.) Board of Directors** met at 7850 Eastex Freeway, Beaumont, March 21, 1995, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9503300.

**The Sharon Water Supply Corporation Board of Directors** will meet at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, March 27, 1995, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas, 75494, (903) 342-3525. TRD-9503319.

Meetings Filed March 17, 1995

**The Angelina and Neches River Authority Board of Directors (Called Meeting)** met at Stephen F. Austin University, University Center, Vista Drive, Gavel Room, Nacogdoches, March 22, 1995, at 10:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795, Fax (409) 632-2564. TRD-9503394.

**The Austin-Travis County MHMR Center Finance and Control/Human Resources Committee** met at 1430 Collier Street, Austin, March 21, 1995, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9503331.

**The Austin-Travis County MHMR Center Board of Trustees** met at 1430 Collier Street, Board Room, March 23, 1995, at 5:00 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548. TRD-9503395.

**The Burke Center (Deep East Texas MHMR) Board of Trustees Substance Abuse Joint Conference Committee** will meet at 4101 South Medford Drive, Lufkin, March 28, 1995, at 11:00 a.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9503379.

**The Burke Center (Deep East Texas MHMR) Board of Trustees** will meet at 4101 South Medford Drive, Lufkin, March 28, 1995, at 1:00 p.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9503380.

**The Dallas Area Rapid Transit Dart Board-Dallas Delegation Council Transportation Committee** met at the City of Dallas, Room 6ES, City Hall, 1500 Marilla Street, Dallas, March 21, 1995, at 9:00 p.m. Information may be obtained from Vanessa A. Knight, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3371. TRD-9503334.

**The Deep East Texas Council of Governments Grants Application Review Committee** will meet at the Waterwood Country Club, Highway 190, Point Blank, March 23, 1995, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9503335.

**The Fisher County Appraisal District Fisher CAD Board of Directors** will meet at the Fisher County Courthouse, Court Room, Roby, April 13, 1995, at 8:00 a.m. Information may be obtained from Betty Mize, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9503381.

**The Golden Crescent Private Industry Council** met at 2401 Houston Highway, Victoria, March 22, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9503328.

**The Golden Crescent Private Industry Council Executive Committee** met at 2401 Houston Highway, Victoria, March 20, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Hous-

ton Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9503329.

**The Johnson City Rural Water Supply Corporation Personnel Committee** met at the Corporation Office, 2849 Highway 171 South, Cleburne, March 21, 1995, at 5:30 p.m. Information may be obtained from Peggy Johnson, P. O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9503359

**The Johnson County Rural Water Supply Corporation Finance Committee** met at the Corporation Office, 2849 Highway 171 South, Cleburne, March 21, 1995, at 5:45 p.m. Information may be obtained from Peggy Johnson, P. O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9503361.

**The Johnson County Rural Water Supply Corporation Board (Regular Meeting)** met at the Corporation Office, 2849 Highway 171 South, Cleburne, March 21, 1995, at 6:00 p.m. Information may be obtained from Peggy Johnson, P. O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9503377.

**The Johnson County Rural Water Supply Corporation Board (Regular Meeting)** met at the Corporation Office, 2849 Highway 171 South, Cleburne, March 21, 1995, at 6:00 p.m. Information may be obtained from Peggy Johnson, P. O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9503360.

**The Liberty County Central Appraisal District Board of Directors** met at 315 Main Street, Liberty, March 21, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9503374.

**The Lower Colorado River Authority General Manager Contract Review Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, March 21, 1995, at 3:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503365.

**The Lower Colorado River Authority General Manager Contract Review Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, March 21, 1995, at 3:00 p.m., and reconvening, if necessary, March 23, 1995, at 8:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503391.

**The Lower Colorado River Authority Audit Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March

23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503372.

**The Lower Colorado River Authority Board of Directors** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503366.

**The Lower Colorado River Authority Board of Directors** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503390.

**The Lower Colorado River Authority Community Resources and Development Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P. O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503373.

**The Lower Colorado River Authority Conservation and Environmental Protection Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503370.

**The Lower Colorado River Authority Energy Operations Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503368.

**The Lower Colorado River Authority Finance and Administration Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503371.

**The Lower Colorado River Authority Natural Resources Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin,

Texas 78767, (512) 473-3287. TRD-9503369.

**The Lower Colorado River Authority Planning and Public Policy Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, March 22, 1995, at 9:00 a.m., and reconvening, if necessary, March 23, 1995. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9503367.

**The MHMR Authority of Brazos Valley Board of Trustees** met at 804 Texas Avenue, Bryan, March 23, 1995, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9503392.

**The North Texas Regional Library System (Revised Agenda.) Board of Directors** met at the Southwest Regional Branch/Fort Worth Public Library, 4001 Library Lane, Fort Worth, March 23, 1995, at 1:30 p.m. Information may be obtained from Cheryl Smith, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD-9503387.

**The San Jacinto River Authority Board of Directors** met at 2301 North Millbend Drive, Woodlands, March 22, 1995, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111. TRD-9503333.

**The Sharon Water Supply Corporation Membership** met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, March 20, 1995, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9503375.

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**Meetings Filed March 20,  
1995**

**The Bandera County Appraisal District Board of Directors** will meet at 1116 Main Street, Bandera, March 24, 1995, at 3:00 p.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039. Fax (210) 796-3672. TRD-9503456.

**The Central Plains Center for MHM and SA Board of Trustees** met at 208 South Columbia, Plainview, March 23, 1995, at 6:00 p.m. Information may be obtained from Gail P. Davis, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9503399.

**The Central Texas Council of Governments K-TUTS Transportation Planning Policy Board** will meet at 302 East Central, Belton, March 29, 1995, at 9:00 a.m. Information may be obtained from A. C. John-



son, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9503427.

**The Elm Creek WSC Special Board** met at 508 Avenue E, Moody, March 23, 1995, at 7:00 p.m. Information may be obtained from Debra Williams, 508 Avenue E, Moody, Texas 76557, (817) 853-3838. TRD-9503466.

**The Gray County Appraisal District Board of Directors** met at 815 North Sumner, Pampa, March 23, 1995, at 5:00 p.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9503468.

**The Hays County Appraisal District Appraisal Review Board** will meet at 21001 North IH-35, Kyle, March 28, 1995, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 21001 North IH-35, Kyle, Texas 78640, (512) 268-2522. TRD-9503400.

**The Jack County Appraisal District Ag Advisory Committee** met at 210 North Church Street, Jacksboro, March 23, 1995, at 6:30 p.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, Texas 76458, (817) 567-6301. TRD-9503396.

**The Lee County Appraisal District Board of Directors** will meet at 218 East Richmond Street, Giddings, March 29, 1995, at

9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9503416.

**The Lower Rio Grande Valley Development Council Board of Directors** met at Raymondville City Hall, 142 South Seventh Street, Second Floor, Raymondville, March 23, 1995, 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr. or Anna M. Hernandez, 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9503459.

**The North Central Texas Council of Governments (Revised Agenda.)** Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, March 23, 1995, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9503425.

