

TEXAS REGISTER

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Texas Register



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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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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 20 (1995) is cited as follows: 20 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 "20 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 20 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 TRD 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.

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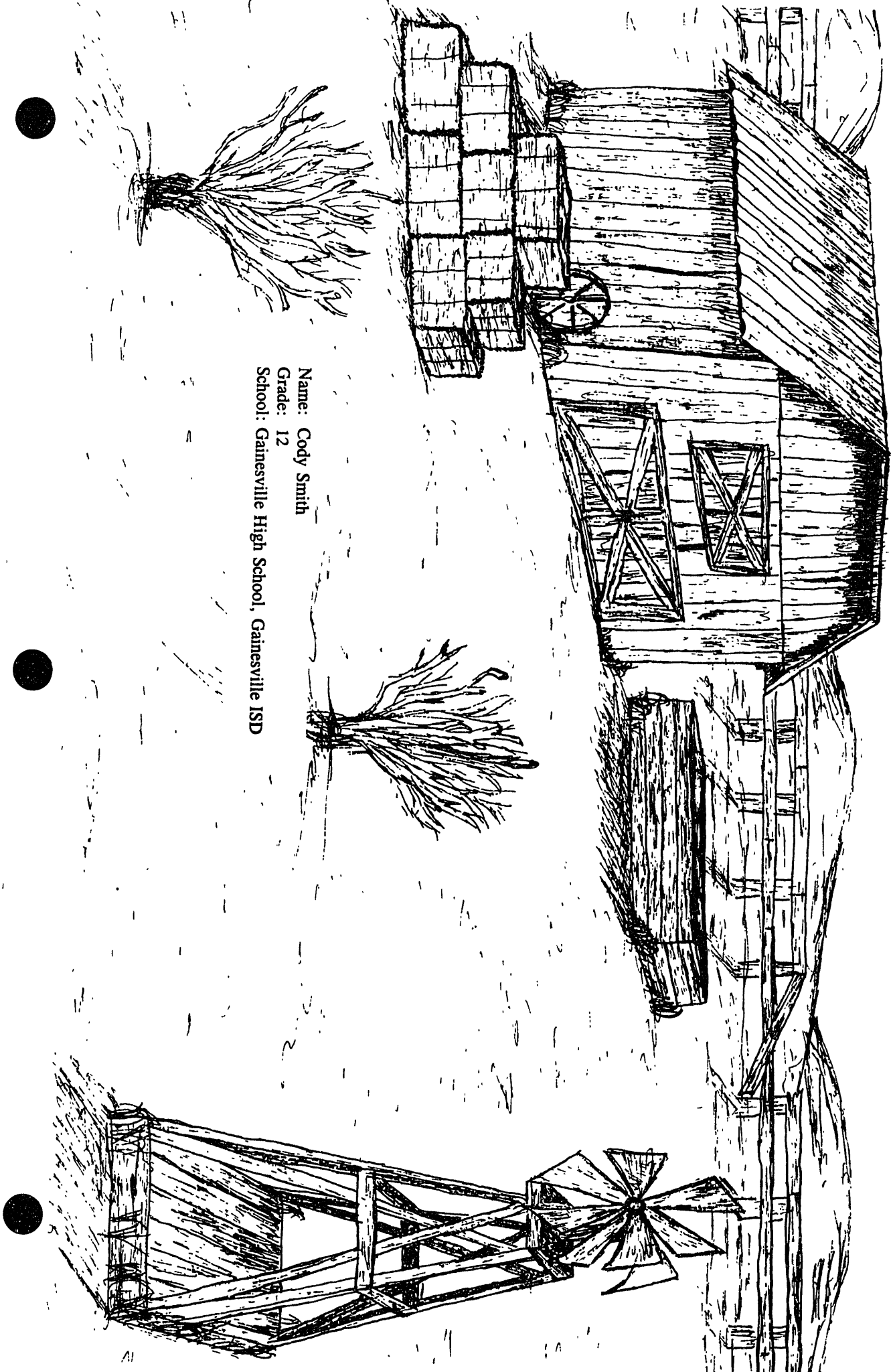
The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

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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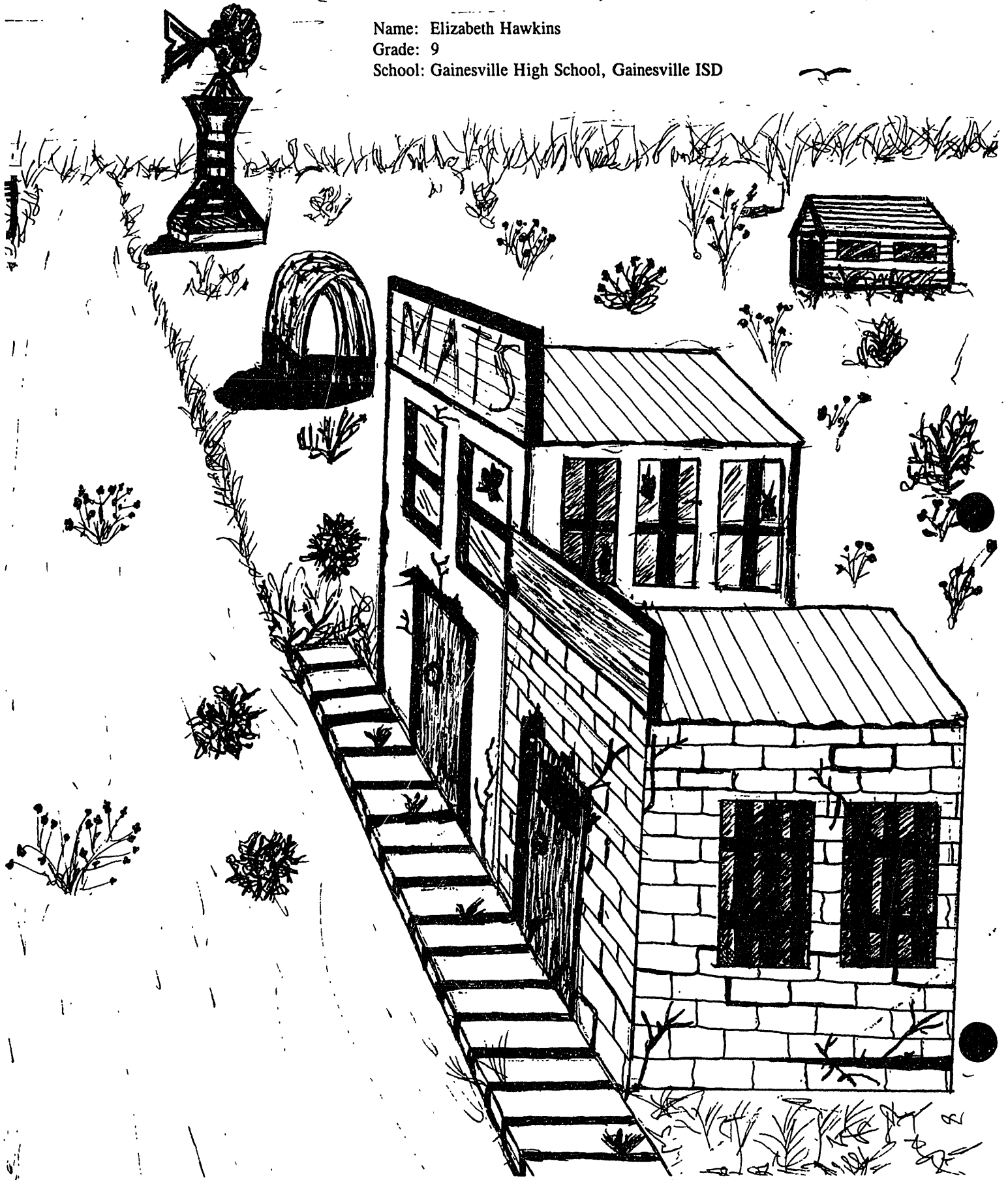
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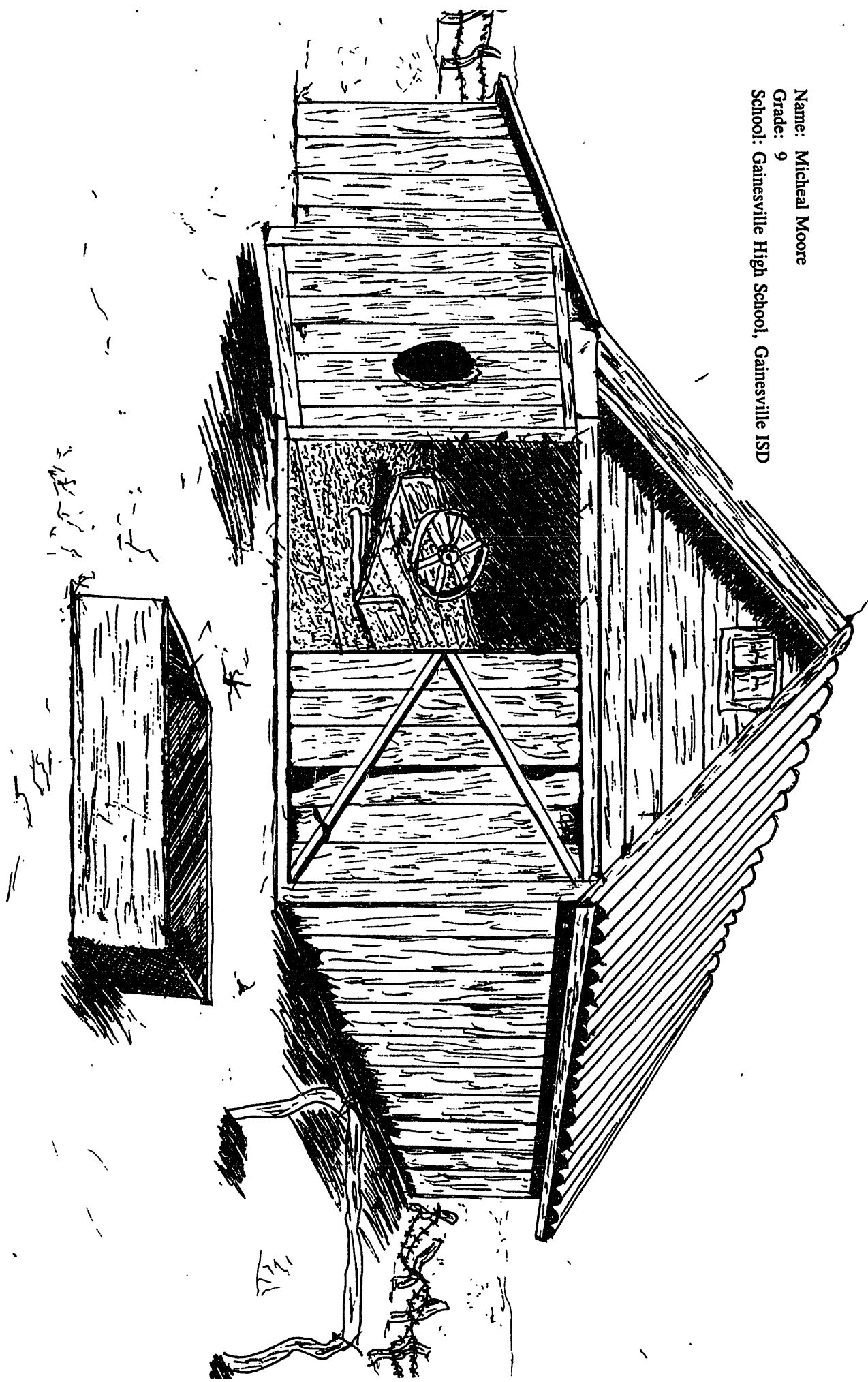


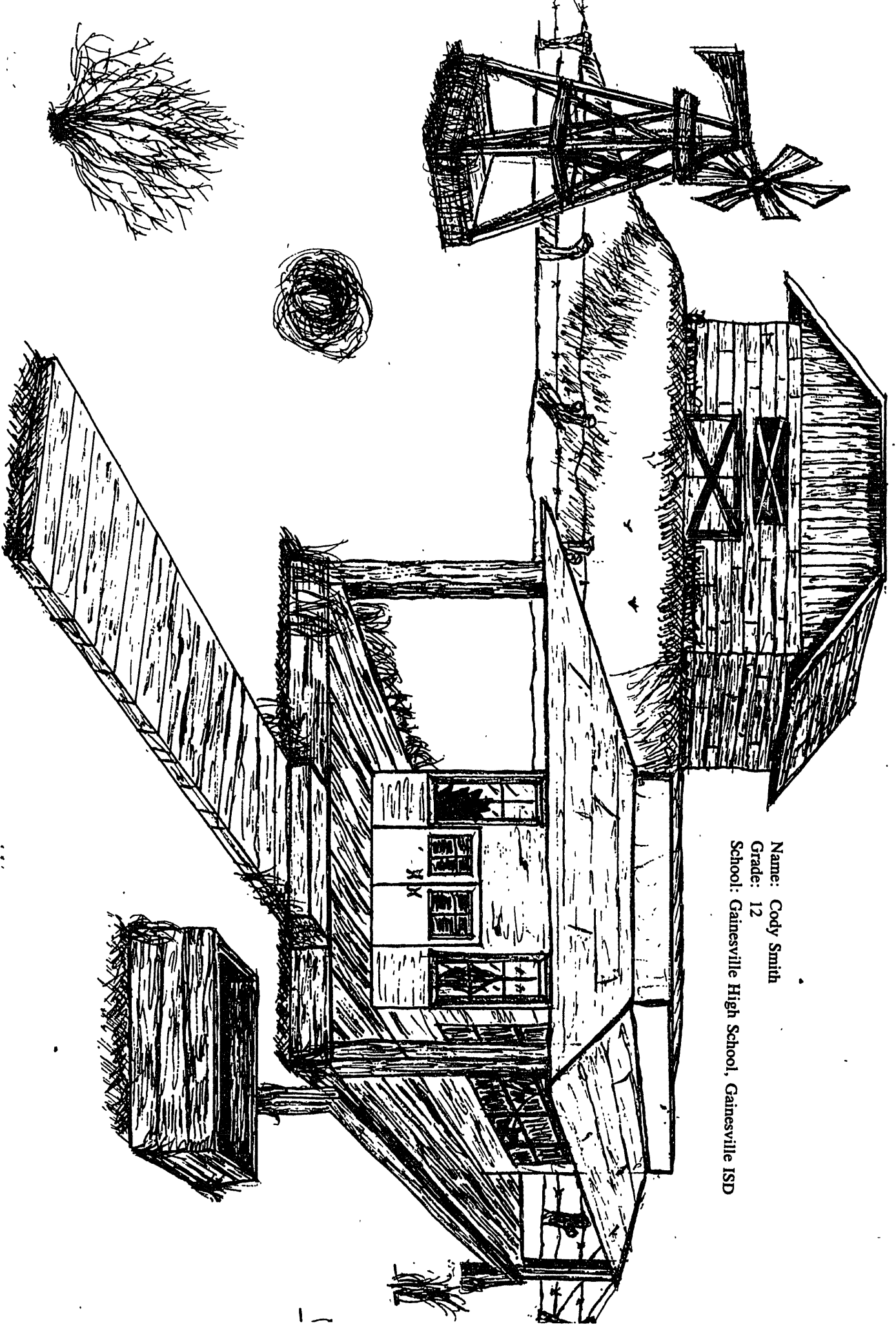
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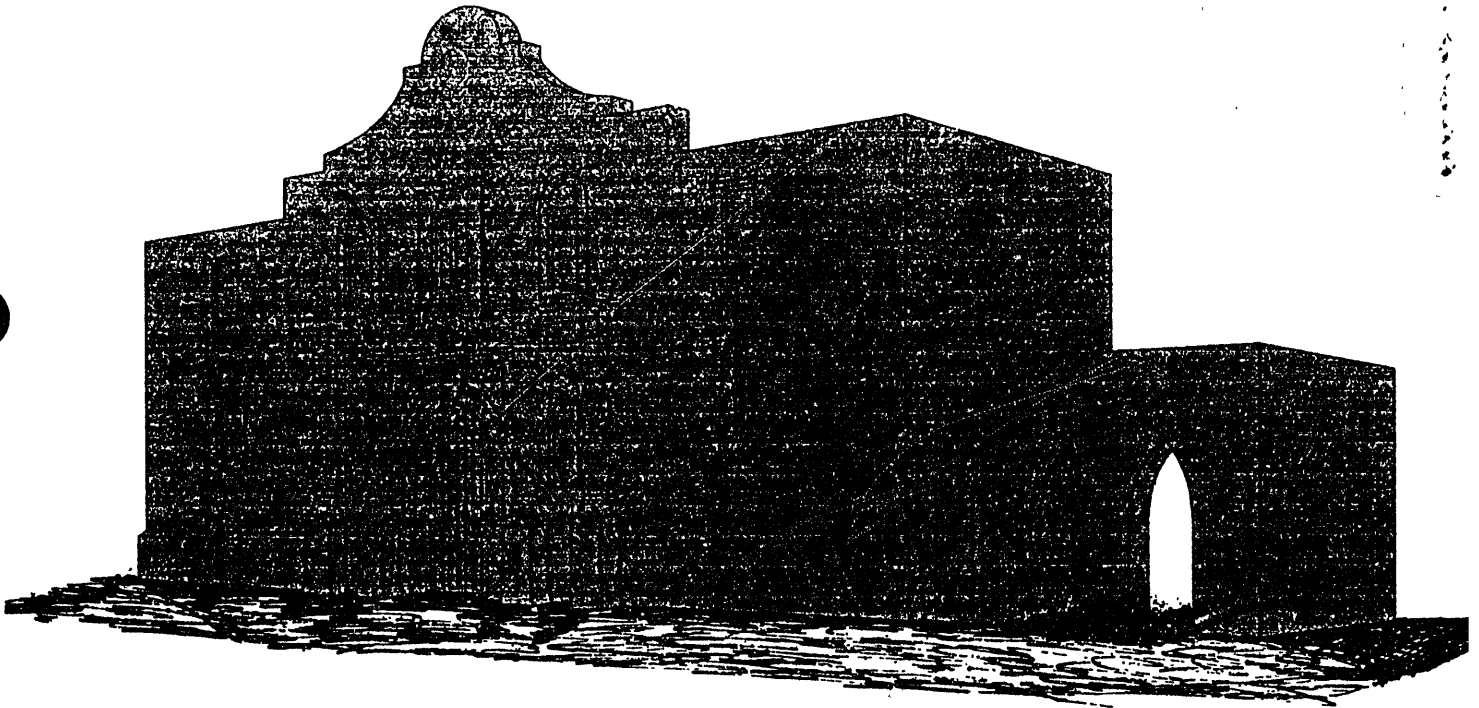


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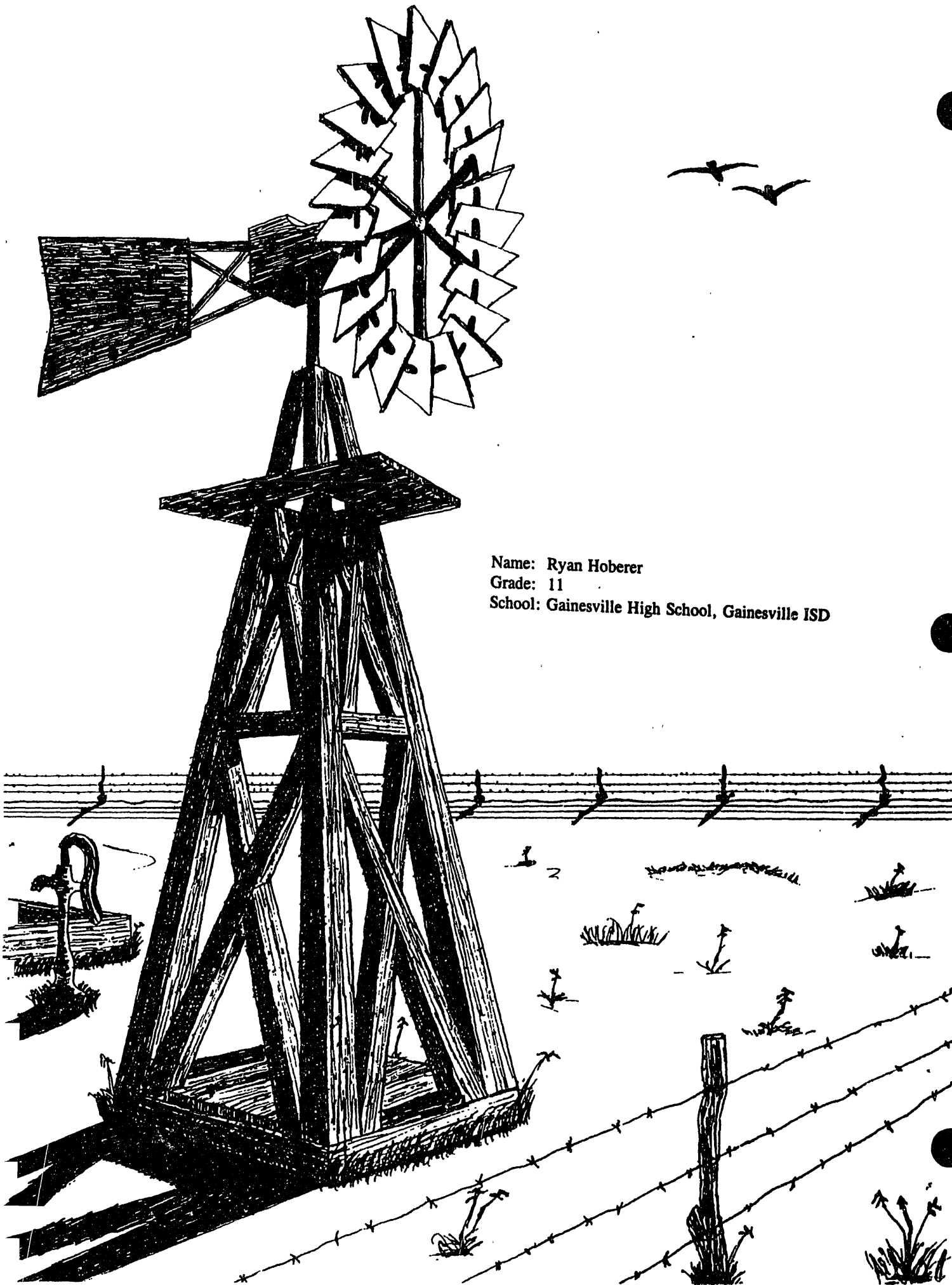
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Texas



Register



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ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the **Texas Register**. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

Requests for Opinions

(RQ-814). Requested by Tracy R. Briggs, Assistant City Attorney, City of Houston, P.O. Box 1562, Houston, Texas 77251-1562, concerning whether arbitration proceedings before a municipal civil service commission constitutes "litigation" for purposes of the Open Records Act, Chapter 552, Government Code, and related questions.