**The Northeast Texas Municipal Water District Board of Directors** will meet at Highway 250 South, Hughes Springs, March 27, 1995, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9503418.

**The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee** will meet at the International Conference Center of the Con-

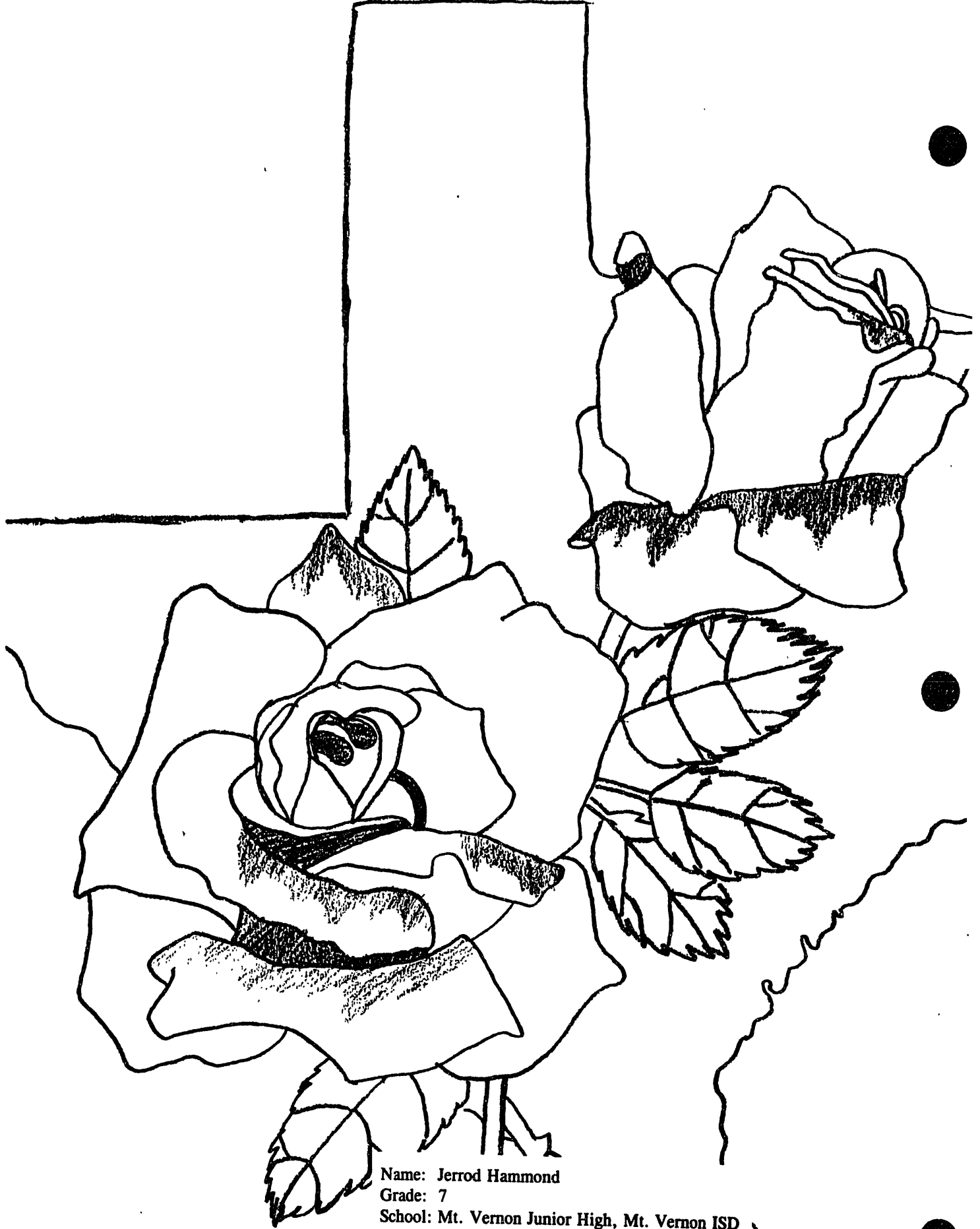
vention Center Complex, San Antonio, March 27, 1995, at 1:30 p.m. Information may be obtained from Janet A. Kennison, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9503428.

**The Stephens County Rural WSC (Annual Meeting)** will meet at the Stephens County Agriculture Building, Highway 180 East, Breckenridge, March 30, 1995, at 7:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9503469.

**The Trinity River Authority of Texas Ten Mile Creek Regional Wastewater System Right-of-Way Committee** will meet at 5300 South Collins Street, Arlington, March 30, 1995, at 11:00 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9503443.

**The Upper Leon River Municipal Water District Board of Directors** met at the General Office, located off of FM 2861, Lake Proctor Dam, Comanche, March 23, 1995, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P. O. 67, Comanche, Texas 76442, (817) 879-2258. TRD-9503454.

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Name: Jerrod Hammond

Grade: 7

School: Mt. Vernon Junior High, Mt. Vernon ISD

# IN ADDITION

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.

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(1)</sup>/Agricultural/ Commercial <sup>(2)</sup> thru \$250,000</u>	<u>Commercial<sup>(2)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/20/95-03/26/95	18.00%	18.00%

<sup>(1)</sup>Credit for personal, family or household use. <sup>(2)</sup>Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on March 13, 1995.

TRD-9503295      Leslie L. Pettijohn  
Acting Commissioner  
Office of Consumer Credit Commissioner

Filed: March 16, 1995

## Texas Court Reporters Certification Board

### Suspended Revocation

On January 28, 1995, Linda Kay (Nolan) Pilcher of Gilmer, Texas, Certification Number 4443, agreed to a revocation of her certification as a Certified Shorthand Reporter in the State of Texas. The Court Reporters Certification Board found that Ms. Pilcher engaged in acts which constitute a violation under the Government Code, §52.029(a), concerning dishonesty, and engaging in the practice of shorthand reporting using a method for which the reporter is not certified. The revocation is suspended and Ms. Pilcher is placed on probation for two years based on compliance with the following conditions: Ms. Pilcher practices shorthand reporting only in the method of oral stenography; and during the two years of probation, Ms. Pilcher performs 22 hours a month total of volunteer work with East Texas Legal Services. The sanction for violating any part of the Board's Order is immediate revocation of

Ms. Pilcher's certification if the allegations are found to be true.

Issued in Austin, Texas, on March 16, 1995.

TRD-9503388      Peg Liedtke  
Executive Secretary  
Texas Court Reporters Certification Board

Filed: March 17, 1995

## Texas Department of Health

### Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Angelo Clinic Association (registrant M-00314) of San Angelo to cease and desist performing mammographic examinations until all violations noted during a recent inspection have been corrected and the facility has received authorization from the bureau to conduct mammographic screening. The bureau determined that conducting unauthorized mammographic screening and using personnel not qualified according to Texas radiation control regulations may subject patients to possible unnecessary radiation exposure, and constitute an immediate threat to public health and safety, and the existence of an emergency.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange

Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 20, 1995.

TRD-9503403 Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 20, 1995

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**Notice of Intent to Revoke Certificates  
of Registration**

Pursuant to Texas Regulations for Control of Radiation (TRCR), 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: Vu Chiropractic Clinic, Houston, R20767; 28th Street Animal Clinic, Fort Worth, R20024; Highland Hills Medical Clinic, Dallas, R19961; Nicosia Chiropractic Clinic, Portland, R18366; Forney Chiropractic Clinic, Forney, R16427; Advanced Radiology, Inc., Missouri City, R15501; Slide Medical Clinic, Lubbock, R15495; Allied Chiropractic, Corpus Christi, R15409; Port Acres Medical Clinic, Port Arthur, R15299; Doctors Warshaw, Weber and Braun, Houston, R13569; Chiropractic Arts and Science Clinic, Houston, R11579; Raphael Emanuel, M.D., P.A., Dallas, R11547; Olney-Hamilton Hospital District, Olney, R01356; W. R. DeBrucque, D.D.S., Dallas, R09172; James E. Burton, D.D.S., Houston, R09196; Tyler Dental Center, Tyler, R10445; High Point Dental, Inc., Dallas, R16323.

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 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, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 20, 1995.

TRD-9503404 Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 20, 1995

**Notice of Intent to Revoke Radioactive  
Material License**

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Construction Consulting Laboratory, Inc., Houston, L04651.

The department intends to revoke the radioactive material license; order the licensee to cease and desist use of such radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the licensee for a hearing to show cause why the radioactive material license 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 license 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, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 20, 1995.

TRD-9503405 Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 20, 1995

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**Notice of Rescission of Order**

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued February 22, 1995, to The Women's Hospital of Texas, doing business as Houston Imaging Center, 7000 Fannin, Suite M-50, Houston, Texas 77054, holder of Certificate of Registration Number M00603.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 20, 1995.

TRD-9503402 Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 20, 1995

**Schedule for Development and Review  
of Proposed Fiscal Years 1996-2000  
Title V Futures Project Plan and  
Fiscal Year 1996 Maternal and Child  
Health Services Block Grant**

Under the authority of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), the State of Texas became the recipient of the Title V Maternal and Child Health Services (MCHS) Block Grant. The Texas Department of Health (TDH) administers this block grant. The Act requires the chief executive officer of each state to furnish the Secretary of Health and Human Services a description of the intended use of block grant funds in advance of each fiscal year (FY). This description also must be made public within each state to facilitate comments and/or complaints regarding the quality of services funded by the block grant. The award for FY 1994 was \$36,586,740. Funding for FY 1995 decreased to \$36,361,594.

The MCHS Block Grant provides for services, planning, and needs assessments. Title V services are delivered to pregnant women, infants, children, adolescents, and children with special health care needs.

TDH is undertaking a Title V Futures Project to critically examine the program and related activities and to make recommendations to adapt them to a changing health care environment and to improve the health status of women and children in Texas.

TDH is seeking comments on the proposed FY 1996-2000 Title V Futures Project Plan, which encompasses the departments' annual application to the federal government for funds to implement the MCHS Block Grant for FY 1996. The department will conduct eight public hearings around the state in April at the following locations: Monday, April 17, 1995, Public Health Region 6 and 5 South, 10500 Forum Place, Suite 200 Houston, Texas, 4:00 p.m.; Monday, April 17, 1995, Public Health Region 11, 601 West Sesame Drive, Harlingen, Texas, 4:00 p.m.; Tuesday, April 18, 1995, Public Health Region 1, Unger Library, 825 Austin Street, Plainview, Texas, 4:00 p.m.; Tuesday, April 18, 1995, Public Health Region 4 and 5 North, Regional Training and Development Complex, Tyler Junior College, 1530 SSW Loop 323, Tyler, Texas, 4:00 p.m.; Wednesday, April 19, 1995, Public Health Region 7, 2408 South 37th Street, Temple, Texas, 4:00 p.m.; Tuesday, April 25, 1995, Public Health Region 2 and 3, Austin Community Center, 2800 South Center, Arlington, Texas, 4:00 p.m.; Wednesday, April 26, 1995, Public Health Region 9 and 10, 607 Gateway East, El Paso, Texas, 4:00 p.m.; and Thursday, April 27, 1995, Public Health Region 8, 1015 Jackson-Keller Road, Number 222, San Antonio, Texas, 4:00 p.m.

An Executive Summary and recommendations from the proposed FY 1996-2000 Title V Project Plan will be available in English for review and comment at each of the hearing locations after April 5, 1995. Spanish interpreters will be provided at each hearing. All hearings will begin at 4:00 p.m. and will conclude when all participants desiring to testify have had an opportunity to do so. Those who wish to deliver oral testimony should sign in no later than 6:30 p.m. on the day of the hearing, and each individual's remarks should be limited to no more than ten minutes.

Any individual who requires special accommodations to participate in the hearings under the Americans with

Disabilities Act should contact the Federal Funds Policy Division, Bureau of State Health Data and Policy Analysis, Texas Department of Health, (512) 458-7261, at least 72 hours prior to the hearing date.

Written comments regarding the proposed FY 1996-2000 Title V Futures Project Plan may be submitted through May 3, 1995, to Patti J. Patterson, M.D., Chief, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. TDH will summarize and consider the impact of the public comments received. A notice of the summary will be published in the *Texas Register* and made available to the general public.

After the FY 1996-2000 Title V Futures Project Plan has been finalized, it will be presented to the Texas Board of Health on July 28, 1995, for adoption as TDH policy.

Issued in Austin, Texas, on March 15, 1995.

TRD-9503263 Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 15, 1995

**Texas Department of Human Services  
Bilingual Trainer for NET Program**

The Texas Department of Human Services (TDHS) is inviting proposals for a bilingual trainer for the Nutrition Education and Training (NET) Program.

**Description of Services:** A bilingual trainer is needed to assist in developing the curriculum and conducting workshops for the Head Start nutrition education project, "Padres Hispanos en Accion." Workshops will be provided to Head Start staff who work at a site with a 20% or greater enrollment of Hispanic children.

**Geographical Area:** Workshops will be conducted statewide, in the Panhandle, Central Texas, Dallas/Fort Worth, East Texas, West Texas, and the Rio Grande Valley.

**Closing Date:** Proposals must be received by 5:00 p.m. April 5, 1995.

**Term of Contract:** The contract period is April 15, 1995-December 31, 1996.

**Procedures for Selection:** Minimum requirements include a bachelors degree in nutrition and experience writing lesson plans and providing nutrition education to adults and/or children. Preference will be given to registered and/or licensed dietitians (R.D./L.D.) or individuals who are R.D. /L.D. eligible. Applicants considered for selection will be scheduled for an interview.

**Contact Person:** For more information, please call Miriam Junqueira (512) 467-5891, NET Project Coordinator or Deborah Simpson (512) 467-5816, NET Coordinator.

Issued in Austin, Texas, on March 16, 1995.