(RQ-815). Requested by Detra G. Hill, Assistant City Attorney Criminal Law and Police Division, Office of the City Attorney, 501 Police and Courts Building, Dallas, Texas 75201. Annette Jones, Police Legal Advisor Legal Services, P.O. Box 2570, Waco, Texas 76702-2570, concerning whether the applications of persons who apply for the purchase of a handgun under the federal Brady Handgun Violence Prevention Act, 18 United States Code, §922 (1993), but whose applications are rejected, are available to the public under the Open Records Act.

(RQ-816). Requested by Edward H. Perry, Assistant City Attorney, City of Dallas Office of the City Attorney, City Hall, Dallas, Texas 75201, whether fire alarm and fire sprinkler system permits issued by a municipality are excepted from disclosure under the Open Records Act.

(RQ-817). Requested by Honorable Fred Hill, Chair, Committee on Urban Affairs, House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a municipality which withdraws from a transit authority under the terms of Texas Civil Statutes, Article 1118y, may subsequently levy a sales tax under Tax Code, Chapter 321, or under Texas Civil Statutes, Article 5190.6, §4A or §4B.

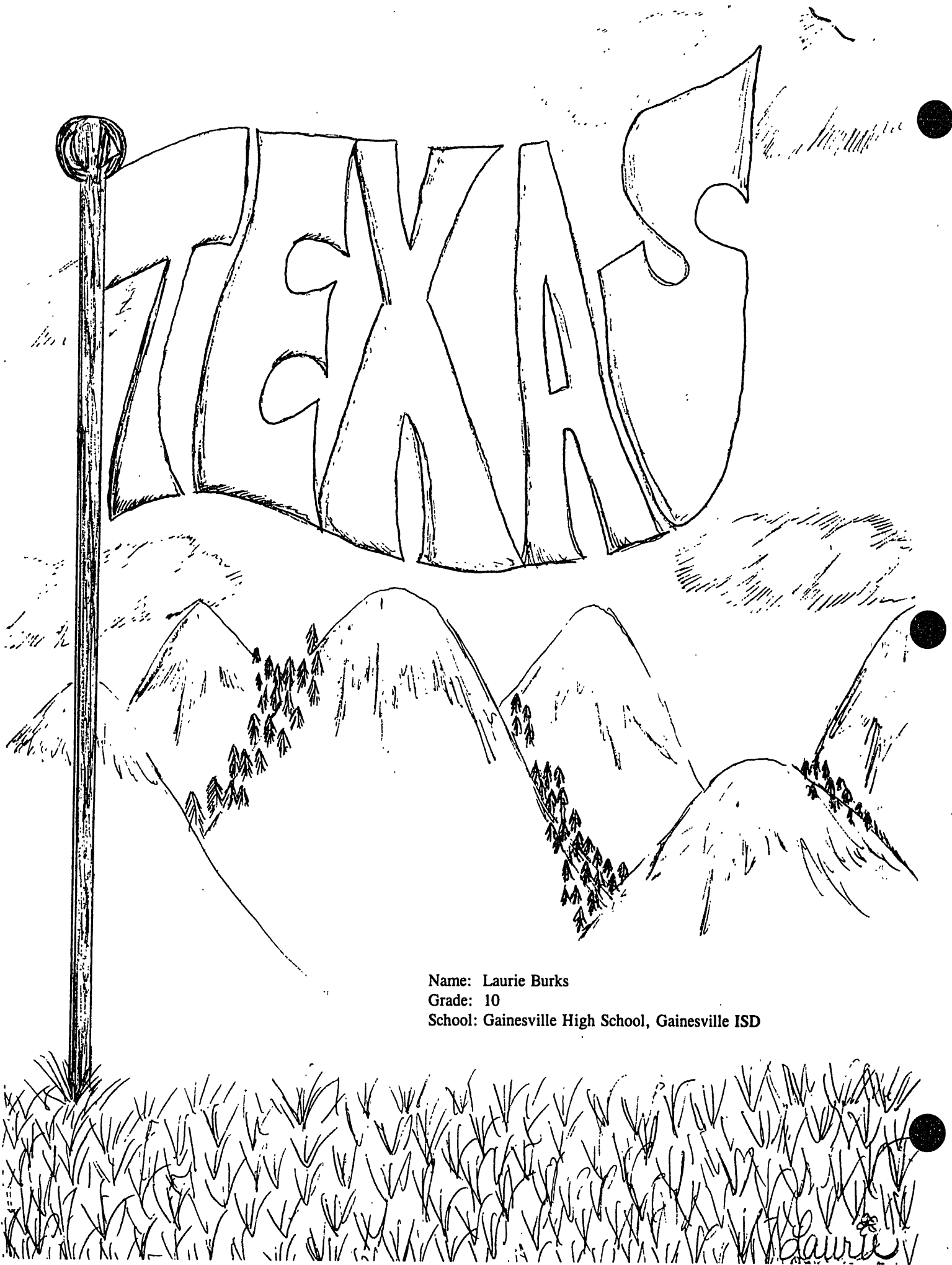
(RQ-818). Requested by Honorable Steve Holzhauser, Chairman, Energy Resources Committee, House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a judge may use public resources, including public employees, in performing a marriage ceremony for which the judge receives a fee.

(RQ-819). Requested by Vernon M. Arrell, Commissioner, Texas Rehabilitation Commission, Legal Services, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, concerning whether information created, compiled and maintained by the Management Audit Division of the Texas Rehabilitation Commission is excepted from disclosure under the Government Code, §552.101 and §552.108.

(RQ-820). Requested by Honorable Robert Newsom, Hopkins County Attorney, 110 Main Street, Sulphur Springs, Texas 75482, concerning whether there is an irreconcilable conflict between Texas Constitution, Article XVI, §65 (the "resign to run" provision) and Article XVI, §17 (the "holdover" provision), and related questions.

TRD-95095511

◆ ◆ ◆



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EMERGENCY RULES

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

Symbology in amended emergency sections. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 1. Management

Advisory Committees

• 43 TAC §1.82

The Texas Department of Transportation adopts on an emergency basis an amendment to §1.82, concerning statutory advisory committee operations and procedures.

Texas Civil Statutes, Article 46c-3, requires the Texas Transportation Commission to appoint a six-member Aviation Advisory Committee to advise the commission and the Texas Department of Transportation on aviation matters.

Amendments to the rule governing operations and procedures of statutory advisory committees were previously adopted and published in the May 5, 1995, issue of the *Texas Register* (20 TexReg 3344). The amendment included a provision that Aviation Advisory Committee members would be appointed to three-year staggered terms beginning on August 31, 1995.

Due to a technical oversight, the expiration dates of the terms were not revised to reflect the appointment period beginning on August 31, 1995, resulting in two members scheduled to serve for a four-year term instead of the three-year term as provided by the rule.

It is necessary to adopt this amendment to §1.82 on an emergency basis to revise the termination dates so that the three-year term

is not exceeded, avoid interruption in the committee's actions which would be a detriment to the department's ability to assist local governments and local economies in aviation matters, and conform to the intent of the rule. Section 1.82 is amended to provide that Aviation Advisory Committee members be appointed for three-year staggered terms with two terms to expire on August 31, 1996, two terms to expire August 31, 1997, and two terms to expire on August 31, 1998.

The emergency amendment is adopted 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, and more specifically Texas Civil Statutes, Article 46c-3, which requires the Texas Transportation Commission to appoint a six-member Aviation Advisory Committee to advise the commission and the Texas Department of Transportation on aviation matters.

Texas Civil Statutes, Article 46c-3 is affected by the emergency amendment.

§1.82. Statutory Advisory Committee Operations and Procedures.

(a) Applicability. This section applies to statutory advisory committees.

(b) Membership.

(1) Aviation.

(A) The commission will appoint the members of the aviation advisory committee to staggered terms of three years, unless sooner removed at the discretion of

the commission, with two members' terms expiring August 31 of each year.

(B) The commission will appoint six members in August, 1995 for initial terms as follows: two to serve terms expiring August 31, 1996 [1997], two to serve terms expiring August 31, 1997 [1998], and two to serve terms expiring August 31, 1998 [1999].

(C) Existing members shall serve until the commission appoints new members under subparagraph (B) of this paragraph.

(2) Environmental and Public Transportation. Members of the Environmental and Public Transportation Advisory Committees shall be appointed and shall serve pursuant to Texas Civil Statutes, Article 6663b and Texas Civil Statutes, Article 6673g, respectively.

(3) Officers. Each committee shall elect a chair and vice-chair by majority vote of the members of the committee.

(c)-(h) (No change.)

Issued in Austin, Texas, on August 2, 1995.

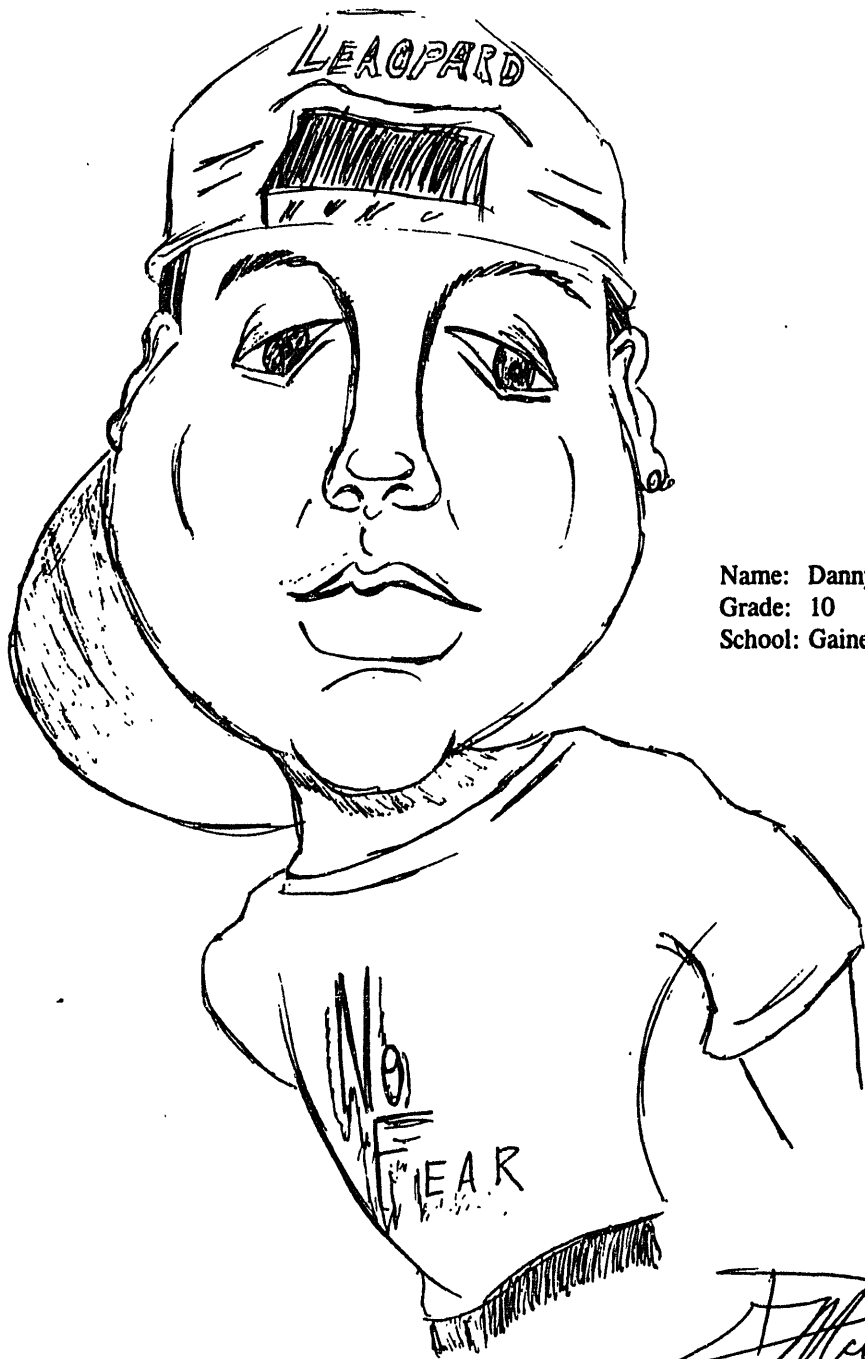
TRD-9509633

Robert E. Shaddock
General Counsel
Texas Department of
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Effective date: August 2, 1995

Expiration date: November 30, 1995

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



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D. McClinton
9/11

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 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 10. Trust Companies

• 7 TAC §10.1

The Finance Commission of Texas (the commission) proposes new §10.1, regarding transition standards for trust companies required to increase paid-in capital under recent changes in law.

Texas Civil Statutes, Article 342-1101, §2(b), and Article 342-1108(a), are amended by Act of May 18, 1995, House Bill 1543, §2(a) and §2(g), 74th Legislature (the "Act") (§1 of which is the Texas Banking Act), to require a trust company to have paid-in capital of "not less than \$1 million." Prior to amendment, the minimum paid-in capital was \$500,000. Under the Act, §2(j), an existing trust company must achieve the new required level of paid-in capital, referred to in more modern parlance as capital and surplus, by September 1, 2000, and the commission "may adopt rules specifying procedures for ratable increases in capital and surplus ... and for deferrals and extensions of time for a trust company acting in good faith to achieve minimum required capital and surplus."

The proposed section is designed to implement the Act, §2(j). A trust company is required to achieve a proportionate increase in capital and surplus each year over the five-year period. Under the proposed rule, each year becomes the "first year" for purposes of determining proportionality. In other words, a trust company must by September 1, 1996, increase its capital and surplus by one-fifth of the difference between \$1 million and its capital and surplus (if a lower amount) on September 1, 1995, since the trust company has five years to complete the transition to higher capital. In similar fashion, a trust company must by September 1, 1997, increase its capital and surplus by one-fourth of the difference between \$1 million and its capital and surplus (if a lower amount) on September 1, 1996, since the trust company has only four years remaining to complete the transition to higher capital. The fractions in succeeding years are one-third, one-half, and finally all of the difference between \$1 million and capital

and surplus at the beginning of the relevant period.

While the Act requires \$1 million in capital and surplus by September 1, 2000, measurement at each preceding September 1st is problematic, and the commission has chosen the third quarter call report date as the measurement date in the proposed section, technically September 30th of each year.

Finally, the proposed section allows the banking commissioner to accept an alternate capital accumulation plan on application by a trust company if the plan satisfies the objectives of the Act and this proposed section, and permits the banking commissioner to grant limited extensions of time to a trust company that in good faith is attempting to achieve the higher capital level.

The new capital standard applies to 39 trust companies. Based on trust company equity capital and fiduciary assets under management as of September 30, 1994, 13 trust companies already have capital and surplus in excess of the proposed requirement. The remaining 26 trust companies would have deficiencies in capital ranging from \$129,000 to \$500,000, with an average deficiency of \$300,000.

Everette D. Jobe, General Counsel, Texas Department of Banking, 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. While trust companies both large and small will be required to raise capital either through retained earnings or contributions by shareholders, the Act rather than the proposed section imposes the obligation. Further, the increase in capital is not an expense or cost, but rather remains the property of the trust company.

Mr. Jobe 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 is the diffused impact over at least five years of the statutorily imposed capital increase. 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. An economic cost will accrue to the shareholders of each affected trust company as a result of the statutory increase in required capital, as dividends may be restricted for a period of years

or capital calls may have to be made in order to increase capital.

Comments on the proposal may be submitted in writing to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The new section is proposed under Act of May 18, 1995, House Bill 1543, §2(j), 74th Legislature, which provides the commission with the authority to adopt rules requiring ratable increases in capital and surplus and permitting deferrals and extensions of time for a trust company to achieve minimum required capital and surplus.

The following are the articles and sections that are affected by the proposed new §10.1: Texas Civil Statutes, Article 342-1101, §2(b), and Article 342-1108(a).

§10.1. Ratable Increases in Required Capital.

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

(1) Act of May 18, 1995—The Act of May 18, 1995, House Bill 1543, 74th Legislature.

(2) Beginning restricted capital—At any time, the level of restricted capital of a trust company as determined by the immediately preceding third quarter call report filed by the trust company, subject to correction or restatement as a result of examination.

(3) Capital—An amount determined as:

(A) the sum of:

(i) the par value of all shares or participation shares of the trust company having a par value that have been issued;

(ii) the consideration fixed by the board in the manner provided by the Texas Business Corporation Act for all shares or participation shares of the trust

company without par value that have been issued, except a part of that consideration that:

(I) has been actually received;

(II) is less than all of that consideration; and

(III) the board, by resolution adopted not later than the 60th day after the date of issuance of those shares, has allocated to surplus with the prior approval of the banking commissioner; and

(iii) an amount not included in clauses (i) and (ii) of this subparagraph that has been transferred to capital of the trust company, on the payment of a share dividend or on adoption by the board of a resolution directing that all or part of surplus be transferred to capital, minus each reduction made as permitted by law; less

(B) all amounts otherwise included in subparagraph (A)(i) and (ii) of this definition that are attributable to the issuance of securities by the trust company and that the commissioner determines, after notice and an opportunity for hearing, should be classified as debt rather than equity securities.

(4) Certified Surplus—The part of surplus designated by a vote of the board of a trust company under the Texas Banking Act, §4.104(b) as added by the Act of May 18, 1995, §1, applicable to a trust company by virtue of Texas Civil Statutes, Article 342-1102, as amended by the Act of May 18, 1995, §2(b), and recorded in the board minutes as certified.

(5) Commissioner—The banking commissioner of Texas.

(6) Surplus—The amount by which the assets of a trust company exceed its liabilities, capital, and undivided profits.

(7) Trust company—A corporate entity that possesses a Texas charter to do business as a trust company, issued pursuant to Texas Civil Statutes, Article 342-1101, §1(b), or Article 342-1101, §4, and is not exempt from capital standards pursuant to §10.10 and §10.11 of this title (relating to Trust Companies).

(8) Undivided profits—The part of equity capital of a trust company equal to the balance of its net profits, income, gains, and losses since the date of its formation, minus subsequent distributions to shareholders and transfers to surplus or capital under share dividends or appropriate board resolutions. The term includes amounts al-

located to undivided profits as a result of a merger.

(b) Purpose. Under Texas Civil Statutes, Article 342-1101, §2(b), and Article 342-1108(a), as amended by the Act of May 18, 1995, §2(a) and §2(g), a trust company is required to possess minimum capital and surplus of not less than \$1 million or a higher amount set by the commissioner under Texas Civil Statutes, Article 342-1101, §2(b), or Article 342-1108(b), as amended. Minimum capital and surplus may be reduced by the commissioner under Texas Civil Statutes, Article 342-1108(c), as amended. Prior to amendment, the minimum capital was \$500,000. Under the Act of May 18, 1995, §2(j), an existing trust company must achieve the new required level of capital and surplus by September 1, 2000. This section provides for ratable increases in capital and surplus and for deferrals and extensions of time for a trust company acting in good faith to achieve minimum required capital and surplus, and further provides standards for the commissioner to alter the minimum capital standard applicable to a particular trust company.

(c) Minimum Restricted Capital. Except as otherwise provided in this section, the minimum restricted capital of a trust company must be not less than \$1 million.

(d) Transition for Under-Capitalized Trust Company.

(1) A trust company with restricted capital as of September 1, 1995, that is less than the minimum restricted capital required by subsection (c) or (g) of this section must increase its restricted capital annually thereafter, by the end of the third quarter of each calendar year, according to the following schedule.

(A) Third Quarter 1996—By a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 20% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding third quarter.

(B) Third Quarter 1997—By a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 25% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding third quarter.

(C) Third Quarter 1998—By a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 33% of the

difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding third quarter.

(D) Third Quarter 1999—By a sufficient amount to cause restricted capital to equal such company's beginning restricted capital plus at least 50% of the difference between the minimum restricted capital required at that time and such company's restricted capital as of the preceding third quarter.

(E) Third Quarter 2000—By a sufficient amount to cause restricted capital to equal at least the minimum restricted capital required at that time. Thereafter, the trust company shall have and maintain at least the minimum restricted capital required by subsection (c) or (g) of this section.

(2) The implementation schedule set forth in paragraph (1) of this subsection is a minimal requirement, and does not authorize a reduction of capital and surplus for a trust company that has more capital and surplus than is required for restricted capital under the implementation schedule but less than is required under subsection (c) or (g) of this section. Any trust company that possesses restricted capital in excess of minimal requirements or that achieves the minimum transition level of restricted capital prior to the required deadlines in the transition schedule may not reduce its restricted capital without the express written consent of the commissioner.

(e) Certified Surplus. Except to absorb losses in excess of undivided profits and uncertified surplus, certified surplus may not be reduced without the prior written consent of the Commissioner. An increase in certified surplus is effective immediately upon the approval of an appropriate resolution by the board of directors.

(f) Extensions of Time. Upon application by a trust company subject to subsection (d) of this section, the Commissioner, in the exercise of discretion, may grant one or more extensions to a trust company to permit additional time to achieve the required restricted capital levels if, in the Commissioner's opinion, the trust company has made a good faith effort to achieve such restricted capital levels.

(g) Modifications in Minimum Restricted Capital. Notwithstanding subsection (c) of this section, the Commissioner may, on a case by case basis and in the exercise of discretion consistent with protecting safety and soundness, reduce or increase the amount of minimum restricted capital, or may grant extensions of time to achieve required, periodic adjustments in the minimum restricted capital for such trust com-

pany. Among the safety and soundness factors to be considered by the Commissioner in the exercise of discretion are the nature and type of business conducted; the nature and degree of liquidity in assets held in a corporate capacity; the amount of fiduciary assets under management; the type of fiduciary assets held and the depository of such assets; the complexity of fiduciary duties and degree of discretion undertaken; the competence and experience of management, the extent and adequacy of internal controls; the presence or absence of annual unqualified audits by an independent certified public accountant; the reasonableness of business plans for retaining or acquiring additional restricted capital; and the existence and adequacy of insurance obtained or held by the trust company for the purpose of protecting its customers, beneficiaries and grantors

(h) This section does not create any presumption regarding the adequacy of the capital structure proposed for a new trust company in a charter application to the commissioner.

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 August 1, 1995

TRD-9509573

Everette D Jobe
General Counsel
Banking Department of
Texas

Earliest possible date of adoption: September 8, 1995

For further information, please call (512) 475-1300

• 7 TAC §10.5

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

The Finance Commission of Texas (the commission) proposes the repeal of §10.5, regarding authorized investments of trust companies. A new §10.5 is proposed in this issue of the *Texas Register*

Existing §10.5 is outdated and ambiguous regarding permissible investments of trust companies. The new proposed section is directly in response to a petition for rulemaking filed by a regulated trust company seeking clarification of existing §10.5 and the meaning of "readily marketable investments." Other flaws were noted in existing §10.5 and the section is therefore proposed for repeal and replacement

Everette D. Jobe, General Counsel, Texas Department of Banking, has determined that for the first five-year period the repeal as proposed is in effect there will be no fiscal

implications for state or local government or small businesses as a result of adopting this repeal.

Mr. Jobe also has determined that for each year of the first five-year period the repeal as proposed will be in effect the public benefit anticipated as a result of its adoption will be increased certainty of compliance in the trust company industry as well as greater investment flexibility for trust companies.

Comments on the proposal to be considered by the commission should be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294.

The repeal is proposed under Texas Civil Statutes, Article 342-1106(b), which authorize the commission to adopt general rules and regulations as may be necessary to accomplish the purposes of trust company regulation, and §1.012(a)(2), the Texas Banking Act, enacted by Act of May 18, 1995, House Bill 1543, §1, 74th Legislature, which authorizes the commission to adopt rules to preserve the safety and soundness of trust companies. Section 1.012 of the Texas Banking Act is applicable to trust companies by virtue of Texas Civil Statutes, Article 342-1102, §1, as amended by the Act of May 18, 1995, House Bill 1543, §2(b), 74th Legislature.

The following are the articles and sections that are affected by the proposed repeal §10.5: Texas Civil Statutes, Article 342-1101, §2(a).

The Texas Banking Act, §5.001 and §5.101, enacted by Act of May 18, 1995, House Bill 1543, §1, 74th Legislature.

§10.5. Authorized Investments.

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 August 1, 1995.

TRD-9509574

Everette D Jobe
General Counsel
Banking Department of
Texas

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For further information, please call: (512) 475-1300

The Finance Commission of Texas (the commission) proposes new §10.5, regarding the investment of corporate assets of trust companies. Former §10.5 is proposed for repeal in this issue of the *Texas Register*.

The proposed rule is directly in response to a petition for rulemaking filed by a regulated trust company seeking clarification of existing §10.5 and the meaning of "readily marketable investments." Other flaws were noted in existing §10.5 and the section is therefore proposed for repeal and replacement.

Under the proposed section, a trust company is required to maintain a measure of liquidity by maintaining an amount at least equal to 40% of its capital and certified surplus in readily marketable investments, defined to include insured certificates of deposit, investment securities in which state banks can invest without limitation, publicly traded corporate debt or equity securities, or another investment that can be converted to cash within four business days. The remainder of a trust company's corporate assets may be invested at the discretion of the trust company except that a trust company may not invest an amount in excess of 15% of its capital and certified surplus in the securities of a single issuer without the prior written consent of the banking commissioner.

Everette D. Jobe, General Counsel, Texas Department of Banking, has determined that for the first five-year period the section as proposed is in effect there will be no fiscal implications for state or local government or small businesses as a result of adopting this section.

Mr. Jobe also has determined that for each year of the first five-year period the section as proposed is in effect the public benefit anticipated as a result of its adoption will be increased certainty of compliance in the trust company industry as well as greater investment flexibility for trust companies

Comments on the proposal to be considered by the commission should be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Everette D. Jobe, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294

The new section is proposed under Texas Civil Statutes, Article 342-1106(b), which authorize the commission to adopt general rules and regulations as may be necessary to accomplish the purposes of trust company regulation, and the Texas Banking Act, §1.012(a)(2), enacted by Act of May 18, 1995, House Bill 1543, §1, 74th Legislature, which authorizes the commission to adopt rules to preserve the safety and soundness of trust companies. The Texas Banking Act, §1.012 is applicable to trust companies by virtue of Texas Civil Statutes, Article 342-1102, §1, as amended by the Act of May 18, 1995, House Bill 1543, §2(b), 74th Legislature.

The following are the articles and sections that are affected by the proposed new §10.5: Texas Civil Statutes, Article 342-1101, §2(a) The Texas Banking Act, §5.001 and §5.101, enacted by Act of May 18, 1995, House Bill 1543, §1, 74th Legislature.

§10.5. Authorized Investments.

(a) A trust company shall maintain an amount equal to 40% of its capital and surplus as defined in §10.1 of this title (relating to Ratable Increases in Required Capital) in investments that are readily marketable and can be converted to cash within four business days, including:

(1) federally insured certificates of deposit issued by a depository institution;

(2) securities in which state banks can invest without limitation under the Texas Banking Act, §5.101 (as added by Act of May 18, 1995, House Bill 1543, §2(g), 74th Legislature); or

(3) corporate debt or equity securities registered or approved for registration and traded on a national securities exchange or authorized for quotation on an automated quotation system sponsored by a registered securities association.

(b) Subject to subsection (a) of this section, a trust company may invest its corporate assets in any investment permitted by law. Without the prior written consent of the banking commissioner, a trust company may not invest an amount in excess of 15% of its capital and certified surplus in the securities of a single issuer except as otherwise provided in the Texas Banking Act.

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 August 1, 1995.

TRD-9508575

Everette D. Jobe
General Counsel
Banking Department of
Texas

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For further information, please call: (512) 475-1300

Chapter 25. Prepaid Funeral Contracts

Subchapter C. Conversion From Trust to Insurance Funded Benefits

• 7 TAC §§25.51-25.59

The Texas Department of Banking (the Department) proposes new §§25.51-25.59, concerning guidelines for investment of prepaid funeral benefits trust funds pursuant to Texas Civil Statutes, Article 548b (the Act), §1(h) and §5A.

The Act, §5A, as added in 1993, generally provides requirements and limitations with respect to the types of investments and percentage of trust funds that may be invested in certain types of investments by trustees of prepaid funeral benefits trust funds. In addition, §5A grants a grace period until September 1, 1996, for trustees to dispose of all investments made before the effective date of §5A that are not in compliance with §5A with respect to the type of investment or the percentage of trust funds that may be invested in certain types of investments. The proposed new Subchapter C is intended to clarify specific applications of the Act, §5A, eliminate certain ambiguities which have the potential

to frustrate the intent of the Legislature, and authorize certain investments not specifically mentioned in §5A.

While the Act, §5A, specifies percentage limitations applicable to trust account investments, further detail is required to provide for investment situations or decisions within the intent of the statute but not specifically addressed and to provide for an effective and orderly transition to conforming investments. The new sections as proposed clearly set out permitted and prohibited investments and authorized percentages in various types of investments, and clarifies the application of the "prudent person rule" in the context of statutory percentage caps. The proposal also details the type of investment-related information which must be filed with a permit holder's annual report and made available during examinations.

With respect to investment in mutual funds, the proposed subchapter specifies that no limits apply if the portfolio of the mutual fund contains only investments that the trust fund could directly make without limits. If any investment in the mutual fund portfolio is subject to limits under the Act, two alternate methods are available for measuring investment limits. First, the trust fund can limit its investment in the mutual fund to 20% of the trust fund. This method is easy to apply and does not require the trustee to maintain extensive documentation. Second, the trustee can keep adequate records of the mutual fund portfolio, updated quarterly, and combine those holdings with other trust fund holdings for purposes of applying the percentage investment limits.

Finally, the proposal contains time periods for complying with the investment guidelines and specifically prohibits any non-conforming investment prior to expiration of the statutory grace period on September 1, 1996.

Sammie Glasco, Assistant General Counsel, Texas Department of Banking, has determined that, for the first five-year period the new sections as proposed will be in effect, there will be no fiscal implications for state or local government or for small businesses as a result of enforcing or administering these sections.

Ms. Glasco also has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing or administering these sections is the protection of purchasers of prepaid funeral benefits contracts. No economic cost will result to entities as a result of complying with the proposed sections.

Comments on the proposal to be considered by the Department may be submitted in writing within 30 days after publication of the proposed sections in the *Texas Register* to Sammie Glasco, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new sections are proposed under the Act, §2, which provides the Department with the authority to prescribe reasonable rules and regulations for all matters incidental to the enforcement and orderly administration of the Act.

The following are the articles and sections that are affected by the proposed new Subchapter C: Texas Civil Statutes, Article 548b, §1(h) and §5A.

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

Act—Texas Civil Statutes, Article 548b.

Affiliate—A person or entity directly or indirectly controlling, controlled by, or under common control with a permit holder or the funeral provider.

Commissioner—The Banking Commissioner of Texas.

Department—The Texas Department of Banking.

Foreign security—A bond, evidence of indebtedness or obligation that would meet the requirements of the Act, §5A(d)(5), but for the fact that it is issued by a foreign country or a corporation organized under the laws of a foreign country, or a common or preferred stock that is publicly trading on a stock exchange located within the United States and would be described by the Act, §5A(d)(7) or §5A(d)(8), but for the fact that it is issued by a corporation organized under the laws of a foreign country.

Funeral provider—The funeral home designated in a prepaid funeral benefits contract that has agreed and obligated itself to provide the specified prepaid funeral benefits.

Government security—A security that is a permissible investment under the Act, §5A(d)(2) or §5A(d)(3), but not including a municipal security under the Act, §5A(d)(4).

Insured deposit—An investment authorized under the Act, §5A(d)(1).

Mutual fund—A mutual fund, collective investment fund, or similar participative investment fund.

Permit holder—A person having a valid permit to sell prepaid funeral benefits.

Trustee—The person or entity named as trustee in the instruments creating or amending a prepaid funeral trust, including a trust department in a state or national bank in this state or a trust company authorized to do business in this state, with which prepaid funeral benefits funds have been placed under the Act, §5(a)(2).

Trust fund or trust funds—The total prepaid funeral benefits funds related to a single permit holder.

§25.52. Prudent Person Rule. Notwithstanding any investment authorization contained in the Act or this section, the "prudent person rule" of the Act, §5A(c), requires the trustee of a prepaid funeral benefits trust to exercise the judgment and care under the circumstances then prevail-

ing that a person of ordinary prudence, discretion, and intelligence would exercise in the management of that person's own affairs, not in regard to speculation but in regard to the permanent disposition of that person's funds, by:

(1) considering the probable income from as well as the probable increase in value and safety of the trust funds as a whole;

(2) diversifying the investment of all the assets of the trust so as to minimize the risk of material losses, unless under the circumstances it is clearly prudent not to do so;

(3) providing for liquidity to adequately fund funeral costs as may be needed from time to time as prepaid funeral benefits contracts mature, except that this provision may not be construed to require a trustee to employ the services of an actuary; and

(4) complying with the documents and instruments governing the trust insofar as the documents and instruments are consistent with the Act and regulations related to the Act.

§25.53. Permitted Investments.

(a) A trustee shall invest trust funds only in the types of investments permitted under the Act, §5A(d), in rules adopted by the department, or as otherwise permitted under §25.57 of this title (relating to Other Investments).

(b) Subject to §25.52 of this title (relating to Prudent Person Rule), a trustee may invest trust funds without limit in insured deposits, government securities, and/or a mutual fund the portfolio of which consists wholly of investments in insured deposits and/or government securities.

(c) As provided by the Act, §5A(d)(4), a trustee may invest in debt instruments of any state or local government that have been given federal income tax exempt status only if the debt instruments are rated "Aa" or better by Moody's bond rating service or "AA" or better by Standard and Poor's bond rating service. These debt instruments are not government securities as that term is used in the Act, §5A(g).

(d) As provided by the Act, §5A(d)(5), a trustee may invest in bonds, evidences of indebtedness, or obligations of corporations organized under the laws of the United States or of a state, only if the corporate bonds, evidences of indebtedness, or obligations are rated "A" or better by Moody's bond rating service or by Standard and Poor's bond rating service.

(e) As provided by the Act, §5A(d)(6), a trustee may invest in notes, evidences of indebtedness, or participations

in notes or evidences of indebtedness, secured by a valid first lien on real property located in the United States, the amount of which obligations may not exceed 90 percent of the value of the respective parcels of real property securing them. The value of collateral underlying permissible first lien mortgages must be determined by independent appraisal at initial funding or purchase of the mortgage and independently reappraised at least once every three years to determine continuing compliance with the Act, §5A(d)(6).

(f) As provided by the Act, §5A(d)(7), a trustee may invest in common stock of a corporation organized under the laws of the United States or of a state only if the corporation has and maintains at least \$1 million of net worth or will have at least \$1 million of net worth after completion of a securities offering to which the trust is subscribing. However, a trustee that invests trust funds in common stock of a corporation that is not publicly traded on a national securities exchange or through a national automated quotation system must maintain adequate, written documentation to justify the prudence of the investment under §25.52 of this title.

(g) As provided by the Act, §5A(d)(8), a trustee may invest in preferred stock of a corporation organized under the laws of the United States or of a state only if the stock is rated "BAA" or better by Moody's bond rating service or "BBB" or better by Standard and Poor's bond rating service.

§25.54. Investment Limitations.

(a) Subject to this section, no more than 70% of trust funds may be invested in any combination of the following:

(1) bonds, evidences of indebtedness, or obligations of corporations organized under the laws of the United States or of a state;

(2) notes, evidences of indebtedness, or participations in notes or evidences of indebtedness, secured by a valid first lien on real property located in the United States;

(3) common stock of a corporation organized under the laws of the United States or of a state; and/or

(4) preferred stock of a corporation organized under the laws of the United States or of a state.

(b) No more than 10% of total trust funds may be invested in any combination of real estate, oil and gas interests, limited partnerships, foreign securities, and any other investments not specifically authorized by the Act or this subchapter.

(c) Except as provided in §25.53 and §25.55 of this title (relating to Permitted Investments and Mutual Funds) no more than 20% of trust funds may be invested in a single issue of any investment

ted Investments and Mutual Funds) no more than 20% of trust funds may be invested in a single issue of any investment

§25.55. Mutual Funds.

(a) For purposes of applying the investment limitations of the Act and this subchapter, the investment of trust funds in a mutual fund is generally considered to be transparent, i.e., an investment in the underlying assets of the mutual fund. Section 25.53(b) of this title (relating to Permitted Investments) governs investment in mutual funds that hold only securities for which the Act imposes no limit

(b) A trustee may measure permissible investments under either paragraph (1) or (2) of this subsection. However, a trustee is required to use paragraph (2) of this subsection for all mutual funds if more than 10% of the investments in the portfolio of any mutual fund is comprised of real estate, oil and gas interests, limited partnerships, foreign securities, or any other investments not specifically authorized by the Act or this subchapter.

(1) If the portfolio of a mutual fund contains any investment that is subject to limits under the Act or this subchapter, no more than 20% of trust funds may be invested in the mutual fund unless the trustee evaluates the investment in the mutual fund under paragraph (2) of this subsection. In evaluating investment limits under this paragraph, a trustee is not required to treat the mutual fund as transparent except for the limited purpose of identifying whether the portion of portfolio of the mutual fund in real estate, oil and gas interests, limited partnerships, foreign securities, or any other investments not specifically authorized by the Act or this subchapter exceeds 10% of the total portfolio.

(2) At the election of the trustee or if required in lieu of the method permitted by paragraph (1) of this subsection, a trustee shall determine at least quarterly that the trust fund's pro rata share of any type of investment or a particular issue of an investment in the portfolio of the mutual fund is not in excess of applicable investment limits by reason of being combined with the trust fund's pro rata share of that type of investment or particular issue of an investment held by all other mutual funds in which the trust funds are invested and with the trust fund's own direct investment holdings. The trustee must maintain written documentation adequate to demonstrate compliance with this subsection.