TRD-9503318 Nancy Murphy  
Section Manager, Media and Policy  
Services  
Texas Department of Human Services

Filed: March 16, 1995

## Texas Department of Insurance Company License

The following applications have been filed with the Texas Department of Insurance and are under consideration:

1. Application for a name change by Sentry Investors Life Insurance Company, a foreign life, accident and health insurance company. The proposed new name is IL Annuity and Insurance Company. The home office is in Boston, Massachusetts.
2. Application for name change by Colonial Penn Heritage Insurance Company, a domestic fire and casualty insurance company. The proposed new name is Bay Colony Insurance Company. The home office is in Fountain Valley, California.
3. Application for admission to the State of Texas for MGIC Reinsurance Corporation, a foreign fire and casualty insurance company. The home office is in Milwaukee, Wisconsin.
4. Application for incorporation in Texas for Texas Medical Insurance Company, a domestic fire and casualty insurance company. The home office is in Austin, Texas.
5. Name Application for Total Vision Health Plan, Inc., a domestic Health Maintenance Organization. The home office is in Austin, Texas.
6. Name Application for Home Health Plans, Inc., a domestic Health Maintenance Organization. The home office is in Austin, Texas. Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on March 15, 1995.

TRD-9503273      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

File: March 15, 1995

## Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2142, on April 17, 1995, at 1:00 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the appointment of Mr. C. L. Sherman, Jr., businessman, Beaumont, Texas, to the Building Code Advisory Committee. Mr. Sherman, who would serve as a representative of the building supply trade profession, is being considered as an additional member to the advisory committee.

The Insurance Code, Article 21.49, §6A(f) provides for the appointment of an advisory committee to advise and make recommendations to the Commissioner on building specifications in the plan of operation of the TCPIA. Article 21.49, §6A(f) also provides that the advisory committee should be composed of at least those representatives that are statutorily specified. Pursuant to 28 TAC §5.4002(f), the members of the Committee shall serve on the Committee at the discretion of the Commissioner of Insurance. Pursuant to Article 21.49, §6A(f) and 28 TAC §5.4002, additional members may be appointed to serve on the advisory committee at the discretion of the Commissioner.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5A which provides that the Commissioner, after notice and hearing, may issue any orders considered necessary to carry out the purposes of Article 21.49 (Catastrophe Property Insurance Pool Act), including, but not limited to, maximum rates, competitive rates, and policy forms. Any person may appear and testify for or against the proposed appointment.

Issued in Austin, Texas, on March 17, 1995.

TRD-9503376      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: March 17, 1995

## Texas Natural Resource Conservation Commission

### Application for Amendments to Certificates of Adjudication Pursuant to Texas Water Code §11.122 Requiring Notice to Interjacent Appropriators

The following notices were mailed February 24, 1995:

VERIBEST CATTLE FEEDERS, INC.'s Application Number 14-1330C to amend Certificate of Adjudication Number 14-1330, as amended, pursuant to §11.122 Texas Water Code, and Title 30 Texas Administrative Code §295.158(c)(2)(E) and (F), Concho River, tributary of Colorado River, Colorado River Basin, Tom Green County. Certificate Number 14-1330 was issued March 12, 1980, with a priority date of 1955, and authorized: (1) diversion and use of not to exceed 738 acre-feet of water per annum from the Concho River, to irrigate a maximum of 280 acres of land out of a 598.66-acre tract in Tom Green County, Texas; and (2) diversion from three points on the Concho River. Applicant is in the process of acquiring the 295 acre-feet of water right from J. Gordon McGill. The requested amendments are: (1) to change the place of use to irrigate 325 acres of land out of two tracts totaling 1,713.695 acres in Tom Green County, Texas, approximately nine miles east-northeast of San Angelo and (2) to delete the existing diversion points authorized under Certificate Number 14-1330B (J. Gordon McGill's Certificate), and establish two new diversion points.

RUDOLF A. HOFFMAN AND EDDIE JO HOFFMAN; Application Number 14-1011B to amend Certificate of Adjudication Number 14-1011, as amended, pursuant to §11.122 Texas Water Code, and Title 30 Texas Administrative Code §295.158(c)(2)(E) and (F), Colorado River, Colorado River Basin, Runnels County. Certificate Number 14-1011 authorized diversion and use of not to exceed ten acre-feet of water per annum from the Colorado River to irrigate a maximum of 20 acres of land out of a 165.73 acre tract in Runnels County, Texas. Priority of the water right is 1938. The certificate was amended once to change the place of use to 20 acres out of a 310.4 acre tract, to change the point of diversion, and to add a new point of diversion. The current place of use is located approximately 11-1/2 miles southeast of Ballinger, Runnels County, Texas. The diversion rate was not increased. Applicants seek to once again amend their water right by adding land, within which irrigation will be authorized to occur, upstream of their currently authorized land and by adding an associated diversion point, replacing one of their

two currently authorized points. The land to be added is a 60 acre portion of the land originally authorized under the original certificate. Water diverted from the new diversion point will be withdrawn from the conservation storage of O. H. Ivie Reservoir, owned by the Colorado River Municipal Water District and authorized by Water Right Permit Number 3676 (A-3866).

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the amendments to the Certificates of Adjudication unless one or more persons file written protests and/or requests for hearing within 14 days of the date of notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests or requests for hearing are filed, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, or by mail at the following address: Chief Clerk's Office, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3300.

Issued in Austin, Texas on March 17, 1995.

TRD-9503414  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

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**Application for Permits to Appropriate  
Public Waters**

The following notices of application for permits to appropriate Public Waters of the State of Texas were issued during the period of February 24, 1995 through March 17, 1995:

**CITY OF RICHARDSON;** Application Number 5516 for a permit pursuant to §11.121, Texas Water Code, and TNRCC Rules 30 TAC §§295.1, et seq to construct and maintain 13 on-channel reservoirs on Duck Creek, tributary of the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin, in Dallas County, Texas. The reservoirs (referred to as Lakes A-M) will range in capacity from 0.08 acre-foot to 3.75 acre-feet with a total

capacity of 11.75 acre-feet and will be used for in-place recreational use in a city park approximately 15 miles northeast of the city of Dallas, Texas. The dams will be small, low hazard structures. Three of the reservoirs will be excavated below the flowline of the existing Duck Creek Channel. The other ten reservoirs will be constructed with two feet high dams in the pilot channel of the Duck Creek flood control channel. Lakes A-F are located within the Levi Korn Survey, Abstract Number 730. Lakes G-M are located within the Mary Hargroeder Survey, Abstract Number 574.

**LIEVEN J. VAN RIET, TRUSTEE;** Application Number 5514 for a permit pursuant to §11.121, Texas Water Code, and TNRCC Rules 30 TAC §§295.1, et seq for authorization to construct and maintain an off-channel reservoir complex (made up of three compartments) and to divert water from an unnamed tributary of Cypress Creek (referred to by the Harris County Flood Control District as K-157-00-00), tributary of the San Jacinto River, San Jacinto River Basin, into the reservoir complex. Water will be diverted by gravity via three proposed diversion dams into the off-channel reservoir complex for in-place use as a wetland habitat. The proposed project is approximately four miles south of Hockley, Texas, 32 miles northwest of the Harris County Courthouse in Houston, Texas.