§25.56. Repurchase Agreements. For the purposes of applying the investment limitations of the Act and this subchapter, the investment of trust funds in a repurchase

agreement is considered to be an investment in the underlying security collateralizing the repurchase agreement. Any securities held by the trust fund that are subject to repurchase by another party must have a fair market value that equals or exceeds 102% of the repurchase price, and the ratio of market value to repurchase price must be evaluated no less often than quarterly.

§25.57. *Other Investments Permitted by the Department.* Pursuant to the Act, §5A(d)(11), the department may in the exercise of discretion approve an investment for trust funds other than as provided in the Act or this subchapter. An application for approval of an investment under this section must:

- (1) be in writing;
- (2) describe the investment in detail, which may be by reference to an offering circular or prospectus attached as an exhibit; and
- (3) evaluate the investment in comparison with the standards set forth in §25.52 of this title (relating to Prudent Person Rule).

§25.58. *Reporting Requirements.*

(a) A permit holder must provide the department with the following as a part of the permit holder's annual report:

- (1) a written investment plan as required by the Act, §5A(a)(1); and
- (2) a written statement from the trustee detailing all investments not in compliance with this section.

(b) A permit holder must notify the commissioner in writing of all prohibited investments of trust funds under the Act, §1(h), within 60 days of the effective date of this section. The notification must include a plan for removing prohibited investments within 60 days of the date of notification to the commissioner.

§25.59 *Transition Provisions*

(a) A permit holder or trustee may not make an investment after the effective date of this subchapter that is not in compliance with the Act, §5A, or this subchapter or that would cause a trust fund investment portfolio currently not in compliance with the Act, §5A, or this subchapter to become further out of compliance.

(b) Subject to subsection (c) of this section, a trustee shall dispose of all investments made before September 1, 1993, that are not in compliance with this subchapter by September 1, 1996, unless the commissioner grants an extension in writing with respect to a particular investment as permitted by the Act, §5A(h) Extensions of time

for disposition of a non-conforming investment (other than a prohibited investment under subsection (c) of this section) may be granted for periods of one year or more. A request for extension must be in writing and must set out the reasons for the extension. The commissioner may grant an extension, in the exercise of discretion, if the commissioner finds that the trustee has made a good faith effort to dispose of the non-conforming investment or finds that disposal of the non-conforming investment would be materially detrimental to the best interest of the purchasers of prepaid funeral benefits contracts.

(c) An investment prohibited under the Act, §1(h), may not be made or retained and is not subject to any grace period or extension of time for disposing of the investment.

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 August 1, 1995.

TRD-9509572

Everette D. Jobe
General Counsel
Banking Department of
Texas

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 475-1300

◆ ◆ ◆
**TITLE 13. CULTURAL
RESOURCES**
Part III. Texas
Commission on the Arts
Chapter 31. Agency Procedures

• 13 TAC §31.10

The Texas Commission on the Arts proposes to adopt by reference an amendment to §31.10 concerning the Applications Forms and Instructions for the Financial Assistance Application. The purpose of this amendment is to better assist applicants in completing the application form for financial assistance.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, 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.

Ms. Hill 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 that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anti-

ciated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

No other article or code is effected by this amendment.

§31.10. *Financial Assistance Application Form.* The commission adopts by reference the application form and instructions for Financial Assistance as outlined in the Texas Arts Plan as amended September 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

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 July 31, 1995.

TRD-9509611

Rhonda L. Hill
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-5535

◆ ◆ ◆
Chapter 35. Texas Arts Plan

• 13 TAC §35.2

The Texas Commission on the Arts proposes to adopt by reference new §35.2, concerning the Addendum to the Texas Arts Plan which outlines the activities of the Commission. This section is being proposed to inform the public of changes to select programs and procedures in the Texas Arts Plan.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, 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.

Ms. Hill 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 that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anti-

pated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

No other article or code is effected by this proposed new rule.

§35.2. *Addendum to the Texas Arts Plan.* The commission adopts by reference the Addendum to the Texas Arts Plan. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

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 July 31, 1995.

TRD-9509610 Rhonda L. Hill
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-5535

Chapter 37. Application Forms and Instructions for Financial Assistance

• 13 TAC §37.23, §37.24

The Texas Commission on the Arts proposes to adopt by reference amendments to §37.23 and §37.24, concerning the Applications Forms and Instructions for the Arts In Education Program-Sponsors and the Texas Touring Arts Program-Company/Artist. The purpose of these amendments is to better assist applicants in completing the financial assistance application forms.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Hill 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 that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no

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

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

No other article or code is effected by this amendment

§37.23. *Application Form and Instructions for Arts In Education Program-Sponsors.* The commission adopts by reference the application form and instructions for the Arts In Education Program-Sponsors as outlined in the Texas Arts Plan as amended September 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

§37.24. *Application Form and Instructions for the Texas Touring Arts Program-Company/Artist [Performing Arts].* The commission adopts by reference the application form and instructions for the Texas Touring Arts Program-Company/Artist [Performing Arts] as outlined in the Texas Arts Plan as amended September 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

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 July 31, 1995.

TRD-9509609 Rhonda L. Hill
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-5535

• 13 TAC §37.25

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

The Texas Commission on the Arts proposes the repeal of §37.25, concerning the Applications Forms and Instructions for the Texas Touring Arts Program-Visual Arts. The purpose of this repeal is that this category is

available under §31.10 of this title (relating to Financial Assistance Application Form).

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Hill also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated substantial economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

No other article or code is affected by this repeal.

§37.25. *Application Form and Instructions for Texas Touring Arts Program-Visual Arts.*

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 July 31, 1995.

TRD-9509607 Rhonda L. Hill
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-5535

• 13 TAC §37.26

The Texas Commission on the Arts proposes to adopt by reference an amendment to §37.26, concerning the Applications Forms and Instructions for the Texas Touring Arts Program-Fee Support. The purpose of the amendment is for the application form to conform with the new application procedures for the Touring Arts Program as reflected in the Addendum to the Texas Arts Plan.

Rhonda Hill, Director of Finance and Administration, Texas Commission on the Arts, 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.

Ms Hill 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 that the commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. 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 Ricardo Hernandez, Assistant Director, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

No other article or code is effected by this amendment.

§37.26 *Application Form and Instructions for Texas Touring Arts Program-Fee Support [Sponsors]*. The commission adopts by reference the application form and instructions for the Texas Touring Arts Program-Fee Support [Sponsors] as outlined in the Texas Arts Plan as amended September 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711.

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 July 31, 1995.

TRD-9509608 Rhonda L Hill
Director of Finance and
Administration
Texas Commission on the
Arts

Earliest possible date of adoption: September 8, 1995.

For further information, please call: (512) 463-5535.

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**TITLE 16. ECONOMIC
REGULATION**

**Part I. Railroad
Commission of Texas**

**Chapter 9. Liquefied Petroleum
Gas Division**

The Railroad Commission of Texas proposes amendments to §9.184, relating to uniform safety requirements; §9.231, relating to ap-

proved appliances; §9.462, relating to containers installed underground; §9.771, relating to identification labels; and §9.952, relating to piping installation identification tag. Section 9.184 describes safety requirements for installations, including how containers shall be identified. Section 9.231 requires that LP-gas appliances shall be certified and allows appliances to be converted to LP-gas; the section also lists the information to be included on the identification tag or decal. Section 9.462 specifies how underground containers shall be installed and identified. Section 9.771 describes the identification requirements for vehicles powered by LP-gas, including the location and contents of the tag or decal. Section 9.952 specifies the identification requirements for piping systems, including the location and contents of the tag or decal.

The proposed amendments make identification requirements consistent, allow the use of either a metal tag or a decal, and allow one tag or decal to serve as the identification required by all five sections. Four sections have been retitled for clarity. Other proposed nonsubstantive amendments include some changes in wording, punctuation, or organization to provide clearer language or sequence.

Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for each year of the first five years the sections are in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the sections.

Mr. Petru also has determined that the public benefit anticipated as a result of enforcing the sections will be more practical and flexible requirements for the LP-gas industry. There is no anticipated economic cost to small businesses or to persons; in fact, the proposed amendments may result in a reduction in cost since the amendments as proposed will allow licensees to use only one tag or decal to satisfy the identification requirements described in these sections. Licensees therefore will not be required to stock and use several forms of identification.

Comments on the proposals may be submitted to Kellie Martinec, Rules Coordinator, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

Subchapter B. Basic Rules

• **16 TAC §9.184**

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the proposed amendment: Texas Natural Resources Code, §113.051.

§9.184. *Uniform Safety Requirements.*

(a) General.

(1)-(16) (No change.)

(17) Identification of installations. Upon completing the installation of an LP-gas container, except those used for bulk storage or retail DOT container filling/service station installations, the licensee making the installation shall attach to the container a decal or tag of metal or other permanent material indicating the following information: [the name of the LP-gas licensee, current LP-gas license number, and the year installed. For requirements regarding identification of conversions of motor vehicles, see §9.771 of this title (relating to Identification Labels).]

(A) the licensee's name;

(B) the LP-gas license number; and

(C) the year the container was installed.

(18) A single identification decal or tag may be used to satisfy the requirements in §§9.231, 9.462, 9.771, and 9.952 of this title (relating to identification of approved appliances, containers manufactured for underground installation, vehicle identification labels, and piping installation identification, respectively) provided the decal or tag meets all the requirements of those sections.

(b)-(c) (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 August 1, 1995.

TRD-9509564 Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Earliest possible date of adoption: September 8, 1995.

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

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**Subchapter D. LP-Gas Appli-
ances and Appurtenant
Equipment**

• **16 TAC §9.231**

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the proposed amendment: Texas Natural Resources Code, §113.051.

§9.231. Identification of Approved Appliances.

(a) [All] LP-gas appliances shall be approved by the commission [Railroad Commission of Texas] or certified by a nationally recognized testing laboratory[...]

(b) Upon completion of the conversion and testing of LP-gas appliances, the licensee shall attach to each such appliance a decal or tag of metal or other permanent material indicating the following information: [metal tag bearing the words: "converted to LP-gas", the licensee's name and LP-gas license number, and the year the appliance is converted.]

- (1) the licensee's name;
(2) the LP-gas license number;
(3) the year the appliance was converted; and
(4) the wording, "Converted to LP-Gas."

(c) A single identification decal or tag may be used to satisfy the requirements in §§9.184, 9.462, 9.771, and 9.952 of this title (relating to uniform protection standards, containers manufactured for underground installation, vehicle identification labels, and piping installation identification, respectively) provided the decal or tag meets all the requirements of those sections.

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 August 1, 1995.

TRD-9509565 Mary Ross McDonald Assistant Director, Legal Division, Gas Utilities/LP Gas Railroad Commission of Texas

Earliest possible date of adoption: September 8, 1995

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

Subchapter F. Consumer LP-Gas Systems

• 16 TAC §9.462

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules re-

lating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the proposed amendment: Texas Natural Resources Code, §113.051.

§9.462. Containers Manufactured for [Installed] Underground Installation.

(a) Containers shall be installed underground [shall be so placed] so that the top of the container is at least [not less than] two feet below the normal surface of the ground, except for approved underground/aboveground (UG/AG) containers marked as specified in §9.160 [such in accordance with §9.60] of this title (relating to manufacturer's nameplate and markings on containers). [which may be installed not less than] UG/AG containers may be installed at least [not less than] six inches below grade from the top of the UG/AG container. All containers referred to in this subsection shall be protected against damage [mechanical injury] if they are [the container is] subject to vehicular traffic by a system of guardrails in accordance with §9.183 of this title (relating to uniform protection standards).

(b) Underground containers shall be set on a firm foundation such as firm earth [(firm earth may be used)] and surrounded with soft earth or sand, well tamped into place.

(c) (No change.)

(d) Upon completion of the consumer container installation, the licensee making the installation shall attach to one of the container valves a decal or tag of metal or other permanent material indicating the following information: [metal tag bearing the firm name of the licensee making the installation, the licensee's current license number, and the year installed.]

- (1) the licensee's name;
(2) the LP-gas license number;
and
(3) the year installed.

(e) A single identification decal or tag may be used to satisfy the requirements in §§9.184, 9.231, 9.771, and 9.952 of this title (relating to uniform protection standards, identification of approved appliances, vehicle identification labels, and piping installation identification, respectively) provided the decal or tag meets all the requirements of those sections.

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 August 1, 1995.

TRD-9509566 Mary Ross McDonald Assistant Director, Legal Division, Gas Utilities/LP Gas Railroad Commission of Texas

Earliest possible date of adoption: September 8, 1995

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

Subchapter I. LP-Gas Motor Fuel and Mobile Fuel Containers

• 16 TAC §9.771

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the proposed amendment: Texas Natural Resources Code, §113.051.

§9.771. Vehicle Identification Labels.

(a) LP-gas shall not be introduced into any vehicle powered by LP-gas and designed for regular use on public roadways unless the vehicle is properly identified by a weather-resistant diamond-shaped label located on a readily visible exterior vertical or near-vertical surface on the lower right rear of the vehicle. When LP-gas mobile fuel containers are located in a compartment or cabinet which obstructs the view of said containers, the label shall be placed on the access door of the compartment or cabinet.

[(a) LP-gas may not be introduced into any vehicle powered by LP-gas and designed for regular use on public roadways unless the vehicle is properly identified pursuant to this section. Such vehicles shall be identified by a weather-resistant diamond-shaped label located on an exterior vertical or near-vertical surface on the lower right rear of the vehicle in a manner so as to be readily visible. When LP-gas mobile fuel containers are located in compartments or cabinets which obstruct the view of said containers, such a label shall be placed on the access door of the compartments or cabinets. The label shall be approximately 4 3/4 inches (120 millimeters) long by 3 1/4 inches (83 millimeters) high. The markings shall consist of a border and letters "PRO-PANE" (letters one inch minimum height centered in the diamond) of silver or white reflective luminous material on a Pantone 2945 C Royal Blue or equivalent back-

ground as follows: Note: This section shall not be applicable to any LP-Gas Transport.]

(b) Labels shall be at least 4 3/4 inches long by 3 1/4 inches high. The markings shall consist of a border and the word, "PROPANE," in letters at least one inch tall, centered in the diamond, and of silver or white reflective luminous material on a Pantone 2945 C Royal Blue or equivalent background as shown in Figure 1:

Figure 1: 16 TAC §9.771(b)

(c) Supplies of labels printed with a black background may be exhausted prior to complying with this section. However, in no case shall labels printed with a black background be installed after November 1, 1994.

(d)[(b)] Upon completion of a vehicle conversion, the licensee making the conversion shall affix to the vehicle a decal or tag of metal or other permanent material [an identification tag or decal] in a readily visible location indicating the following information: [so as to be readily readable. The tag or decal shall contain letters that indicate the licensee's name, current license number, and the year and month the conversion was done.]

(1) the licensee's name;

and
(2) the LP-gas license number;

(3) the year and month the vehicle was converted.

(e) A single identification decal or tag may be used to satisfy the requirements in §§9.184, 9.231, 9.462, and 9.952 of this title (relating to uniform protection standards, identification of approved appliances, containers manufactured for underground installation, and piping installation identification, respectively) provided the decal or tag meets all the requirements of those sections.

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 August 1, 1995.

TRD-9509567

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Earliest possible date of adoption: September 8, 1995

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

Subchapter L. LP-Gas Piping and Piping Systems

• 16 TAC §9.952

The amendment is proposed under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the proposed amendment: Texas Natural Resources Code, §113.051.

§9.952. Piping Installation Identification [Tag].

(a) LP-gas piping shall be installed, altered, [or] repaired, and tested only by persons issued a valid license by the LP-Gas Division [those persons, firms, corporations, or associations that have been licensed in accordance with the provisions of the Texas Natural Resources Code, Chapter 113].

(b) Upon completion of the installation, alteration, [or] repair, or [and] testing of an LP-gas piping system, the licensee shall attach to the end of the piping nearest the container a decal or tag of metal or other permanent material indicating the following information: [metal tag bearing the firm name of the licensee, the current license number, and the year the piping is installed, altered, or repaired.]

(1) the licensee's name;

and
(2) the LP-gas license number;

(3) the year the piping was installed, altered, repaired, or tested.

(c) A single identification decal or tag may be used to satisfy the requirements in §§9.184, 9.231, 9.462, and 9.771 of this title (relating to uniform protection standards, identification of approved appliances, containers manufactured for underground installation, and vehicle identification labels, respectively) provided the decal or tag meets all the requirements of those sections.

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 August 1, 1995.

TRD-9509568

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Earliest possible date of adoption: September 8, 1995

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

Part IV. Texas Department of Licensing and Regulation

Chapter 67. Auctioneers

• 16 TAC §67.84

The Texas Department of Licensing and Regulation proposes new §67.84, concerning Auctioneers. The new section adds a fee to issue good standing letters.

James D. Brush, II, Director, Policies and Standards Division of the Texas Department of Licensing and Regulation, has determined that for the first five-year period the section is in effect state government revenue will increase approximately \$2,000 each year and that there will be no effect on local government.

Mr. Brush also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing it will be that the cost of enforcing the statute will continue to be covered by fees. Costs to small business and individuals will be \$10 each time an auctioneer wishes to hold an auction in another state and requires a letter of good standing.

Comments on the proposal may be submitted to James D. Brush, II, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 8700, which authorize the department to license and regulate auctioneers.

The following is the Article that is affected by this rule: Article 8700, §9.

§67.84. Fees-Good Standing Letters. A \$10 fee will be charged for good standing letters.

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 August 1, 1995.

TRD-9509560

Jack W Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-7357

Chapter 70. Industrialized Housing and Buildings

• 16 TAC §70.80

The Texas Department of Licensing and Regulation proposes an amendment to §70.80, concerning Industrialized Housing and Buildings. The amendment increases third party agency registration fees, on-site inspection fees, standardizes the monitoring fee, and adds team leader as an alternative for an engineer for inspections requiring a team. The justification for the fee increase is that the current fees do not cover department cost for that task. The department is required to establish a fee schedule for each statute that will pay its administration cost.

James D. Brush, II, Director, Policies and Standards Division of the Texas Department of Licensing and Regulation has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. State revenue will increase approximately \$3,183 each year. There will be no effect on local government.

Mr. Brush also has determined that for each of the first five years the section is in effect the public benefit anticipated will be that the revenue collected will pay for its administration. Costs to small business will be increased by \$100 each year for those registered as third parties and builders requiring on-site inspections will pay \$100 more for each inspection.

Comments on the proposal may be submitted to James D. Brush, II, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas, 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221-1, which authorize the department to regulate industrialized housing and buildings.

The following is the Article that is affected by this rule: Article 5221-1, §7.

§70.80. Commission Fees.

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

(c) The design review agency's registration fee is \$300 [\$200] annually.

(d) The third party inspection agency's registration fee is \$150 [\$100] per firm and \$100 per inspector annually.

(e) (No change.)

(f) The fee for department personnel for in-plant inspections at a manufacturing facility shall be \$30 per inspector hour and \$40 per engineer or team leader hour plus travel and per diem in accordance with the current rate as established in the current Appropriations Act for all inspections, including plant certification inspections, varying interval inspections to monitor the manufacturer's compliance control program, and for increased frequency inspections. The inspector will give a statement to

the manufacturer and it must be paid to the inspector by either a company check, cashier's check, or money order at the completion of the inspection.

(g) When the department acts as a design review agency, the fee for such services is \$40 per [engineer] hour plus travel and per diem in accordance with the current rate as established in the current Appropriations Act. The manufacturer for whom the services are performed shall pay the fee before approval of the designs, plans, specifications, compliance control documents, and installation manuals and before the release of the documents to the manufacturer.

(h) (No change.)

(i) The fee for department personnel for on-site inspections is as follows and shall be submitted with the on-site inspection request by either a company check reflecting the name of the industrialized builder, cashier's check, or money order:

(1) \$250 [\$150] for residential structures designed for one to four families, plus \$25 for each dwelling unit in excess of two; or

(2) \$850 [\$750] for those residential structures which exceed two stories in height or which are designed for separate living use of more than four families, plus \$25 for each additional family dwelling unit in excess of four; or

(3) \$250 [\$150] for commercial structures up to 800 square feet of floor space, plus \$0.10 per additional square foot over 800; and

(4) \$100 [\$60] for each reinspection not to exceed two inspector hours and \$30 for each additional inspector hour in excess of two hours. Reinspection fees will be paid to the inspector by either a company check reflecting the name of the industrialized builder, cashier's check, or a money order at the completion of the inspection.