**LEON CREEK WATER SUPPLY CORPORATION (LCWSC);** Application Number 5517 for a permit pursuant to §11.121, Texas Water Code, and TNRCC Rules 30 TAC §§295.1, et seq for authorization to construct and maintain an off-channel reservoir (LCWSC Storage Facility) having a capacity of not more than 1,000 acre-feet and a surface area of not more than 100 acres, and to divert not to exceed 7,500 acre-feet of water per annum by gravity via a proposed diversion structure in the Upper Segment of Leon Creek, tributary of the Medina River, tributary of the San Antonio River, San Antonio River Basin, into the LCWSC Storage Facility. Water will be diverted from the southeast corner of the LCWSC Storage Facility for distribution to customers for industrial, irrigation, recreation and pleasure and other beneficial uses within Bexar County at a maximum diversion rate of 50 cfs. The purpose of this application is to conserve and prioritize the use of water in Bexar County by enabling the applicant to capture stormwater and to supply its customers nonpotable state water in lieu of water from the Edwards Aquifer for those uses that do not require high-quality aquifer water. The LCWSC Storage Facility and diversion structure will be located in Bexar County approximately eight miles west of the Bexar County Courthouse in San Antonio, Texas and approximately 18 miles upstream of the confluence of Leon Creek and the Medina River.

**KLE-TEX WATER COMPANY L.L.C.;** Application Number 19-4768A to amend Certificate of Adjudication Number 19-4768 pursuant to §11.122, Texas Water Code, and TNRCC Rules 30 TAC §§295.1, et seq Certificate of Adjudication Number 19-4768 was issued to Richard M. Kleberg, Jr. Trust on 8-29-86 and authorized maintenance of an existing dam and 595 acre-foot capacity reservoir (referred to as O. R. Mitchell Reservoir) on Medio Creek, tributary of Medina River, tributary of San Antonio River, San Antonio River Basin. The dam and reservoir are located in Bexar County approximately 12 miles southwest of the Bexar County Courthouse in San Antonio, Texas. Applicant seeks to amend Certificate of Adjudication Number 19-4768 by: (1) Increasing amount authorized for diversion and use per annum from 506 acre-feet per an-

num to 5,000 acre-feet per annum (of which not to exceed 2,000 acre-feet per annum may be used on the property now included in certificate). (2) Allowing use of this 5,000 acre-feet of water per annum for municipal, industrial and recreational use in addition to irrigation use currently authorized, and allowing applicant to act as a water supplier for use of this water anywhere in Bexar County. (3) Adding a diversion point on the Medina River for the 5,000 acre-feet of water per annum requested at a maximum diversion rate of 8,600 gallons per minute with a stipulation that the combined maximum diversion rate for this point and from the perimeter of O.R. Mitchell Reservoir would not exceed the currently authorized maximum diversion rate of 8,600 gallons per minute except to the extent water diverted from Medina River is being diverted into applicant's reservoir on Medio Creek simultaneously as water is being diverted from O.R. Mitchell Reservoir. (4) Authorizing diversion of water from Medina River for direct use or to the reservoir on Medio Creek for subsequent diversion and use; and (5) Modifying the special condition in the certificate concerning the 2.00 cfs release to clarify intent of the restriction by changing it to say: "Owner shall be required to pass through all inflows of State water coming into the reservoir from flow in Medio Creek up to 2.0 cfs (900 gpm) in order to protect superior and senior water rights downstream."

TEXAS UTILITIES MINING COMPANY; Application Number 5518 for a permit pursuant to §11.121, Texas Water Code, and TNRC Rules 30 TAC §§295.1, et seq to construct and maintain a dam creating a reservoir (Pond J-4) on an unnamed tributary of Tankersley Creek, tributary of White Oak Creek, tributary of Big Cypress Creek, Cypress Basin. The dam and reservoir will be used for sediment control purposes at the Monticello B-2 Area Mine in Titus County, approximately 1.9 miles northwest of Mount Pleasant, Texas. There will be no diversions or withdrawals of the impounded surface waters.

TEXAS UTILITIES MINING COMPANY; Application Number 5519 for a permit pursuant to §11.121, Texas Water Code, and TNRC Rules 30 TAC §§295.1, et seq to modify and maintain an existing dam and reservoir (Pond DI-16) on an unnamed tributary of Mill Creek, tributary of (Lake Cherokee) Cherokee Bayou, tributary of the Sabine River, Sabine River Basin. The dam and reservoir are located at the Martin Lake-Oak Hill Mine in Rusk County approximately six miles northeast from Henderson, Texas. The pond was constructed in April, 1992. Pond DI-16 will be used for sediment control purposes and treatment of disturbed area runoff in order to meet applicable effluent limitations for coal mining operations. Diversion of approximately 245 acre-feet per year at a maximum diversion rate of 2.2 cfs (1,000 gallons per minute) from the impounded surface water from Pond DI-16 will be used for dust suppression. The water detained in the pond will be released to Mill Creek, the natural receiving stream, which is located above Lake Cherokee and Cherokee Bayou, tributaries of the Sabine River. Modifications being requested to Pond DI-16 and Diversion DI-16 are necessary in order to accommodate the construction of a proposed City of Henderson raw water reservoir. Several modifications will be made to Pond DI-16 which will include providing treatment for an additional 60 acres of watershed area from the proposed Diversion DI-16 and to reflect the actual post-mine boundaries. Diversion DI-16 will be a localized drainage feature designed to redirect otherwise unchanneled runoff from a portion of the existing DI-12 Pond watershed into the DI-16 Pond. Modifications will be made to the existing spillway so that the

final pond configuration will be approximately 136.72 acre-feet of water at the normal operating level of 343.0 feet, including 40 acre-feet of sediment storage capacity. The original pond as well as the proposed modifications have been designed by the applicant and are in accordance with the regulatory requirements and design criteria of the Railroad Commission of Texas (RCT).

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests or requests for hearing are filed, the Executive Director will approve the application 30 days after newspaper publication of the notice of application, or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Office of the Chief Clerk, Mail Code 105, no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRC Complex, Building F, Room 4301, Texas Natural Resource Conservation Commission, or by mail to the following address: Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3300.

Issued in Austin, Texas on February 20, 1995.

TRD-9503415  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation

Filed: March 20, 1995

### Applications for Sludge Registrations

Notices of receipt of applications and declaration of administrative completeness for sludge registrations issued during the period of March 13 through March 17, 1995.

MAGNA-FLOW INTERNATIONAL INC.; approximately three miles east of Tomball, Texas, two miles east of the intersection of Stubner Airline and Kuykendahl Road, approximately two miles south at the end of Bailey Drive in Harris County, Texas; new; 710703.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that



these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711. The request should contain the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas on March 17, 1995.

TRD-9503412

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

### Applications for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of March 3 to March 10, 1995.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office, MC105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application—new permit, amendment, or renewal.

**BILLY RAY MILLER**; McGregor; dairy; located on Orion Road, approximately two miles south of the intersection of Orion Road and FM Road 185. This intersection is two miles east of the intersection of FM Road 185 and State Highway 317 in McLennan County, Texas; new; 03774.