(j) The fee for department monitoring of design review agencies and third party inspection agencies outside headquarters shall be [\$30 per inspector hour and] \$40 per monitor [engineer] hour plus travel and per diem in accordance with the current rate as established in the current Appropriations Act. The department will present the agency a statement at the conclusion of the monitoring trip, and it is payable upon receipt.

(k) The fee for department personnel for inspection of approved alterations to industrialized housing and buildings and for special inspections shall be \$30 per inspector hour and \$40 per engineer or team leader hour plus travel and per diem in accordance with the current rate as established in the current Appropriations Act.

The department will present a billing statement at the conclusion of the inspection that is payable upon receipt.

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 August 1, 1995.

TRD-9509561

Jack W. Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-7357

Chapter 75. Air Conditioning and Refrigeration Contractors License Law

• 16 TAC §75.65, §75.80

The Texas Department of Licensing and Regulation proposes amendments to §75.65 and §75.80, concerning licensing for air conditioning and refrigeration contractors. The change in §75.65 adds a statement that advisory board members may be reimbursed for expenses only when money has been appropriated for that purpose. The change in §75.80 changes new and renewal license fees so that all license issuance fees are the same. The justification for the statement on reimbursement of board members is that board members will understand that reimbursement authority rests with the legislature. The justification for the fee changes is that the cost to the department to issue a license is the same for either class and for new and renewal licenses, and that there is no justifiable reason to charge more for Class A than for Class B, or for new licenses than for renewal licenses.

James D. Brush, II, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, has determined that for the first five-year period the sections are in effect there will be no fiscal effect for state or local government.

Mr. Brush also has determined that for each of the first five years the sections are in effect the public benefit anticipated will be increased program integrity. Costs to small businesses that are doing Class A work that are obtaining a new license will decrease by \$150, and those with an existing license will decrease \$25 every three years. Small businesses that are doing Class B work that are obtaining a new license will have a decrease of \$25, and those with an existing license will have an increase every three years of \$50. The economic cost to persons who would be affected is the same as the cost to small businesses if an individual is operating as a contractor.

Comments on the proposal may be submitted to James D. Brush, II, Director, Policies and Standards Division, Texas Department of Li-

censing and Regulation, P.O. Box 12157, Austin, Texas, 78711.

The amendments are proposed under Texas Civil Statutes, Article 8861, which authorize the department to license and regulate air conditioning and refrigeration contractors.

The following is the Article that is affected by this rule: Article 8861, §3A, Article 8861, §3A.

§75.65. *Advisory Boards.*

(a)-(f) (No change.)

(g) Expenses can be reimbursed to board members only when the legislature has specifically appropriated money for that purpose.

§75.80. *Fees.*

(a) (No change.)

(b) License Fees. License fees are:

(1) class A or B license for three years \$125 [\$300; renewal every three years \$150];

(2) class A or B [license for three years \$150;] renewal every three years \$125 [\$75];

(3) (No change.)

(c)-(e) (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 August 1, 1995.

TRD-9509559

Jack W Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-7357

◆ ◆ ◆
Chapter 78. Talent Agencies

• 16 TAC §§78.80-78.82

The Texas Department of Licensing and Regulation proposes amendments to §§78.80-78.82, concerning talent agencies. The amendments add fees for registration and administration and for filing an updated certificate of registration. The justification for the additional fees is that the fees currently in place are far below the amount required by the department to cover the cost of registration and enforcement of the Act. Since the department is required to structure fees for each statute to pay for its own regulation, fees must be increased dramatically. The proposed fees will bring the projected revenue closer to covering the administration and enforcement costs.

James D. Brush, II, Director, Policies and Standards Division of the Texas Department of Licensing and Regulation, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. State government revenue will increase approximately \$45,400 each year. There will be no effect on local government.

Mr. Brush 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 them will be that more of the cost of enforcing the statute will be covered by fees. The cost for compliance for small businesses and individuals will be increased by \$500 each year, and individuals and small business that have a change in registration information will increase by \$100. The fee for updating a registration filing, while specified in the statute, has not been charged before.

Comments on the proposal may be submitted to James D. Brush, II, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 5221a-9, which authorize the department to register and regulate talent agencies

The following is the Article that is affected by this rule: Article 5221a-9, §6; Article 5221a-9, §6; Article 5221a-9, §6.

§78.80. *Fees-Original Registration.*

(a) The fee for filing an original talent agency certificate of registration is \$100.

(b) The fee for registration and administration is \$500.

§78.81. *Fees-Renewal Registration.*

(a) The annual filing [renewal] fee for renewing a talent agency certificate of registration is \$100.

(b) The annual renewal fee for registration and administration is \$500.

(c)[(b)] A late fee of \$50 will be charged for renewal applications post-marked between midnight of the day the current certificate of registration expires and midnight of the 30th day after the expiration.

§78.82. *Fees-Updated [Revised] or Duplicate Registration.*

(a) A \$100 fee will be charged for filing an updated certificate of registration.

(b) A \$25 fee will be charged for printing [issuing] a revised or duplicate certificate of registration.

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 August 1, 1995.

TRD-9509562

Jack W. Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 463-7357

◆ ◆ ◆
TITLE 22. EXAMINING
BOARDS

Part IV. Texas
Cosmetology
Commission

Chapter 89. General Rules and
Regulations

- 22 TAC §§89.4, 89.6, 89.11, 89.14, 89.20, 89.34, 89.41, 89.53, 89.54, 89.56, 89.72, 89.75, 89.76

The Texas Cosmetology Commission proposes amendments to §89.4, concerning cosmetology instructor on duty; §89.6, concerning new location or change in floor plan of school; §89.11, concerning daily attendance register; §89.14, concerning concurrent enrollments and make-up hours; §89.20, concerning length of courses; §89.34, concerning applicants for licensure through reciprocity; §89.41, concerning change of location of a salon or independent contractor; §89.53, concerning minimum requirements for both private and public cosmetology schools; §89.54, concerning independent contractor/booth rental license; §89.72, concerning curriculum; §89.75, concerning field trips; and §89.76, concerning minimum requirements for cosmetology school separate facility; and new §89.56, concerning administrative processing fees. The amendments and new section are proposed to comply with Senate Bill 1502 and House Bill 1, 74th Texas Legislature, Regular Session.

Dick Strader, executive director, Texas Cosmetology Commission, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Strader 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 to ensure that all certificate holders and licensees comply with the requirements of the rules of the commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Dick Strader, Texas Cosmetology Commission, P.O. Box 26700, Austin, Texas 78755-0700.

The amendments and new section are proposed under Texas Civil Statutes, Article 8451a; §4(a), which provide the Texas Cosmetology Commission with the authority to "issue rules consistent with this Act after a public hearing", to protect the public's health and welfare.

Texas Civil Statutes, Article 8451a, is affected by these proposed amendments and new section.

§89.4. [Cosmetology] Instructor on Duty.

[(a) Public school cosmetology programs must have one licensed instructor on duty for each 25 students, or part thereof, in attendance at a given time.]

[(a) [(b) Private cosmetology schools and public cosmetology school programs shall maintain on staff and on duty during normal business hours, not less than one [two] full-time instructor for each 25 [instructors to a maximum of 50] students in attendance. [One instructor is sufficient whenever student enrollment drops below 15. One instructor will be required for each additional 25 students, or part thereof, in attendance over 50.] Speciality licensed instructors can only teach the subject matter in which they are licensed.

[(1) The speciality licensed instructor shall be considered when determining the student teacher ratio in this section.

[(2) When enrollment in the operator course exceeds 25 students there must be two cosmetology instructors.

[(A) Enrollment 0-14, one cosmetology instructor required.

[(B) Enrollment 15-25, one cosmetology instructor and one full-time licensed instructor in any speciality area required.

[(C) Enrollment 26-50, two cosmetology instructors required.

[(D) 51 or above, one cosmetology instructor for each 25 students or part thereof (cosmetology instructor as defined in §89.15(b) of this title (relating to Definition of License Authorizations)).]

[(b) [(c) Schools conducting evening classes for students other than those enrolled during normal business hours, shall maintain the instructor-student ratio described in subsection (a) [or (b)] of this section. The evening class instructor-student ratio is based on actual attendance [without regard to actual enrollments].

[(c)[(d)] No credit for instructional hours can be granted to a cosmetology student unless such hours are accrued under the supervision of a licensed instructor.

[(d)[(e)] Private cosmetology schools that contract with public schools for the purpose of providing opportunities for public school students to become licensed cosmetologists must comply with §89.2 of this title (relating to Public School Cosmetology Programs).

[(e)[(f)] Private cosmetology schools that provide regularly scheduled instruction on Mondays, for public school contracted instruction students only, are required to meet the instructor-ratio prescribed in subsection (a) of this section on such days. If private cosmetology students are in attendance, on such days, to make up hours they must be included in the student count to determine the appropriate instructor-student ratio.

[(f)[(g)] Public school contracted instruction students in attendance to make up hours on Saturdays shall be included in the student count to determine the appropriate instructor-student ration in accordance with subsection (a) [(b)] of this subsection.

[(g)[(h)] Private cosmetology schools and public school cosmetology programs may utilize their licensed cosmetology instructors to instruct in the areas of the Manicure Speciality course or Facial Speciality course [without violating §89.5(a)(1) or (2) and (b)(1) or (2) of this title (relating to Speciality Instructor on Duty)].

§89.6. New Location or Change in Floor Plan of School.

[(a) To be approved for continued operation on a current license, facilities shall be inspected and approved. A private cosmetology school moving to a new location or altering floor plan will submit the following:

(1) detailed floor plan showing not less than 3,500 square feet, and shall contain the following: [separate restrooms for male and female, and divided into three areas: classroom, junior department, and senior department;]

(A) the area shall be divided into two areas: one for theory and one clinic work area; and

(B) separate restrooms for male and female.

(2)-(4) (No change.)

(b) (No change.)

§89.11. Daily Attendance Register.

(a) Each cosmetology school or program shall maintain a daily record of attendance with each student personally punching the time clock. Attendance re-

cords will be maintained in the school and available to authorized personnel of the Texas Cosmetology Commission, for a period of 48 months after the student completes or terminates attendance. All schools will be required to use a time clock to track student hours. All schools shall be required to post a sign at the time clock which states:

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

(4) students leaving the facility for any reason must clock out, except if an instructional area on a campus is located outside the approved facility, those areas must be approved by the commission and the students must be under the supervision of an instructor [any student leaving the facility for any reason must clock out].

(A) Private schools can utilize locations away from the building for instruction in the approved cosmetology school curriculum. The instruction at these location must be identified as a field trip. If, the private school is located in facilities that consist of more than one building the public rule shall apply.

(B) Public schools, all areas of the school or campus are acceptable as instructional areas; if, the instructor is teaching content approved in the cosmetology curriculum.

(C) A licensed instructor must be physically present during all activities included in this rule.

(b) (No change.)

§89.14. Concurrent Enrollments and Make-Up Hours.

(a) (No change.)

(b) For purposes of making-up hours, a student may receive instruction in a second school without being concurrently enrolled. Upon completion of this instruction, the time card used at the second school and a notarized statement from the school official certifying the approvable activities engaged in by the student will be submitted to the student's primary school and be attached to the monthly hour report for audit by the commission inspector. The total number of hours earned by a student in any manner cannot exceed [eight hours in any one day or more than] 48 hours in any one calendar week.

(c) (No change.)

§89.20. Length of Courses.

(a)-(h) (No change.)

(i) Manicurist: The manicuring course shall be for 600 [250] hours in an approved school.

(j)-(k) (No change.)

(l) Recommendations for approving validation of hours:

(1)-(7) (No change.)

(8) the guidelines recommended above will be pro-rated based upon the number of hours required for the speciality license or instructor license sought. Required course hours for licensure are based on current hour requirements at the time of reinstatement.

§89.34. *Applicants for Licensure through Reciprocity.*

(a) Any person who seeks licensure in the State of Texas through reciprocity from any other state shall:

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

(4) the applicant must present the same number of hours as required by the State of Texas for the applied license; [furnish notarized letters of employment from past employers or employment records to prove work experience if applicant does not have required number of hours for license he is applying for. One year of work experience will equal 250 hours of training.]

(b) Any person who seeks licensure in the State of Texas through reciprocity from another nation shall:

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

(4) the applicant must present the same number of hours as required by the State of Texas for the applied license; [furnish notarized letters of employment from past employers (one year of work experience will equal 250 hours of training)]; and

(5) (No change.)

(c) (No change.)

§89.41. *Change of Location of a Salon [or Independent Contractor].* A salon[, or school[, or independent contractor] may move and continue to operate with the current license, but must be inspected and approved under the current requirements in the new location. The salon[, or school[, or independent contractor] must notify the commission office in writing of the change of address as soon as the change of address becomes available.

§89.53. *Minimum Requirements for Both Private and Public Cosmetology Schools.*

(a) The following are the requirements for a private cosmetology school as

authorized by the Texas Cosmetology Commission: [as approved on June 1, 1985.]

(1) A building to house a cosmetology school must be fireproof and of permanent type of construction, and contain a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students. The building must be divided into two [three] separate areas: one for instruction of theory and one clinic work area[, one for practice work of seniors, and one for practice work of juniors].

(2)-(15) (No change.)

(b) (No change.)

§89.54. *Independent Contractor/Booth Rental License.*

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

(e) The original and renewal booth rental license fee shall be \$50 [25] and shall be valid for two years from date of issue. If a booth rental license is delinquent for less than 30 days, the delinquency fee shall be \$10, over 30 days the delinquency fee shall be \$25.

(f) Independent Contractors practicing cosmetology in more than one location must exhibit an original a booth rental license at each location.

(g)[(f)] Independent Contractors must post in a location visible at all times the following information. It must be posted on the outside of the booth or the door where it can be read by visitors or prospective clients:

(1) operator's name;

(2) operator's license number;

(3) hour of business.

(h)[(g)] The lessor to an independent contractor must maintain a list of all renters that includes:

(1) name of the renter;

(2) cosmetology license number of the renter;

(3) hours of business of the renter.

(i)[(h)] The lessor must supply the inspector with a list of renters upon request. Failure to provide the list can result in a violation of such significance to require a hearing.

§89.56. *Administrative Processing Fees.* All schools, salons, independent contractors, and licensees will be held responsible for the following:

(1) Submitting incorrect material will result in a \$10 processing fee per submittal.

(2) The commission does not accept personal checks. Personal checks sent to the commission will be returned and a \$10 processing fee will be charged.

(3) School business checks, money orders, and cashier's checks are acceptable. Insufficient fund school checks will result in a \$30 return check fee being charged to the school. The second check sent to the commission must be for the correct amount, with a \$25 money order, cashier's check, or bank check. If a second check is returned insufficient an additional \$25 insufficient charge will be assessed. No services will be performed until the required fees are paid and in good standing.

(4) If personal checks are returned to the sender resulting in acceptable payment being after the deadline the license will be assessed the late charge fee. Acceptable payment procedure must be completed before the published deadline for the license.

§89.72. *Curriculum.* The curriculum listed has been established by the Texas Cosmetology Commission and must be followed by all cosmetology schools. The curriculum shall be posted in a conspicuous place in the school. A current syllabus and lesson plans for each course shall be maintained by the school and be available for inspection.

(1) Operator curriculum.

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

(D) Manicure curriculum [(total [250] hours)]:

(i)-(iv) (No change.)

(v) procedures, 220 [175]

hours;

(I)-(IX) (No change.)

(X) application of nail extensions;

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

(-e) Odorless product;

(vi) arms and hands;

(I) (No change.)

(II) muscles-ten [five] hours;

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

(III) (No change.)

hours;
change.)
hours;
change.)
(vii) bacteriology, sanitation and safety measures-150 [15] hours;

(IV) skin-ten [five]
(-a)-(-e-) (No
(V) nails-100 [ten]
(-a)-(-d-) (No
(I)-(IV) (No change.)
(viii) professional practices-80 [ten] hours;
(I) -(II) (No change.)
(ix) total, 600 hours.
(x) Theory is construed to mean any topic of instruction (see listed in this subparagraph) in the classroom or practical area.

(E)-(I) (No change.)

§89.75. Field Trips. Field trips are permitted under the following conditions for students enrolled in the following courses. The following guidelines are to be strictly adhered to:

(1) A maximum of 40 hours out of the 1,500 hours permitted per student.
(A) a maximum of 20 [eight] hours for the manicure course;
(B)-(E) (No change.)
(2)-(6) (No change.)

§89.76. Minimum Requirements for Cosmetology School Separate Facility.

(a) (No change.)
(b) A building to house a separate facility must be fireproof and of permanent type construction, and contain a minimum of 1,000 square feet of floor space, with separate restrooms for male and female students. The building must be divided into two separate areas: one for instruction of theory; and one for clinic [practice] work.
(c)-(r) (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 August 1, 1995.

TRD-9509578

Dick G. Strader
Executive Director
Texas Cosmetology
Commission

Proposed date of adoption: September 9, 1995

For further information, please call: (512) 454-4674

◆ ◆ ◆
Part XVI. Texas Board of Physical Therapy Examiners

Chapter 321. Definitions

• 22 TAC §321.1

The Texas Board of Physical Therapy Examiners proposes an amendment to §321.1, concerning Definitions. This proposed amendment clarifies the procedure by which a physical therapist assigns responsibilities to a physical therapist assistant.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 proper supervision of physical therapist assistants. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gerard Swain, PT Coordinator, Texas Board of Physical Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 4512e is affected by the amendment.

§321.1. Definitions. The following words, terms, and phrases, when used in the rules of the Texas [State] Board of Physical Therapy Examiners, shall have the following meanings, unless the context clearly indicates otherwise.

Physical therapist assistant—The supervision of the physical therapist assistant shall include the following:

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

(E) The physical therapist may assign responsibilities to the physical therapist assistant to:

(i) provide physical therapy services as specified in the written plan of care developed by the physical therapist prior to treatment by a physical therapist assistant which includes:

(I)-(III) (No change.)

(ii)-(x) (No change.)

(F) (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 July 31, 1995.

TRD-9509513

John Maline
Executive Director
Texas Board of Physical
Therapy Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

◆ ◆ ◆
Chapter 329. Licensing Procedure

• 22 TAC §329.5

The Texas Board of Physical Therapy Examiners proposes an amendment to §329.5, concerning Licensing Procedures for Foreign-Trained Applicants. This proposed amendment identifies how laboratory hours are converted into semester hours and sets the maximum number of hours allowed in clinical education. The amended section also requires all applicants to pass all courses in professional education with a grade of C or above.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 potential increase in the availability of licensees, and increased assurance of quality physical therapy services. 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 Gerard Swain, PT Coordinator, Texas Board of Physical Therapy Examiners, 3001 South Lamar, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 4512e is affected by the amendment.

§329.5 Licensing Procedures for Foreign-Trained Applicants.

(a)-(f) (No change.)

(g) Guidelines for board-approved education credentialing agencies.

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

(5) The credentialing agency must use a method to convert classroom hours to semester units which has a ratio no greater than the following: 15 contact lecture hours = one semester unit/hour; 55 [45] contact laboratory hours = one semester unit/hour. When lecture/lab hours are not delineated on the transcript, the evaluator may use an appropriate ratio and indicate the ratio used in the evaluation.

(6) The credentialing agency must list and assign a grade for each course taken by the applicant, by assigning the grade of A, B, C, D, F, Pass, Fail, Credit or No Credit. Those grades assigned by the credentialing agency must be the grades that are converted to the U.S. equivalent, in accordance with the most current version of the National Association for Foreign Student Affairs Handbook on the Placement of Foreign Graduate Students. The credentialing agency must identify and list those courses which would not transfer to the U.S. as a C or above or Pass or Credit in accordance with the most current version of the National Association for Foreign Student Affairs Handbook on the Placement of Foreign Graduate Students. An applicant must earn a grade of A, B, C, or Pass or Credit in any professional physical therapy education courses. An applicant with a grade of D, F, Fail, or no credit appearing for a professional physical therapy education course on his/her evaluation who has not successfully retaken the course with a grade of A, B, C, Pass or Credit is not eligible for licensure in Texas. [Only those courses which receive a grade of C or above, or pass or credit may be counted toward the requirement that the applicant complete a minimum of 72 hours in professional physical therapy education.]