**BROWNSVILLE NAVIGATION DISTRICT**; Brownsville; wastewater treatment facilities; on the east side of the Marathon-LeTourneau Company Plant which is located on the south side of State Highway 48, approximately 3.9 miles east of the intersection of State Highway 48 with FM Road 511, northeast of the City of Brownsville in Cameron County, Texas; renewal; 10332-01.

**GRD DEVELOPMENT COMPANY, INC.**; El Paso; wastewater treatment facilities; approximately 5,600 feet west and 3,500 feet north of the Horizon City Overpass of Interstate Highway 10 in El Paso County, Texas; renewal; 12876-01.

**KEYSTONE CONSOLIDATED INDUSTRIES, INC.**; Sherman; wastewater treatment facilities; approximately 0.5 mile north of State Highway 56 on the east side of Gibbons Road, approximately six miles west of Sherman in Grayson County, Texas; new; 13762-01.

**KOCH AGRICULTURE COMPANY, INC.**; Smyer; cattle feedlot; located on the north side of FM Road 128 approximately one mile north of Highway 114 and one mile west of the intersection with FM Road 168 approximately 1.5 miles north and west of the Town of Smyer in Hockley County, Texas; amendment; 01718.

**BONO BROTHERS, INC.**; Clodine; storage, processing and land application of domestic wastewater treatment plant sludge and domestic septage; approximately 2.5 miles southwest of Clodine, Texas. The west boundary is bordered by Harlem Road, the east boundary is bordered by Obrien Road, and the southeast boundary is bordered by Madden Road in Fort Bend County, Texas; new; 03742.

**CHARTERWOOD MUNICIPAL UTILITY DISTRICT**, in care of Coats, Rose, Yale, Holm, Ryman & Lee, P.C.; Houston; wastewater treatment plant; approximately 3.5 miles northwest of the intersection of FM Road 149 (West Montgomery Road) and FM Road 1960, on the south bank of Pillot Gully, at 15820 Quill Drive in the City of Houston in Harris County, Texas; renewal; 11410-02.

**CITY OF COLORADO CITY**; Colorado City; interim I treatment facility; at 700 East Central Avenue, two blocks east of State Highway 163 at the intersection of East Central Avenue and Washington Street in Mitchell County, Texas; amendment; 10077-01.

**HOECHST CELANESE CHEMICAL GROUP, INC.**; Bay City; biological treatment unit; approximately nine miles southwest of the City of Bay City on FM Road 3057, Matagorda County, Texas; amendment; 00455.

**CITY OF TROUP**; Troup; wastewater treatment facilities; approximately 0.25 mile south of the Cherokee-Smith county line and 0.38 mile east of the State Highway 110 and south of the City of Troup in Cherokee County, Texas; amendment; 10304-01.

UNION CARBIDE CORPORATION; Port Lavaca; organic chemicals, plastics and industrial gases manufacturing plant; on the east side of State Highway 185 approximately 8,000 feet south of the intersection of State Highway 185/State Highway 35 and approximately eight miles north of the City of Seadrift, Calhoun County, Texas; amendment; 00447.

Issued in Austin, Texas on March 17, 1995.

TRD-9503413 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

### Enforcement Orders

An amended agreed enforcement order was entered regarding the estate of LEE WILKERSON, Docket Number 95-0321-SLG-E, (SWR Number 21873) on March 13, 1995, discharging an obligation to pay \$1,358 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Paul Sarahan, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3422.

An agreed enforcement order was entered regarding the CITY OF ELKHART, Docket Number 95-0352-MWD-E, (Permit Number 10735-01) on March 9, 1995, assessing \$312,000 in administrative penalties with \$5,000 deferred and \$304, 950 waived.

Information concerning any aspect of this order may be obtained by contacting Lin Zhang, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4497.

An agreed enforcement order was entered regarding REPUBLIC/MALOY LANDFILL AND SANITATION INC., Docket Number 95-0338-MSW-E (MSW Permit Number 1195) on March 9, 1995, assessing \$19,184 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting H. Thomas Collins, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6011.

An agreed enforcement order was entered regarding GIBBS BROTHERS AND COMPANY, Docket Number 95-0336-PST-E (TNRCC Facility I.D. Number 55432; Enforcement I.D. Number E10694) on March 9, 1995, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mick Wilson, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2126.

Issued in Austin, Texas on March 17, 1995.

TRD-9503411 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

### Notice of Opportunity to Comment on Permitting Actions-For the week ending March 17, 1995.

Approval of Bulverde Utility Company, Inc. to Amend Water CCN Number 10964, in Comal County, Texas. (Application Number 30483-C, Dean Pollard.)

Approval of Lee County Water Supply Corporation to Merge with Paige Water Supply Corporation; Amend Water CCN Number 10310; and Cancel Water CCN Number 11936 in Bastrop County, Texas. (Application Number 30695-S, Albert Holck.)

CITY OF BONHAM for a minor amendment to Permit Number 10070-01 to authorize the replacement of the existing chlorine disinfection with an ultra-violet (UV) light disinfection system. The current permit authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1 million gallons per day in the interim phases and a volume not to exceed an average flow of 2.5 million in the final phase, which will remain the same. The City of Bonham Wastewater Treatment Facilities are approximately 0.5 mile east of the City of Bonham on Seven Oaks Road in Fannin County, Texas.

Issued in Austin, Texas, on March 17, 1995.

TRD-9503410 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

### Provisionally-Issued Temporary Permits to Appropriate State Water

The following permits were issued during the period of March 8-15, 1995.

Application Number TA-7413 by EXXON CORPORATION for diversion of five acre-feet of water in a three-month period for mining use. Water may be diverted from a point in Sabine Lake, approximately 7.5 miles northeast of Port Arthur, Orange County, Texas, Sabine River Basin.

Application Number TA-7412 by T. L. JAMES and COMPANY INC. for diversion of nine acre-feet of water in a six-month period for industrial use. Water may be diverted from the following three diversion points: 1) Chalk Creek at its crossing of FM 230, 4.5 miles west of Trinity; 2) Dillard Creek at its crossing of FM 230, 7 miles west of Trinity; and Whites Creek at its crossing of FM 230, 8.5 miles west of Trinity, all 17 miles north of Huntsville, Walker County, Texas, Trinity River Basin.

Application Number TA-7411 by DAVID RICHTER, for diversion of ten acre-feet of water in a one-year period for mining purposes. Water may be diverted from the Rio

Grande, approximately 2.5 miles south of Loop 20 and Highway 83, Webb County, Texas, Rio Grande Basin.

Application Number TA-7410 by W. E. VLASEK DOING BUSINESS AS VLASEK PUMP COMPANY, for diversion of five acre-feet of water in a one-year period for industrial use (well drilling). Water may be diverted at a diversion point near the stream crossing of Highway 27 on Johnson Creek, a diversion point near the stream crossing of FM 480 on the Guadalupe River and at a diversion point near the stream crossing of FM 1340 on the North Fork of the Guadalupe River in Kerr County, Texas, Guadalupe River Basin.

Application Number TA-7414 by SMITH and COMPANY for diversion of two acre-feet of water in a one-year period for industrial use. Water may be diverted from near the Tehuacana Creek crossing of FM 27, approximately 13.9 miles northwest of Fairfield, Freestone County, Texas, Trinity River Basin.

Provisionally-Issued Temporary permits to appropriate state water are issued for a period of not more than one year and authorize the use of not more than ten acre-feet of water. The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, (512) 239-3300.

Issued in Austin, Texas on March 16, 1995.

TRD-9503409 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

### Public Notice-Notices of Availability and Request for Comments

The Texas Natural Resource Conservation Commission (TNRCC) announces notice and availability of a regional solid waste management plan proposed by the Lower Rio Grande Valley Development Council (LRGVDC) and a 30-day period for public comment on the plan.

Notice is hereby given that the document entitled, *Lower Rio Grande Valley Development Council Regional Solid*

*Waste Management Plan 1990-2010*, is available for public review and comment. Regional solid waste management plans are required by the Texas Health and Safety Code, Chapter 363 (*Comprehensive Municipal Solid Waste Management, Recovery, and Conservation Act, 1990*) for each of the established regional planning agencies (COGs) in the state, which have been officially designated as solid waste management planning regions. The LRGVDC region includes the counties of Hidalgo, Willacy and Cameron. The plan describes current solid waste management efforts in the region, assesses problems and needs, and provides recommendations for future action. The plan was developed with the input of a solid waste advisory committee composed of various public and private interests; meetings of this advisory committee were open to the general public. In addition, numerous public meetings concerning the plan were held in various locations in the region. A formal public hearing was conducted by LRGVDC, in accordance with guidelines of TNRCC. Immediately upon adoption by TNRCC, the plan will have rule status. Subchapter O of *Municipal Solid Waste Regulations* (§330.568) will be amended at a later date to include, by reference, all adopted regional solid waste management plans in the state.

The interested public is invited to submit written comments on the proposed regional plan to the Texas Natural Resources Conservation Commission. Written comments must be received by no later than 30 days from the publication date of this notice. Please address comments to: Daniel J. Eden, Director, Waste Planning and Assessment Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Copies of the regional plan document are available for public review at the following two locations: Lower Rio Grande Valley Development Council, 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481 and the Texas Natural Resource Conservation Commission, Library, 12100 Park 35 Circle, Building A, 1st Floor Austin, Texas 78753, (512) 239-0020.

The Texas Natural Resource Conservation Commission will consider formal adoption of this regional plan at a regular agenda meeting, after the close of the comment period.

Issued in Austin, Texas, on March 20, 1995.

TRD-9503420 Lydia Gonzalez-Gromatzky  
Acting Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

The Texas Natural Resource Conservation Commission (TNRCC) announces Notice and availability of a regional solid waste management plan proposed by the Coastal Bend Council of Governments (CBCOG) and a 30-day period for public comment on the plan.

Notice is hereby given that the document entitled, *Coastal Bend Council of Governments Regional Solid Waste Management Plan 1992-2012*, is available for public review and comment. Regional solid waste management plans are required by the Texas Health and Safety Code, Chapter 363 (*Comprehensive Municipal Solid Waste Management, Recovery, and Conservation Act, 1990*) for each of the established regional planning agencies (COGs) in the state, which have been officially designated as solid waste man-

agement planning regions. The CBCOG region includes the counties of McMullen, Live Oak, Bee, Brooks, Kennedy, Jim Wells, Nueces, San Patricio, Aransas, Kleberg, Refugio, and Duval. The plan describes current solid waste management efforts in the region, assesses problems and needs, and provides recommendations for future action. The plan was developed with the input of a solid waste advisory committee composed of various public and private interests; meetings of this advisory committee were open to the general public. In addition, numerous public meetings and formal public hearings concerning the plan were held in accordance with guidelines of TNRCC. Immediately upon adoption by TNRCC, the plan will have rule status. Subchapter O of *Municipal Solid Waste Regulations* (§330.568) will be amended at a later date to include, by reference, all adopted regional solid waste management plans in the state.

The interested public is invited to submit written comments on the proposed regional plan to the Texas Natural Resources Conservation Commission. Written comments must be received by no later than 30 days from the publication date of this notice. Please address comments to: Daniel J. Eden, Director, Waste Planning and Assessment Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Copies of the regional plan document are available for public review at the following two locations: Coastal Bend Council of Governments, 2910 Leopard, Corpus Christi, Texas 78408, (512) 883-5743 and the Texas Natural Resource Conservation Commission, Library, 12100 Park 35 Circle, Building A, 1st Floor, Austin, Texas 78753, (512) 239-0020.

The Texas Natural Resource Conservation Commission will consider formal adoption of this regional plan at a regular agenda meeting, after the close of the comment period.

Issued in Austin, Texas, on March 20, 1995.

TRD-9503421 Lydia Gonzalez-Gromatzky  
Acting Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

The Texas Natural Resource Conservation Commission (TNRCC) announces notice and availability of a regional solid waste management plan proposed by the Golden Crescent Regional Planning Commission (GCRPC) and a 30-day period for public comment on the plan.

Notice is hereby given that the document entitled, *Regional Solid Waste Management Plan for the Golden Crescent Region 1992-2012*, is available for public review and comment. Regional solid waste management plans are required by the Texas Health and Safety Code, Chapter 363 (*Comprehensive Municipal Solid Waste Management, Recovery, and Conservation Act, 1990*) for each of the established regional planning agencies (COGs) in the state, which have been officially designated as solid waste management planning regions. The GCRPC region includes the counties of Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, and Victoria. The plan describes current solid waste management efforts in the region, assesses problems and needs, and provides recommendations for future action. The plan was developed with the input of a solid waste advisory committee composed of various public and

private interests; meetings of this advisory committee were open to the general public. In addition, numerous public meetings and formal public hearings concerning the plan were held in accordance with guidelines of TNRCC. Immediately upon adoption by TNRCC, the plan will have rule status. Subchapter O of *Municipal Solid Waste Regulations* (§330.568) will be amended at a later date to include, by reference, all adopted regional solid waste management plans in the state.

The interested public is invited to submit written comments on the proposed regional plan to the Texas Natural Resources Conservation Commission. Written comments must be received by no later than 30 days from the publication date of this notice. Please address comments to: Daniel J. Eden, Director, Waste Planning and Assessment Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Copies of the regional plan document are available for public review at the following two locations: Golden Crescent Regional Planning Commission, Victoria Regional Airport, Building 102 Victoria, Texas 77902, (512) 578-1587 and the Texas Natural Resource Conservation Commission, Library, 12100 Park 35 Circle, Building A, 1st Floor, Austin, Texas 78753, (512) 239-0020.

The Texas Natural Resource Conservation Commission will consider formal adoption of this regional plan at a regular agenda meeting, after the close of the comment period.

Issued in Austin, Texas, on March 20, 1995.