(7) The agency must attest that the applicant has successfully completed an educational program equivalent to U.S. programs accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) and has earned the equivalent of a minimum of 72 semester hours of

professional physical therapy education. The applicant must have completed courses in each of the following areas: basic sciences, clinical science, and physical therapy theory and procedures. The applicant must have also successfully completed United States required equivalent courses/hours (no less than eight and no more than 15 U.S. semester credit hours at the Upper Division Level) in clinical education.

(8)-(10) (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 July 31, 1995.

TRD-9509512

John Maline
Executive Director
Texas Board of Physical
Therapy Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

◆ ◆ ◆
Chapter 341. License Renewal

• **22 TAC §341.8**

The Texas Board of Physical Therapy Examiners proposes new §341.8, concerning Inactive Status. This new section will create a mechanism to allow licensed physical therapists or physical therapist assistants to choose to become inactive rather than let their license expire when not renewing their license in Texas.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 the availability of licensees properly trained to practice physical therapy. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gerard Swain, PT Coordinator, Texas Board of Physical Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The new section is proposed under the Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 4512e is affected by this new section.

§341.8. *Inactive Status.* Inactive status shall mean the voluntary termination of the right or privilege to practice physical therapy in Texas. The licensee retains the right or privilege to represent himself/herself as having an inactive license. An inactive status will be limited to three renewal periods. A licensee may petition the board to extend the inactive period to a maximum of two renewal periods. Any person who has been licensed in the state and is not actively engaged in the practice of physical therapy in the state may, at his/her request, be placed on the inactive status. The board shall keep an inactive register. A person whose license has been placed on inactive status may be reinstated by the board. An applicant must do one of the following:

(1) take and pass the PES examination;

(2) attend a university review course approved by the board

(3) have the required number of CEUs as an active licensee renewing their license; or

(4) complete an internship approved by the board which is equal to 150 hours. The inactive licensee must submit to the board a notarized, completed application on a form provided by the board. The renewal fee must be included with application. The board shall act after receipt of the application for reinstatement from inactive status and shall send to the applicant written notification of its decision to reinstate the license.

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 July 31, 1995.

TRD-9509514

John Maline
Executive Director
Texas Board of Physical
Therapy Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

◆ ◆ ◆
**Chapter 346. Practice Setting
for Physical Therapy**

• **22 TAC §346.1**

The Texas Board of Physical Therapy Examiners proposes an amendment to §346.1, concerning Educational Settings. This proposed amendment defines the role of a physical therapist working in an educational setting.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 the availability of licensees properly informed to practice physical therapy in an educational setting. 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 Gerard Swain, PT Coordinator, Texas Board of Physical Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Physical Therapy Practice Act, Texas Civil Statutes, Article 4512e, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 4512e is affected by the amendment.

§346.1 Educational Settings.

(a) In the educational setting, the physical therapist conducts appropriate screenings, evaluations, and assessments to determine needed services to fulfill educational goals. When a student is determined by the physical therapist to be eligible for physical therapy as a related service defined by Special Education Law, the physical therapist provides written recommendations to the Admissions Review and Dismissal Committee as to the amount of specific services needed by the student (i.e. consultation or direct services and the frequency and duration of services.) [The primary role of the physical therapist is to implement services as identified in the student's individual educational plan (IEP).]

(b) The physical therapist implements physical therapy services in accordance with the recommendations accepted by the school committee members and as reflected in the student's Admission Review and Dismissal Committee reports. [The physical therapist generally acts as a consultant in the educational setting by instructing teachers, instructional aides, and parents in student-centered, classroom-centered, and/or program-centered services. If the physical therapist determines that a student needs direct or individual treatment, the student must be referred by a physician before treatment is instituted.]

(c) The physical therapist may provide general consultation or other physical therapy program services for school administrators, educators, assis-

tants, parents and others to address district, campus, classroom or student-centered issues. For the student who is eligible to receive physical therapy as a related service in accordance with the student's Admission Review and Dismissal Committee reports, the physical therapist will also provide the consultation and direct types of specific services needed to implement specially designed goals and objectives included in the student's Individualized Education Program. [In the educational setting, when a student has an acute problem, a referral from a physician must be obtained and treatment is provided only with the on-site supervision of a physical therapist or a physical therapist assistant.]

(d) The types of services which require a physician's referral in the educational setting include the provision of individualized specially designed instructions and the direct physical modeling or hands-on demonstration of educational activities with a student who has been determined eligible to receive physical therapy as a related service. Additionally, it includes the direct provision of activities which are of such a nature that they should only be conducted with the eligible student by a physical therapist or physical therapist assistant. The physical therapist should refer to §343.3 of this title (relating to Referral Requirement and Exceptions to Referral Requirement)

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 July 31, 1995.

TRD-9509515 John Maline
Executive Director
Texas Board of Physical
Therapy Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

◆ ◆ ◆ TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 3. Memorandums of Understanding With Other State Agencies

• 25 TAC §3.31

The Texas Department of Health (department) proposes new §3.31, concerning the memorandum of understanding (MOU) between the department, Texas Department of Criminal Justice (TDCJ), Texas Rehabilitation Commission, Texas Commission for the

Blind, Texas Commission for Deaf and Hearing Impaired, and Texas Department of Human Services. This MOU addresses the responsibilities of each agency to institute a continuity of care and service for offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill. This MOU is required by Texas Health and Safety Code, §614.015.

This memorandum was adopted by the TDCJ in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3672). The rule was proposed in 37 Texas Administrative Code, §159.5(a) in the April 4, 1995, issue of the *Texas Register* (20 TexReg 2523). The MOU was proposed as Figure 1: 37 Texas Administrative Code §159.5(a) in the Tables and Graphics Section of the April 4, 1995, issue of the *Texas Register* (20 TexReg 2532).

Carol S. Daniels, Deputy Commissioner for Programs, 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.

Ms. Daniels 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 better continuity of care for those in the criminal justice system who are physically disabled, terminally ill, or significantly ill. 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. There will be no effect on local employment.

Comments may be submitted to Carol S. Daniels, Deputy Commissioner for Programs, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7378. Comments on the proposed rule will be accepted for 30 days following publication in the *Texas Register*.

The new section is proposed under the Texas Health and Safety Code, Chapter 614, "Texas Council on Offenders with Mental Impairments," §614.015, "Continuity of Care for Physically Disabled, Terminally Ill, or Significantly Ill Offenders," which requires the department to adopt an MOU by rule; and §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

Texas Health and Safety Code, §614.015 is affected by the new section.

§3.31. Memorandum of Understanding Between the Texas Department of Criminal Justice, Texas Commission for the Blind, Texas Commission for the Deaf and Hearing Impaired, Texas Rehabilitation Commission, Texas Department of Human Services, and the Texas Department of Health.

(a) The Texas Department of Health (department) adopts by reference a memorandum of understanding (MOU) between the Texas Department of Criminal Justice, Texas Commission for the Blind,

Texas Commission for the Deaf and Hearing Impaired, Texas Rehabilitation Commission, and Texas Department of Human Services. The MOU contains the agreement required by Texas Health and Safety Code, Chapter 614, §614.015 to establish the respective responsibilities of these agencies to institute a continuity of care and service program for offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill.

(b) The MOU is adopted by rule in 37 Texas Administrative Code, Chapter 159, §159.5(a).

(c) The effective date of the MOU, with respect to the department, is the same as the effective date of this section.

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 August 1, 1995.

TRD-9509598 Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 458-7236

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**Chapter 119. Health
Maintenance Organizations**

The Texas Department of Health (department) proposes the repeal of existing §§119.1-119.15 and proposes new §§119.1-119.14, concerning health maintenance organizations (HMOs). Specifically, the new sections cover definitions, examinations prior to issuance of a certificate of authority, on-site examinations, organization, geographic service area, ambulatory health care services, emergency care, inpatient hospital and medical service, diagnostic and therapeutic services, optional services, continuous quality improvement, enforcement, single health care service, and fees and assessments. The department and the Texas Department of Insurance work together in regulating HMOs under authority of the Health Maintenance Organization Act, Insurance Code, Chapter 20A (HMO Act).

The repeal of existing §§119.1-119.15 will allow for the proposal of the new sections. The new sections include language which clarifies the department's examination procedures of HMOs both prior to and subsequent to the Texas Department of Insurance issuance of a certificate of authority to an HMO; language which clarifies the authority of the department to examine the quality of health care services offered by an HMO; expanded provisions requiring availability, accessibility, and continuity of health care services, including expanded emergency care provisions; expanded provisions requiring each HMO to have a continuous quality improvement plan;

clearer provisions regarding the department's role in enforcement actions against HMOs; and an application fee increase for new HMOs. The new language will address concerns related to the quality of health care services furnished by HMOs to its enrollees and will more fully implement the regulatory authority over HMOs assigned to the department in the HMO act.

Bernie Underwood, Chief of Staff Services, Health Care Quality and Standards, has determined that for the first five-year period the sections are in effect there will be no additional fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Underwood 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 increased protection for members of HMOs by expanded provisions related to the quality of health care services to be furnished by HMOs to its enrollees, and by expanded provisions requiring HMOs to submit continuous quality improvement data, related to analysis of health care processes and outcomes. The new provisions require that continuous quality improvement function in order to identify areas where improvements in the quality of health care services are possible and for the purpose of assuring high quality patient care and protection from harm for HMO enrollees. The application fee for new HMOs will increase from \$850 to \$3,000, due to increases in staff and travel costs. There will be costs associated with the submittal of continuous quality improvement data, to small businesses, and persons who are required to comply with the sections as proposed. However, since the department is unable to determine the extent to which HMOs currently collect the data, required by these sections as proposed, the department is unable to estimate the cost at this time.

Comments on the proposal may be submitted to Julia R. Beechinor, Director, Health Facility Licensing Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 834-6647. Comments will be accepted for a period of 30 days after publication of the proposal in the *Texas Register*

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• 25 TAC §§119.1-119.15

(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 Department of Health or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Health Maintenance Organization Act, Insurance Code, Chapter 20A, which provides the Texas Board of Health with authority to adopt rules to establish minimum standards regarding the quality of health care services, including availability, accessibility and continuity of services, to be furnished by an HMO to its enrollees; and under Health and Safety Code, §12.001 which provides the board with the authority to adopt rules for the performance of every duty imposed by law upon the board, the department and the commissioner of health.

The repeals affect the Health Maintenance Organization Act, Insurance Code, Article 20A, and Health and Safety Code, Chapter 12.

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§119.1. Definitions.

§119.2. The Certification Procedures.

§119.3. Organization.

§119.4. Geographic Service Area.

§119.5. Ambulatory Health Care Service.

§119.6. Emergency Services.

§119.7. Inpatient Hospital and Medical Services.

§119.8. Diagnostic and Therapeutic Services.

§119.9. Optional Services.

§119.10. Statistical Information.

§119.11. Quality Assurance.

§119.12. Texas Department of Health On-Site Review.

§119.13. Compliance with Texas Department of Health Rules.

§119.14. Single Health Care Service.

§119.15. Fees and Assessments.

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 August 1, 1995.

TRD-9509602 Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 458-7236

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• 25 TAC §§119.1-119.14

The new sections are proposed under the Health Maintenance Organization Act, Insurance Code, Chapter 20A, which provides the Texas Board of Health with authority to adopt rules to establish minimum standards regarding the quality of health care services, including availability, accessibility and continuity of

services, to be furnished by an HMO to its enrollees; and under Health and Safety Code, §12.001, which provides the board with the authority to adopt rules for the performance of every duty imposed by law upon the board, the department and the commissioner of health.

The new sections affect the Health Maintenance Organization Act, Insurance Code, Article 20A, and Health and Safety Code, Chapter 12.

§119.1. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Basic health care services—Health care services which an enrolled population might reasonably require in order to be maintained in good health, including, as a minimum, emergency care, inpatient hospital and medical services, and outpatient medical services.

Board—The Texas Board of Health.

Certified facility—A health care facility which is certified by the federal government for participation in rendering care to Medicare or Medicaid beneficiaries.

Commissioner—The commissioner of insurance.

Credentials—Certificates, diplomas, licenses or other written documentation which establishes proof of training, education, and experience in a field of expertise.

Department—Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

Emergency care—Bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(A) placing the patient's health in serious jeopardy;

(B) serious impairment to bodily functions; or

(C) serious dysfunction of any bodily organ or part.

Enrollee—An individual who is enrolled in a health care plan, including covered dependents.

Evidence of coverage—Any certificate, agreement, or contract issued to an enrollee setting out the coverage to which the enrollee is entitled.

Group hospital service corporation—A nonprofit corporation organized and operating under the Insurance Code, Chapter 20.

Health care—Prevention, maintenance, rehabilitation, pharmaceutical, and chiropractic services provided by qualified persons other than medical care.

Health care plan—Any plan whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services; provided, however, a part of such plan consists of arranging for or the provision of health care services, as distinguished from indemnification against the cost of such service, on a pre-paid basis through insurance or otherwise.

Health care services—Any services, including the furnishing to any individual of pharmaceutical services, medical, chiropractic, or dental care, or hospitalization or incident to the furnishing of such services, care, or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury or a single health care plan.

Health maintenance organization (HMO)—Any person who arranges for or provides a health care plan or single health care service plan to enrollees on a prepaid basis.

Inpatient medical care—Includes, but is not limited to, medical and surgical care received in a hospital or skilled nursing home environment.

Medical care—Furnishing those services defined as practicing medicine under the medical Practice Act, §1.03(8), Texas Civil Statutes, Article 4495b.

Outpatient services—Services which may be rendered in, but are not limited to, clinics, private offices, hospital based outpatient departments, home health services, ambulatory surgical centers, hospices and kidney dialysis centers.

Person—A natural or artificial person, including, but not limited to, individuals, partnerships, associations, organizations, trusts, hospital districts or corporations.

Physician—An individual who is licensed to practice medicine in the State of Texas.

Primary hospitals—General hospitals which are equipped and staffed to handle the medical needs of an HMO's enrolled population.

Provider—Any practitioner other than a physician, such as a licensed doctor of chiropractic, registered nurse, pharmacist, optometrist, pharmacy, hospital, or other institution or organization or person that furnishes health care services, who is licensed or otherwise authorized to practice in this state.

Referral hospitals—Referral hospitals are primary hospitals which also are equipped and staffed to provide intensive medical and surgical care.

Referral specialists (other than primary care) —Specialists who set themselves apart from the primary care physician or primary single service provider through specialized training and education in a health care discipline.

Single health care service—A health care service that an enrolled population may reasonably require in order to be maintained in good health with respect to a particular health care need for the purpose of preventing, alleviating, curing, or healing human illness or injury of a single specified nature and that is to be provided by one or more persons each of whom is licensed by the state to provide that specific health care service.

Single health care service plan—A plan under which any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of a single health care service, provided, that a part of the plan consists of arranging for or the provision of the single health care service, as distinguished from an indemnification against the cost of the service, on a prepaid basis through insurance or otherwise and that no part of that plan consists of arranging for the provision of more than one health care need of a single specified nature.

Sponsoring organization—A person who guarantees the uncovered expenses of the health maintenance organization and who is financially capable, as determined by the commissioner, of meeting obligations resulting from those guarantees.

Uncovered expenses—The estimated administrative expenses and the estimated cost of health care services that are not guaranteed, insured, or assumed by a person other than the health maintenance organization. Health care services may be considered covered if the physician or provider agrees in writing that enrollees shall in no way be liable, assessable, or in any way subject to payment for services except as described in the evidence of coverage issued to the enrollee under the Texas Civil Statutes, Insurance Code, Article 20A, §9. The amount due on loans in the next calendar year will be considered uncovered expenses unless specifically subordinated to uncovered medical and health care expenses or unless guaranteed by the sponsoring organization.

Uncovered liabilities—Obligations resulting from unpaid uncovered expenses, the outstanding indebtedness of loans that are not specifically subordinated to uncovered medical and health care expenses or guaranteed by the sponsoring organization, and all other monetary obligations that are not similarly subordinated or guaranteed.

§119.2. Examinations Prior to Issuance of Certificate of Authority. The Texas Department of Health (department) shall conduct a qualifying examination of an applicant prior to the issuance of a certificate of authority by the Texas Department of Insurance in accordance with Title 28, Texas Administrative Code, §§11.201-11.208. The qualifying examination shall include a review of the following docu-

ments which shall be available to the department at the applicant's administrative offices:

(1) the minutes of the applicant's organizational meetings, indicating the type of each meeting and the date. The minutes must designate the officer or officers who are responsible for the handling of the funds of the applicant;

(2) a copy of the complaint procedure and samples of the forms to be used in the complaint resolution procedure for both informal and formal complaints;

(3) a copy of the enrollee satisfaction survey,

(4) a map which includes the location of sufficient hospitals, primary care physicians, and other health care delivery sites that will provide care,

(5) lists of primary care and specialty physicians, hospitals, laboratories, diagnostic imaging providers, radiologic oncology providers, and other providers to be used by the applicant inside the service area

(A) the list of physicians must include:

(i) each physician's medical specialty;

(ii) board certification, if any;

(iii) Texas license number;

(iv) federal and state permits relating to registration of controlled substances, if applicable;

(v) business address; and

(vi) hospitals at which the physician has staff privileges;

(B) the list of hospitals must include:

(i) each hospital's address,

(ii) license number, unless exempt from licensure requirements;

(iii) letter of accreditation issued by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA), if applicable;

(iv) evidence of Medicare certification (Title XVIII, Social Security Act), if applicable;

(v) the number of beds in the hospital; and

(vi) the hospital's current occupancy rate; and

(C) the list of laboratories, diagnostic imaging providers, radiologic oncology providers, and other providers must include each provider's address and license, accreditation, registration or certification, if applicable;

(6) a copy of the contract or letter of intent with each provider;

(7) evidence that the applicant has a mechanism for maintaining, monitoring and implementing the continuous quality improvement plan, as required by §119.11 of this title (relating to Continuous Quality Improvement), including procedures for data collection, analysis and reporting, for all physicians and providers, including pharmacy or drug utilization review format, if applicable; utilization management; and a complaint system, as required by §119.11 of this title; and

(8) an example of a member handbook and evidence of coverage and provider manual.

§119.3. On-site Examinations.

(a) On-site quality of care examination.

(1) Subsequent to the issuance of the certificate of authority, the Texas Department of Health (department) shall conduct on-site quality of care examinations of a health maintenance organization (HMO) to review the quality, availability and accessibility of health care services. The department may make an examination concerning the quality of health care services as often as it deems necessary, but not less than once every three years.

(2) Every HMO shall make its books and records relating to its operation available for such examinations and in every way facilitate the examinations. Every physician and provider with whom an HMO has a contract, agreement, or other arrangement need only make available for examination that portion of its books and records relevant to its relationship with the HMO.

(3) Medical, hospital and health records of all enrollees and records of all physicians and providers providing service under independent contract with an HMO shall be subject to such examination as is necessary for an ongoing examination of the approved continuous quality improvement plan, as required in §119.11 of this title (relating to continuous quality improvement). The plan shall provide for adequate protection of confidentiality of medical information and shall only be disclosed in accordance with applicable law and the HMO Act and shall only be subject to subpoena upon a showing of good cause.

(4) For the purpose of examinations, official representatives of the Texas

Department of Insurance and the department, may administer oaths to and examine the officers and agents of the HMO and the principals of such physicians and providers concerning their business.

(5) If any person refuses to appear or testify or to give information requested pursuant to an official examination, the commissioner may file a sworn application with any district judge or district court within this state, where said witness is summoned to appear and said judge shall summon said witness and require answers to such questions.

(6) Complaints about the quality of care which, in the judgment of the department, represent a threat to the health and safety of HMO members will be investigated without notice to the HMO. Complaints determined to be valid will require a full examination, which may be unannounced.

(7) Requirements concerning a statement of deficiencies on examinations and complaint investigations are as follows.

(A) The department will provide the HMO with a written statement of the examination outcome.

(B) If deficiencies are cited, a written plan to correct the deficiencies will be returned to the department within 30 days of the date appearing on the statement of deficiencies.

(C) Deficiencies which represent a threat to the health and safety of enrollees will be corrected within 30 days of the date of receipt by the HMO.

(D) Other deficiencies will be corrected within 90 days of the date appearing on the statement of deficiencies.

(b) On-site examination of HMO administrative office.

(1) During an on-site examination of the HMO administrative office, department surveyors may review the following documents:

(A) the minutes of meetings of the HMO board of directors, management committee minutes, administrative policy manuals, physician and provider manuals, enrollee information, enrollee newsletters, personnel manuals, organizational charts, provider contracts, and other items as required;

(B) the quality improvement review standards, quality improvement committee meeting minutes, quality review

audits, and utilization management system data;

(C) the complaint log and individual complaints;

(D) the accessibility monitoring data;

(E) the enrollee satisfaction surveys, disenrollment logs; and

(F) the complete and current listing of physicians and providers of care.

(2) During an on-site review at the HMO's administrative office, department surveyors may conduct interviews with:

(A) administrative personnel, including the HMO president or chief executive officer;

(B) operations manager, medical, dental, vision, and mental health directors or continuous quality improvement committee chairman;

(C) utilization management personnel;

(D) membership services officer;

(E) grievance officer; and

(F) physician and provider relations officer.

§119.4. Organization.

(a) There shall be a governing body, person or persons legally responsible for the operation of the health maintenance organization (HMO).

(b) There shall be a physically identifiable administrative headquarters office located within the State of Texas.

(c) The HMO shall ensure that current files are maintained on contracts for all participating physicians and providers of care, and that all information is updated on an ongoing basis.

(d) The HMO shall ensure that files are maintained on subcontracting providers and physicians and contain sufficient information to assure current licensure or other authorizations to practice in the State of Texas.

(e) There shall be a full-time chief executive officer or operations officer for

each service area of the HMO available on-site.

(f) There shall be a medical director or single service director for each service area of the HMO.

(g) Individual service areas shall maintain continuous quality improvement and utilization management plans.

(h) An current list of all participating physicians and providers of care in each service area shall be maintained by the HMO for review by the Texas Department of Health.

(i) A current physician and provider manual shall be provided to each health care facility which details the requirements by which the provider or physician will be governed.

(j) The HMO shall systematically and regularly verify that support services and supplies are furnished to physicians and providers of care, to assure that health care services are available to enrollees without unreasonable periods of delay.

§119.5. Geographic Service Area.

(a) Enrollees shall not be required to travel in excess of 50 miles to reach a source of primary physician health care and acute hospital care except as provided in subsection (b) of this section.

(b) Other locations may be included in the geographic service area upon providing the Texas Department of Health (department) with documentation which provides support for traveling acceptable longer distances, for example, marketing data which indicates a normal pattern for securing health care services in the extended area.

(c) Enrollees shall not be required to travel in excess of 100 miles to secure initial contact with single service providers of care, referral physicians, referral single service providers of care, and specialty hospital care except as provided in subsection (b) of this section.

(d) The HMO shall provide enrollees with a map of the location of providers within the geographic service area.

§119.6. Ambulatory Health Care Services.

(a) Primary care physician services.

(1) Primary care physician services shall be available and accessible 24 hours per day, seven days per week within the health maintenance organization's (HMO's) geographic service area.

(A) Participating primary care physicians shall be available for emergency and urgent care after normal business hours.

(B) There shall be barrier-free telephone access to participating primary care physicians at all times.

(C) The method by which enrollees may secure health care services after hours shall be clearly communicated in writing to enrollees, in the languages predominantly spoken by the enrolled population.

(2) An adequate number of participating primary care physicians shall have admitting privileges at one or more participating general hospitals located within the HMO's geographic service area to assure that necessary admissions are made.

(3) There shall be a sufficient number of participating primary care physicians to meet the needs of the enrolled membership.

(b) Referral (specialty) physician services.

(1) Referral physician services shall be available and accessible 24 hours per day, seven days per week, within the HMO's geographic service area.

(2) There shall be sufficient number of referral physicians with appropriate hospital admitting privileges to meet the needs of the enrolled membership.

§119.7. Emergency Care.

(a) Emergency care shall be available and accessible 24 hours per day, seven days per week, without restrictions as to where the services are rendered.

(b) The health maintenance organization (HMO) shall have documentation that the health care plan contains the following provisions for coverage of emergency care:

(1) provide that any initial medical screening examination to determine whether an emergency medical condition exists or other evaluation required by state or federal law will be provided;

(2) provide that for services originating in a hospital emergency department following treatment or stabilization of an emergency medical condition, the HMO must respond to inquiries of a treating physician or provider within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but in no case to exceed three hours. The HMO must respond to inquiries from the treating physician or provider in compliance with this provision in the HMO's health care plan;

(3) provide that medically necessary emergency care services will be provided to covered enrollees, without regard to whether the physician or provider furnishing the services has a contractual or other arrangement with the entity to provide items or services to covered individuals, including the treatment and stabilization of an emergency medical condition; and

(4) cover services provided in a hospital emergency department pursuant to referral to a hospital emergency department, made by an HMO physician or provider of care.

(c) HMO physicians and providers of care who employ triage nurses or practitioners other than physicians to assess the health care needs of HMO enrolled members shall have policies in effect which describe the exact duties of all such providers and practitioners.

§119.8. Inpatient Hospital and Medical Service.

(a) Primary hospital care shall be available and accessible 24 hours per day, seven days per week, within the health maintenance organization's (HMO) defined geographical service area.

(b) Referral hospital care shall be available and accessible 24 hours per day, seven days per week, within the HMO's defined geographical service area.

(c) Specialty hospital care shall be available and accessible within the HMO's defined geographical service area.

(d) Hospitals which provide services to HMO enrollees shall have current licenses by the State of Texas, unless exempt from licensure requirements.

§119.9. Diagnostic And Therapeutic Services

(a) Laboratories must meet the requirements of Federal Public Law 100-578, Clinical Laboratory Improvement Amendments of 1988 (CLIA 1988). CLIA 1988 applies to all laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(1) Reference laboratory services shall meet the non-emergent, urgent and emergency needs of the enrolled population.

(2) The reference laboratory specimen services shall be convenient to provider physicians through the strategic location of drawing stations, or through a courier service which is under the management of the reference laboratories.

(3) Pathology laboratory services shall be available and accessible.

(b) Diagnostic imaging services shall be available and accessible to all enrolled members.

(1) Diagnostic imaging procedures that require the injection or ingestion of radiopaque chemicals shall be performed only under the direction of physicians qualified to perform those procedures.

(2) Diagnostic imaging machines shall be registered and inspected according to state law.

(3) Technicians, physicians, and other personnel who work with imaging machines shall comply with state law regarding monitoring.

(c) Services involving therapeutic/oncological radiology shall be available and accessible to all enrolled members.

§119.10. Optional Services.

(a) The provisions in this section apply to categories of other health care services which a health maintenance organization (HMO) may offer in a basic health care plan pursuant to any service agreement. The other services are listed in subsection (f) of this section, but this is not intended to be a complete list of all possible benefit additions.

(b) Inpatient skilled nursing care shall be available and accessible within the service area to the enrolled population by one or a combination of the following:

(1) a skilled nursing facility that is licensed by the state, unless exempt from licensure requirements;

(2) a swing-bed hospital that is licensed by the state, unless exempt from licensure requirements;

(3) a general hospital licensed by the state, unless exempt from licensure requirements, a distinct part of which is a skilled nursing facility; and

(4) facilities directly owned and operated by the HMO or by contract.

(c) Home health care services, including skilled nursing services, shall be available and accessible within the geographic service area to the enrolled population, through home and community support services agencies, or their branches, licensed by the state to provide home health care services; home health care services may be offered either directly by the HMO, or through contracts.

(d) Hospice care services shall be available and accessible with the geographic service area to the enrolled population, through hospices licensed by the state; hospice care may be offered directly by the HMO, or through contracts.

(e) Pharmacy services shall be available and accessible within the service area for the enrolled population through pharmacies licensed by the Texas State Board of Pharmacy.

(1) Pharmacy services shall be offered directly by the HMO or through contracts.

(2) The quality of pharmacy services shall be regularly reviewed by a committee composed of physicians, pharmacists and other professionals as needed.

(A) The committee shall be responsible for assuring that drug utilization review is performed on a regular basis, but not less than quarterly.

(B) The committee shall assure that contracting pharmacies maintain drug profiles on the enrollees population and make use of such profiles to detect inappropriate drug use.

(C) The committee shall make recommendations on policies under which pharmacists provide patient instruction and education on correct use of medications.

(f) Other services may be offered by the HMO.

(1) If health care services such as dental, podiatric, nutrition or dietary, vision, hearing, speech, durable medical equipment, mental health, drug dependency, chiropractic care, or any other health care services are offered, they shall be offered by the HMO or through contracts with providers or physicians who are licensed or otherwise authorized to practice in this state.

(2) Such services shall be of sufficient number and location as to be readily available and accessible within the service area to the enrolled population.

§119.11. Continuous Quality Improvement.

(a) The health maintenance organization (HMO) shall develop and implement a written continuous quality improvement plan, which covers all services to be furnished by the HMO to its enrollees, and the HMO shall maintain an effective information management system.

(b) The written continuous quality improvement plan shall provide for continuity of treatment consistent with prevailing professionally recognized standards of medical practice, including:

(1) making available to enrollees a current list of physicians and providers;

(2) allowing continuity of ongoing treatment by the treating physician or provider who is treating an enrollee of special circumstance, such as an enrollee who has a disability, a life threatening illness, complex illness or is in the third trimester of pregnancy, and receiving medically necessary and appropriate treatment in accordance with the dictates of medical prudence upon termination of the contract between the HMO and treating physician or provider; however, the HMO shall not be required to assure ongoing treatment of an enrollee any more than 90 days from the effective date of termination of the treating physician or provider; and

(3) the HMO shall assist the enrollee in selecting or changing his physician or provider, as needed;

(c) Continuous quality improvement may be accomplished by a committee, or structure of committees, which shall be composed of physicians, dentists, and other providers, as applicable, appointed to collaborate and coordinate efforts to improve the quality, availability, accessibility and continuity of health care services to be furnished by the HMO to its enrollees. The continuous quality improvement committee or structure of committees shall:

(1) meet regularly; and

(2) report regularly in writing to the HMO management, information which shall include recommendations concerning improvement of quality, availability and continuity of health care services offered to its enrollees.

(d) If the continuous quality improvement committee, or committee structure, delegates any quality improvement or utilization management activity, then the committee must establish, implement, and enforce a policy to address effective methods of accomplishing oversight of each delegated activity.

(e) Continuous quality improvement shall function in order to accomplish the following minimum requirements:

(1) establishment and implementation of an ongoing written program to analyze health care processes and patient outcomes which functions, at a minimum:

(A) to assess both quality of clinical care and quality of non-clinical aspects of service, by individual case review, specifically analyzing:

(i) availability and accessibility of care;

(ii) continuity of health care and related services; and

(iii) patterns of clinical care rendered;

(B) to review the entire range of health care and services provided by the HMO, by including all demographic groups, care settings, and types of services in the scope of review;

(C) to identify and implement written procedures, in the continuous quality improvement plan, to improve the total system of care delivery and services to enrollees by:

(i) identifying areas of needed improvement; and

(ii) effectively addressing each area of needed improvement;

(D) to identify specific instances of substandard care where availability, accessibility or continuity of services need improvement:

(i) to document the action taken, in those specific instances, to improve the care and services furnished; and

(ii) to assess effectiveness of action taken to improve the quality of care and service rendered, and verify follow-up to resolution of identified areas of needed improvement;

(E) to establish, implement and maintain a complaint system to provide reasonable procedures for the resolution of complaints, both oral and written, initiated by enrollees, physicians or providers concerning care or services, which shall function to:

(i) maintain documentation of the investigation and analysis of each complaint received, including documentation of all action taken to resolve each complaint;

(ii) identify and remove communication barriers which may impede enrollees from effectively making complaints against the HMO;

(iii) establish, implement and maintain a mechanism for systematically surveying enrollee care and service satisfaction, by written survey; and

(iv) allow the commissioner or the department to examine the complaint system and the survey mechanism;

(F) to annually identify continuous quality improvement goals and objectives, defined in the written plan, including time frames for implementation and accomplishment established in the written plan;

(G) to conduct quality of care studies over a period of time, prescribed in the continuous quality improvement plan, which shall specify methodologies, organizational arrangements to be used to accomplish them, and individuals responsible for the studies;

(H) to systematically collect and analyze data, and to maintain records of raw data collected, needed to measure on a continuing basis, the following indicators, which shall be specifically defined in the written continuous quality improvement plan:

(i) health care processes and patient outcomes, including those that:

(I) affect a large percentage of enrollees;

(II) place patients at serious risk if not performed well, or performed when not indicated, or not performed when indicated;

(III) have been or are likely to be problem prone;

(IV) are related to determining the appropriateness of admissions and continued hospitalizations; and

(V) reflects the population served by the HMO in terms of age groups, disease categories, and special risk status;

(ii) data related to the provision of care and services, as follows, and which shall be submitted to the department annually by January 31 for the previous calendar year:

(I) number and frequency of visits related to prenatal care for all HMO enrollees, who were enrolled in the HMO from January 1-December 31, and delivered single or multiple live or stillborn fetuses of greater than or equal to 20 weeks gestation;

(II) childhood immunizations rates for children who were or had attained two years of age from January 1, through December 31, and were enrolled in the HMO continuously between the ages of 18 months to two years;

(III) occurrence of adverse events, as follows, related to asthma for children ages three to 18 years of age who were enrolled in the HMO for at least six consecutive months between January 1 and December 31:

department visits;
bed days;
admissions; and
of stay;

(IV) occurrence of adverse events, as follows, for asthma-related conditions, as defined the written continuous quality improvement plan, for children ages three to 18 years of age, and who were enrolled in the HMO for at least six consecutive months during the time period of January 1-December 31:

(-a-) emergency department visits;
bed days;
admissions; and
of stay;

(V) denials of covered health care services, including documentation reflecting analysis of reasons for each denial of covered health care services;

(VI) mortality;

(VII) co-morbidity;

(VIII) complications;
and

(iii) additionally, data related to utilization management activities, which shall be submitted to the department annually by January 31 for the previous calendar year; utilization management activities shall be performed as part of and in accordance with the written continuous quality improvement plan, and which shall include written procedures to develop, compile, maintain and analyze raw data, and to report analysis of the data collected, relating to the following:

(I) cost of operation, by reporting the ratio of operating expense to operating profit;

(II) the pattern of utilization of health care services actually furnished by the HMO to its enrollees, by reviewing patterns of clinical care and services rendered;

(III) analysis of criteria, set out in the written continuous quality improvement plan, related to availability, accessibility, and continuity of health care and non-clinical services offered to and furnished by the HMO to its enrollees;

(IV) analysis of referral trends;

(V) analysis of the pre-hospitalization admission program;

(VI) analysis of the hospital inpatient monitoring program;

(VII) analysis of the discharge planning procedure; and

(VIII) analysis of enrollee participation in HMO programs, as defined in the health care plan, which are designed to prevent disease and to promote wellness, including analysis of effectiveness of HMO efforts to promote enrollee participation in preventive medicine programs;

(2) definition of clinical quality indicators, and indicators related to health services delivery, in the written continuous quality improvement plan and documentation reflecting monitoring of those indicators over a period of time, to assess the health care processes and outcomes of care delivered;

(3) use of clinical care standards or practice guidelines, as specified in the written continuous quality improvement plan, to assess the quality of health care services rendered by each physician and each provider in the HMO, provided however, that such clinical care standards or practice guidelines:

(A) are based on scientific evidence and are developed or reviewed by plan physicians and providers;

(B) focus on the processes and outcomes of health care delivery, as well as access to care;

(C) are updated continuously;

(D) contain quality improvement plan studies and other activities which monitor quality of care against clinical care and health care service delivery standards or practice guidelines specified for age groups, disease categories, and special risk status;

(E) are included in physician and provider manuals; and

(F) include preventive health services; and

(4) maintain documentation reflecting:

(A) the credentialing and recredentialing of all contracting physicians and providers of care, including an application which contains information on education, professional background, board certification, evidence of current hospital privileges, current relevant permit to practice in the State of Texas, a current Drug Enforcement Agency certificate and Texas Controlled Substance certificate, if applicable; and

(B) effective peer review procedure.

§119.12. Enforcement.

(a) The Texas Department of Health (department) or the commissioner may examine and use all information required by this chapter for any purpose consistent with the Health Maintenance Organization Act, Insurance Code, Chapter 20A (HMO Act) or any rule or regulation adopted thereunder.

(b) The department may certify to the commissioner of insurance that any of the following conditions exist:

(1) the health maintenance organization (HMO) does not meet the requirements as specified in the HMO Act, §20A.05(a)(2), or as specified in any rule or regulation adopted thereunder; or

(2) the HMO is unable to fulfill, or is not fulfilling, its obligation to furnish health care services as required under its health care plan or to furnish a single health care service as required under its single health care service plan.

(c) Such certification notice may constitute grounds for suspension or revocation of the HMO certificate of authority by the commissioner.

(d) The department shall send a copy of such certification notice to the affected HMO.

§119.13. Single Health Care Service.

(a) The provisions in this section apply to categories of service which a basic health care plan may choose to offer, as defined in §119.10 of this title (relating to Optional Services), and which the single health care service plan may offer to an enrolled population. The single health care service, except the service specifically excluded by law, shall be offered directly by the health maintenance organization (HMO) or by contract.

(b) This subsection applies to the single health care services which deal with specific health care situations which may require emergency intervention, as described in §119.7 of this title (relating to Emergency Medical Care). Emergency care shall be available and accessible 24 hours per day, seven days a week.

(c) This subsection applies to covered single health care services which require hospital inpatient status for the management of the single health care problem.

(1) Primary hospital care shall be available and accessible 24 hours per day, seven days a week, within the single service HMO's defined geographical service area.

(2) Specialty hospital care may be used when such a facility is available.

(3) Hospitals contracting with single health care service HMOs shall be currently licensed by the State of Texas, unless exempt from licensure requirements.

(4) An adequate number of participating single health care providers shall have admitting privileges at one or more general or specialty hospitals located within the HMO's service area to ensure that necessary admissions are made.

(d) The following requirements apply to outpatient single health care services.

(1) A sufficient number of single health care service physicians and providers (initial contact and specialists, as appropriate or required) shall be available and accessible to meet the single health care needs of enrollees. Participating initial contact (primary care) physicians and providers shall be available for emergency and urgent care after normal business hours.

(2) The method by which enrollees may secure single health care services, which require after hours or urgent response by physicians and providers, shall be clearly communicated in writing to enrollees, in the languages predominantly spoken by the enrolled population.

(e) The following requirements apply to diagnostic and therapeutic services.

(1) The single health care service which uses reference and pathological laboratory technologies in the care of patients shall provide those technologies in accordance with to §119.9 of this title (relating to Diagnostic and Therapeutic Services).

(2) The single health care service which uses diagnostic imaging or therapeutic radiology in the care of patients shall provide those procedures according to §119.9 of this title (relating to Diagnostic and Therapeutic Services).

(3) The single health care service which uses the expertise of an ancillary

health care facility or service to fulfill its obligations to enrollees shall have in effect a written contract with each facility and shall comply with all other applicable provisions in accordance with §119.10 of this title (relating to Optional Services).

(f) Other services. The following shall apply to single health care service plans:

(1) §119.1 of this title (relating to Definitions);

(2) §119.2 of this title (relating to Examinations Prior to Issuance of Certificate of Authority);

(3) §119.3 of this title (relating to On-site Examinations);

(4) §119.4 of this title (relating to Organization);

(5) §119.5 of this title (relating to Geographic Service Area);

(6) §119.10 of this title (relating to Optional Services); and

(7) §119.11 of this title (relating to Continuous Quality Improvement).

§119.14. Fees and Assessments.

(a) Original application.

(1) The Texas Department of Health (department) will notify the applicant in writing within ten working days of receipt from the Texas Department of Insurance of an original application for a certificate of authority.

(2) The applicant shall pay to the department an application fee in the amount of \$3,000 within ten working days of the applicant's receipt of the notice.