TRD-9503422 Lydia Gonzalez-Gromatzky  
Acting Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: March 20, 1995

## Request for Proposals

The Texas Natural Resource Conservation Commission (TNRCC) solicits qualified consulting firms to submit proposals describing the procedures and methodologies they would utilize if awarded a contract under this request to write, edit, and deliver a guidance or Framework Document that will summarize Texas' statewide watershed management approach under the authority granted in the Private Consultant Act, Government Code §2254. The Texas Natural Resource Conservation Commission (TNRCC) has entered into a Cooperative Agreement for fiscal years 1995 and 1996 with the United States Environmental Protection Agency Region VI to develop a draft Framework Document that summarizes the process and mechanisms necessary to implement watershed management in the state of Texas. The TNRCC intends to award the Contract to The Cadmus Group, Inc. of Raleigh, North Carolina, due to their unique expertise in developing Framework Documents for statewide watershed management approaches, unless a better offer is received. The TNRCC in its sole discretion will determine if the expertise and experience associated with other proposals received is comparable.

### Project Objective

The Office of Water Resource Management of the TNRCC is committed to implementing a watershed management approach that will re-orient existing regulatory and non-regulatory water resource management programs

geographically by watershed. To do this an efficient process and implementation mechanisms must be developed to: strengthen partnerships among all parties interested in water resources; improve the scientific basis for environmental and public health management decisions; and leverage multiple funding sources to address priority watershed issues. The objective of the request is to obtain consulting services to write, edit and provide a draft guidance or Framework Document that will summarize Texas' statewide watershed management approach-Watershed Texas.

#### Proposal Contact Information

Prior to submitting proposals, proposers are encouraged to contact Denise Cullen, Watershed Assessment and Planning Section at (512) 239-4411, to acquire a Request for Proposal (RFP) information packet for the Framework Document. This contains the details concerning the scope of work, submittal instructions, statement of qualifications, and the proposal selection criteria for this project.

#### Proposal Requirements

All proposers must describe the experience and professional qualifications they would bring to the proposed project. Proposers must also set forth clearly and specifically those procedures and methodologies they would use to develop, edit and deliver the Framework Document. All forms within the RFP must be filled out completely for a submitted proposal to be considered acceptable by the TNRCC.

#### Submittal Procedures and Response Deadline

Potential consultants must submit six copies of a proposed Work Plan to: Mel Vargas, TNRCC, Watershed Assessment and Planning Section, Mail Code 150, P. O. Box 13087, Austin, Texas 78711-3087, by 5:00 p.m. Central Time on April 24, 1995. It is the responsibility of the proposer to verify that the proposed Work Plan has been received by the TNRCC by this deadline. Late or faxed proposed Work Plans will not be accepted. Any and all expenses incurred during the development and/or presentation of proposals shall be the responsibility of the consultant.

#### Contract Schedule and Budget

The consulting contract to be established under this RFP will provide for compensation on the basis of invoices submitted by the consultant awarded this contract, up to the amount negotiated for this project. The TNRCC estimates an approximate budget of \$60,000 for this project. The project will begin immediately upon final approval of the contract between the TNRCC and the selected consultant and end on August 31, 1996. It will be the contractors responsibility to determine the appropriate allocation of funds over the remainder of fiscal year 1995 and throughout the entire fiscal year 1996.

#### Procedure for Ranking Proposers

Proposers will be evaluated based on the proposal submitted to the TNRCC. The information packet for the Framework Document RFP fully describes the evaluation and selection criteria that will be used for each potential proposal.

#### Final Negotiations

After initial evaluation of proposals, the TNRCC will choose the best qualified proposer based on the selection criteria and begin negotiating for a contract. If the TNRCC is unable to negotiate a satisfactory contract with this

proposer the TNRCC will formally end negotiations with this proposer and begin negotiations with the next best qualified proposer. Negotiations will continue in this manner until a satisfactory contract is secured.

Issued in Austin, Texas on March 20, 1995.

TRD-9503398

Lydia Gonzalez-Gromatzky  
Acting Director, Legal Services Division  
Texas Natural Resources Conservation  
Commission

Filed: March 20, 1995

## Texas Board of Nursing Facility Administrators

### Extension of Public Comment Period for Proposed Rules

The Texas Board of Nursing Facility Administrators is extending the comment period for 30 additional days on proposed new rules (22 TAC, §§241.1-241.17) and the repeal of existing rules (22 TAC, Chapters 241, 243, 245, 247, 249, 251, 253, and 255), as published in the *Texas Register* on March 3, 1995, (20 TexReg 1490). In addition, the public hearing at the Houston Medallion Hotel, Houston, Texas, has been rescheduled to be held at 9:00 a.m., Monday, April 3, 1995.

Comments on the proposed rules may be submitted to Bobby D. Schmidt, Executive Secretary, Texas Board of Nursing Facility Administrators, 1100 West 49th Street, Austin, Texas 78756-3183, (Telephone (512) 834-6787. Comments will be accepted until 5:00 p.m. April 3, 1995.

Issued in Austin, Texas, on March 20, 1995.

TRD-9503401

Bobby D. Schmidt  
Executive Secretary  
Texas Board of Nursing Facility  
Administrators

Filed: March 20, 1995

## Public Utility Commission of Texas

### Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Northside ISD, San Antonio, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Northside ISD pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 14007.

The Application. Southwestern Bell Telephone Company is requesting approval of an 87-station addition to the existing PLEXAR-Custom service for Northside ISD. The geographic service market for this specific service is the San Antonio, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division

at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 16, 1995.

TRD-9503294

John M. Rentrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 16, 1995

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**Texas Water Development Board**  
**Applications Received**

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the Board:

Sandy Land Underground Water Conservation District, P.O. Box 130, Plains, Texas, 79355-0130, received February 20, 1995, application for additional financial assistance in the amount of \$150,000 from the Agricultural Water Conservation Fund.

Medina County Underground Water Conservation District, 1613 Avenue K, Suite 105, Hondo, Texas, 78861, received February 27, 1995, application for additional financial assistance in the amount of \$10,000 from the Agricultural Water Conservation Fund.

Greater Texoma Utility Authority (City of Van Alstyne), 5100 Airport Drive, Denison, Texas, 75270, received Feb-

ruary 8, 1995, application for assistance in the amount of \$380,000 from the State Water Pollution Control Revolving Fund.

San Jacinto River Authority, P.O. Box 329, Conroe, Texas, 77305-0329, received February 27, 1995, application for financial assistance in the amount of \$19 million from the Water Supply Account of the Texas Water Development Fund.

City of Houston, P.O. Box 1562, Houston, Texas, 77251-1562, received February 15, 1995, application for financial assistance in the amount of \$49,930,000 from the State Water Pollution Control Revolving Fund.

Travis County Water Control and Improvement District Number 14-Southview Estates Defined Area, P.O. Box 900487, Austin, Texas, 78709, received March 14, 1995, application for financial assistance in the amount of \$460,000 from the Water Supply Account of the Texas Water Development Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas, 78711.

Issued in Austin, Texas, on March 15, 1995.

TRD-9503236

Craig D. Pedersen  
Executive Administrator  
Texas Water Development Board

Filed: March 15, 1995

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