(3) The application fee is inclusive of all normal expenses of the department including application review, examination, travel, and administrative costs.

(4) The department shall give written notification to the Texas Department of Insurance whether the proposed HMO meets the requirements of this chapter within 45 days of receipt of the completed application.

(b) Examination expenses and assessments.

(1) An HMO shall pay to the department the assessments described in this subsection for the examination expense incurred under the Health Maintenance Organization Act, Insurance Code, Chapter 20A (HMO act). Examinations include on-site visits for complaint investigations, amendments to a certificate of authority which affect quality of health care services including service area expansion, and quality of care examinations under §119.2 of this title (relating to Examinations Prior to

Issuance of a Certificate of Authority) and §119.3 of this title (relating to On-site Examinations).

(2) The HMO shall pay examination expenses, which are all the expenses attributable directly to a specific examination, including the actual salaries and expenses of the examiners plus the cost of administrative departmental expenses, directly attributable to that examination.

(3) The administrative expenses directly attributable to the specific examination shall be paid at the same time as payment for the expenses described in paragraph (5) of this subsection.

(4) The examination expenses and assessments for a foreign HMO and a domestic HMO shall be calculated in the same manner.

(5) The department shall give written notice to the HMO examined of the amount due after completion of an examination. The HMO shall pay the amount within 30 days of receipt of the notice.

(c) Payment of fees.

(1) Any remittance submitted to the department in payment for a required fee or assessment must be in the form of a certified check, money order, or personal or business check made out to the Texas Department of Health.

(2) All fees and assessments received by the department are non-refundable.

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 August 1, 1995.

TRD-9509603

Susan K. Steeg
General Counsel
Texas Department of
Health

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 458-7236

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 402. Client Assignment and Continuity of Services

Subchapter C. Transfer to Vernon Maximum Security Unit

• 25 TAC §§402.71-402.86

(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 Department of Mental Health and Mental Retardation or in the Texas Register office, Room 2-15, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes the repeal of §§402.71-402.86, relating to Transfer to Vernon Maximum Security Unit. The repeal of the sections are proposed contemporaneously with the proposal of the new sections that would replace them, §§402.71-402.83, relating to Determination of Manifest Dangerousness.

The new sections update procedures to be followed in conducting hearings to determine whether or not an individual is manifestly dangerous. The new sections reflect enhanced emphasis on continuity of care for the individual found to be manifestly dangerous, providing for identifying factors which cause an individual to act in a dangerous way, focusing treatment on those factors, and ensuring that treatment is continued upon the individual's transfer to a less secure facility. The new sections update membership requirements for both the TDMHMR Review Board and the facility review boards. In addition, the new sections include a number of new provisions ensuring due process for the individual being reviewed.

Don Green, Chief Financial Officer, has determined that for each year of the first five years the sections as proposed will be in effect, there will be no additional fiscal cost to state or local government or small businesses as a result of administering the amendments as proposed. There will be no significant local economic impact. There is no anticipated cost to persons required to comply with the proposed new sections and repeals.

Dr. Steven Shon, M.D., deputy commissioner for mental health services, has determined that the public benefit of the repeal is the adoption of new sections enhancing emphasis on treatment of the factors that cause individuals to exhibit dangerous behaviors. The new sections provide procedures for ensuring that individuals receive this treatment in the most appropriate environment.

Comments on the proposed repeals may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668.

The repeals are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Code of Criminal Procedure, Articles 46.02 and 46.03.

§402.71. Purpose.

§402.72. Application.

§402.73. Definitions.

§402.74. Membership and Meetings of Review Boards.

§402.75. Information and Records to be Furnished to the Review Board by the Superintendent

§402.76. Procedures for the Determination of Manifest Dangerousness by Facility Review Boards.

§402.77. Transfer of Clients Who are Determined to be Manifestly Dangerousness to the Maximum Security Unit at the Vernon State Hospital.

§402.78. Procedure of Determination of Manifest Dangerousness by a Review Board at the Maximum Security Unit at Vernon State Hospital.

§402.79. Notice of Hearing.

§402.80. Conduct and Decorum.

§402.81. Right to Present Evidence and Argument; Swearing of Witnesses and Testimony Under Oath; Assistance of Counsel.

§402.82. Decision and Request for New Hearing by Superintendent or Client.

§402.83. Research Concerning Standards for Manifest Dangerousness.

§402.84. Memorandum of Understanding.

§402.85. Distribution.

§402.86. References.

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 August 1, 1995.

TRD-9509546

Ann Utley
Chair, Texas MHMR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: September 8, 1995

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

◆ ◆ ◆
**Subchapter C. Determination
of Manifest Dangerousness**
• 25 TAC §§402.71-402.83

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §§402.71-402.83, relating to determina-

tion of manifest dangerousness. The new sections are proposed contemporaneously with the repeal of the sections that they would replace, §402.71-402.86, relating to Transfer to Vernon Maximum Security Unit.

The new sections update procedures to be followed in conducting hearings to determine whether or not an individual is manifestly dangerous. The new sections reflect enhanced emphasis on continuity of care for the individual found to be manifestly dangerous, providing for identifying factors which cause an individual to act in a dangerous way, focusing treatment on those factors, and ensuring that treatment is continued upon the individual's transfer to a less secure facility. The new sections update membership requirements for both the TDMHMR Review Board and the facility review boards. In addition, the new sections include a number of new provisions ensuring due process for the individual being reviewed.

Don Green, Chief Financial Officer, has determined that for each year of the first five years the sections as proposed will be in effect, there will be no additional fiscal cost to state or local government or small businesses as a result of administering the amendments as proposed. There will be no significant local economic impact. There is no anticipated cost to persons required to comply with the proposed new sections.

Dr. Steven Shon, M.D., deputy commissioner for mental health services, has determined that for the first five years the sections are in effect the public benefit of the new sections is enhanced emphasis on treatment of the factors that cause individuals to exhibit dangerous behaviors. The sections provide procedures for ensuring that individuals receive this treatment in the most appropriate environment.

Comments on the proposed new sections may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668.

The new sections are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

The proposal would affect the Texas Code of Criminal Procedure, Article 46.02 and 46.03.

§402.71. Purpose. The purpose of this subchapter is to:

(1) establish the TDMHMR Dangerousness Review Board and facility review boards at mental health facilities for the purpose of determining whether an individual is manifestly dangerous;

(2) provide procedures for the transfer of an individual determined to be manifestly dangerous to the Maximum Security Unit at Vernon State Hospital;

(3) enumerate the rights of individuals with respect to the determination of manifest dangerousness process and transfer

to the Maximum Security Unit at Vernon State Hospital; and

(4) provide procedures for the transfer of an individual served at Vernon State Hospital to a less secured mental health facility.

§402.72. Application. The provisions of this subchapter apply to the mental health facilities of the Texas Department of Mental Health and Mental Retardation, with the exception of Waco Center for Youth

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

Commissioner—The commissioner of the Texas Department of Mental Health and Mental Retardation, or his or her designee.

Department—The Texas Department of Mental Health and Mental Retardation.

Facility chief executive officer (CEO)—The superintendent or director of a state hospital or state center or his or her designee.

Facility review board—A group of mental health professionals at each facility with responsibility for reviewing individuals believed to be manifestly dangerous for possible transfer to Vernon State Hospital.

Independent evaluator—An independent physician who conducts an evaluation or examination of an individual at the individual's own expense.

Individual—A person involuntarily committed to a mental health facility who is being reviewed, scheduled to be reviewed, or has been reviewed for manifest dangerousness.

Manifestly dangerous—The term used to describe an individual who, despite having appropriate treatment, remains likely to endanger others, and requires a maximum security environment in order to continue treatment and protect public safety.

Mental health facility—State hospitals and state centers providing mental health services under the jurisdiction of the Texas Department of Mental Health and Mental Retardation, with the exception of Waco Center for Youth.

Mental health professional—Professional staff attending to the needs of persons receiving mental health services who have provided direct contact services to individuals within the last five years and who have at least one year experience in mental health. Categories of mental health professionals include:

- (1) licensed physicians;
- (2) licensed psychologists and licensed psychological associates;
- (3) licensed master social workers with orders of recognition as advanced clinical practitioners; and

(4) master's level registered nurses.

Psychiatrist—A physician licensed to practice medicine in Texas who has successfully completed an approved psychiatric residency.

Representative—A lawyer or another person representing the individual at his or her request.

TDMHMR Dangerousness Review Board—The board established to review individuals served at Vernon State Hospital to determine whether they are manifestly dangerous or can be transferred to a less secure mental health facility.

§402.74. Review Boards.

(a) *Facility review board.* A facility review board will be appointed at each mental health facility to review individuals believed to be manifestly dangerous for possible transfer to Vernon State Hospital.

(1) *Membership.* Members of facility review boards will be appointed by the commissioner, who will announce appointments for each facility in the form of a letter to the person appointed, the facility CEO, and the respective facility review board chair.

(A) Each board will include five mental health professionals, with the following requirements:

(i) at least one member must be a psychiatrist, preferably with expertise in forensic psychiatry;

(ii) at least two members must be currently engaged in direct care of persons with mental illness; and

(iii) if a single portal authority (SPA) has been designated for the area, at least one member must be a mental health professional from the SPA.

(B) The commissioner will designate one member to serve as chair.

(i) If the chair is unable to serve on the facility review board for any reason, he or she will designate another member of the board to act as chair.

(ii) If the chair is unable to make such an appointment, the commissioner will make the appointment.

(2) *Alternates.* The commissioner will appoint two mental health professionals at each facility as alternates, who will serve at the request of the facility review board chair if a facility review board member is not able to attend a meeting. To ensure that a psychiatrist is always part of the facility review board, at least one of the alternates must be a psychiatrist.

(3) *Terms.* Members and alternates are appointed for a two-year term and may be reappointed. If a vacancy occurs,

the commissioner will appoint another mental health professional to serve the remainder of the vacating member's term.

(4) *Conflict-of-interest.* A member of the facility review board is disqualified from participating in a determination if the member has provided mental health services to the individual within one year of the review, has personal or professional involvement with the behavior or incident which precipitated the review, or has been a member of the individual's treatment team within the current admission. The chair must appoint an alternate to serve during that hearing.

(5) *Quorum.* Facility review board members may occasionally need to remove themselves from a hearing in the event of an emergency or if a member determines that a conflict-of-interest exists after a hearing has begun. In no case may action be taken or a determination made by a facility review board unless at least four members are participating and voting.

(6) *Evaluation of members.* The commissioner will evaluate each facility review board member's performance on an annual basis.

(7) *Legal assistance.* The attorney assigned to the facility from the department's Legal Services Division will provide legal assistance to the review board as needed.

(b) *TDMHMR Dangerousness Review Board.* The TDMHMR Dangerousness Review Board reviews individuals served at Vernon State Hospital to determine whether or not they are manifestly dangerous or must be transferred to a less secure mental health facility. Reviews are conducted in accordance with a statutorily mandated schedule.

(1) *Membership.* The TDMHMR Dangerousness Review Board membership consists of five mental health professionals.

(A) At least one member must be a psychiatrist with experience in forensic psychiatry.

(B) At least two members must be currently engaged in direct care of persons with mental illness.

(C) At least one member must have experience evaluating and treating persons with mental retardation.

(2) *Member appointments or contracts.* The commissioner will appoint or contract with a sufficient number of individuals to comprise a board which is able to meet the statutorily mandated review schedules. Contracts must include provisions which:

(A) ensure that reviews are conducted in accordance with this subchapter,

(B) allow sufficient time to meet the review schedules; and

(C) specify a mechanism for evaluating each board member's performance on an annual basis.

(3) Terms. Board member appointments or contracts will be for two-year terms. If vacancies occur, the commissioner will replace members as needed to maintain a sufficient number of qualified members necessary to accommodate the statutorily mandated review schedule.

(4) Chair. The commissioner will designate the chair of the board, who is responsible for ensuring that appropriate members and alternates to meet membership requirements outlined in paragraph (1) of this subsection are participating in each meeting.

(A) If the chair is unable to serve on the TDMHMR Dangerousness Review Board for any reason, he or she will designate another member of the board to act as chair.

(B) If the chair is unable to make such an appointment, then the commissioner will make the appointment.

(5) Conflict-of-interest. A member of the TDMHMR Dangerousness Review Board is disqualified from participating in a determination if the board member has provided mental health services to the individual being reviewed, has personal or professional involvement with the behavior or incident which precipitated the transfer of the individual to the Maximum Security Unit at Vernon State Hospital, or has been a member of the individual's treatment team within the current admission.

(6) Quorum. TDMHMR Dangerousness Review Board members may occasionally need to remove themselves from a hearing in the event of an emergency or if a member determines that a conflict-of-interest exists after a hearing has begun. In no case may action be taken or a determination made by the Review Board unless at least four members are participating and voting.

(7) Legal assistance. An attorney assigned from the department's Legal Services Division will provide legal assistance to the board as needed.

(c) Orientation and training. The department will provide a uniform orienta-

tion for new members and alternates of all review boards and annual relevant training for all members and alternates.

(1) Training will utilize current professional literature and knowledge and the current "Clinical Guidelines for Assessing Individual Risk Factors", which is maintained by the CEO and clinical director of Vernon State Hospital and periodically updated with relevant clinical information for risk assessment.

(2) Completion of the orientation and annual training is required for continued membership.

§402.75. Persons Not Subject to Manifest Dangerousness Hearings by Facility Review Boards. A facility review board is prohibited from conducting a review for manifest dangerousness on persons who are:

(1) voluntarily admitted for treatment; or

(2) under the age of 18, unless adjudicated as an adult.

§402.76. Procedures for the Determination of Manifest Dangerousness by Facility Review Boards.

(a) If the facility CEO has reason to believe that an individual is manifestly dangerous and in need of transfer to Vernon State Hospital, the facility CEO may request that the facility review board convene to consider the question.

(b) At least two days before the facility review board meets, the chair must provide notice of a manifest dangerousness review hearing using the "Facility Review Board Notice of Hearing" form, which is herein adopted by reference, copies of which are available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668. A copy of the form must be filed in the permanent clinical record of the individual. Notice must be sent to:

(1) the individual and/or legal guardian, if any;

(2) the individual's representative, if any; and

(3) with the consent of the individual or his or her legal guardian, the individual's parents, spouse, or other appropriate relative.

(c) At least one day before the facility review board meets, board members must receive any background information pertinent to the case to be reviewed, including:

(1) a full description of the alleged incident or incidents believed to indicate manifest dangerousness, including

police and/or witness reports, as appropriate and available;

(2) a statement from the individual and his or her representative concerning the alleged incident or incidents believed to indicate manifest dangerousness, unless the individual or his or her representative does not wish to submit a statement; and

(3) information relating to the individual's treatment.

(d) During the hearing, the facility review board must:

(1) consider all pertinent and relevant information regarding the individual, including:

(A) the information outlined in subsection (c) of this section; and

(B) a complete clinical history and assessments which:

(i) identify factors that precipitate or contribute to dangerousness utilizing the current "Clinical Guidelines for Assessing Individual Risk Factors", as described in §402.74 of this title (relating to Membership, Meetings, Orientation, and Training of Review Boards);

(ii) review past and current treatment efforts, including all relevant social and legal history, and treatment plan changes that targeted the dangerousness; and

(iii) evaluate the individual's response to treatment efforts to determine whether the individual is currently manifestly dangerous; and

(2) conduct a personal interview of the individual, unless he or she refuses to be interviewed.

(d) Only facility review board members and the individual and his or her guardian and/or representative may participate in the hearing or interview, except that at the facility review board's request and with the consent of the individual or his or her legal guardian, professional trainees may attend the hearing or interview as part of their educational training. This does not preclude the review board from requesting that persons attend part of the proceedings to provide testimony or technical assistance.

(e) Only facility review board members may participate in its final deliberations

(1) If during deliberations the review board determines that it requires additional information, it may cease deliberating and reopen the hearing.

(2) The individual and his or her guardian and/or representative must be allowed to attend and participate in the reopened hearing.

(f) An individual may only be transferred to the Maximum Security Unit of Vernon State Hospital if the facility review board makes a determination that the individual's current behavior is manifestly dangerous. Such a determination may only be made if the evidence indicates that:

(1) the individual is receiving appropriate treatment, including treatment targeted to addressing the individual's dangerousness; and

(2) the individual requires a maximum security environment to continue treatment and ensure public safety.

(g) The facility review board's written report of the determination will be submitted to the facility CEO and a copy filed in the permanent clinical record of the individual.

(1) A determination that an individual is manifestly dangerous requires a unanimous vote.

(2) If a decision of the facility review board is not unanimous, any member of the facility review board may prepare a written dissent, stating the reason for such dissent. Dissents will be filed in the permanent clinical record of the individual, and a copy will be provided to the facility CEO, the facility review board chair, and the commissioner.

(h) If, while awaiting transfer, it becomes apparent that the individual is no longer manifestly dangerous, the facility review board must be reconvened in accordance with the procedures in this section.

(i) Facility review board hearings, with the exception of final deliberations, must be tape-recorded or otherwise recorded, with the recording made a part of the individual's medical record.

§402.77. Procedures for the Determination of Manifest Dangerousness by the TDMHMR Dangerousness Review Board.

(a) The TDMHMR Dangerousness Review Board must meet at least once each month to conduct reviews as mandated by the Texas Code of Criminal Procedure, Article 46.02, §8(a) and Article 46.03, §4(b). Additional meetings may be requested by the facility CEO.

(1) Within 60 days of admission or transfer to the Maximum Security Unit of Vernon State Hospital, each individual must be reviewed by the Review Board for the determination of manifest dangerousness as required by the Texas Code of Criminal Procedure, Article 46.02, §8(a), and Article 46.03, §4(b).

(2) Each individual must be reviewed at least every six months thereafter.

(3) An individual may be referred for review earlier than that by showing good cause, if approved by the CEO of Vernon State Hospital. For the purposes of this subsection, good cause is defined as sufficient change in condition to be deemed as not manifestly dangerous by the individual's physician and treatment team or by an independent evaluator.

(b) At least fourteen days before a scheduled monthly meeting, the CEO of Vernon State Hospital must provide the chair of the TDMHMR Dangerousness Review Board with:

(1) a list of individuals to be reviewed by the board; and

(2) pertinent clinical, social, and legal data of each individual on the list

(c) At least seven days before a scheduled monthly meeting, the appropriate physician and treatment team or independent evaluator shall provide to the TDMHMR Dangerousness Review Board for each individual being reviewed a comprehensive individual assessment of risk for the occurrence of manifestly dangerous behaviors utilizing the Directions for Compiling a Comprehensive Individual Assessment of Risk for the Occurrence of Manifestly Dangerous Behaviors, and other materials as appropriate.

(1) If the physician and treatment team of an individual or an independent evaluator recommend transfer from Vernon State Hospital to a less secure mental health facility because the individual's dangerousness is sufficiently in remission, then the physician and treatment team or independent evaluator must also provide an assessment and attestation of the availability of effective treatment in a less secured setting.

(2) The assessment must include an analysis of the level of external controls needed to ensure the continuity of safe and effective treatment and the type of mental health commitment needed to support these.

(d) At least seven days before a hearing is held, the TDMHMR Dangerousness Review Board chair must provide notice of a manifest dangerousness review hearing using the "TDMHMR Dangerousness Review Board Notice of Hearing" form, which is herein adopted by reference, copies of which are available from the Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668. A copy of the form must be filed in the permanent clinical record of the individual. Notice must be sent to:

(1) the individual and/or legal guardian, if any;

(2) the individual's representative, if any; and

(3) with the consent of the individual or his or her legal guardian, the individual's parents, spouse, or other appropriate relative.

(e) During the hearing, the TDMHMR Dangerousness Review Board must:

(1) review all pertinent and relevant information provided about the individual; and

(2) conduct a personal interview of the individual, unless the individual refuses to be interviewed

(f) Only TDMHMR Dangerousness Review Board members and the individual and his or her guardian and/or representative may participate in the hearing or interview. This does not preclude the Review Board from requesting that persons attend part of the proceedings to provide testimony or technical assistance

(g) Only TDMHMR Dangerousness Review Board members participate in its final deliberations

(1) If during deliberations the Review Board determines that it requires additional information, it may cease deliberating and reopen the hearing

(2) The individual and his or her guardian and/or representative must be allowed to attend and participate in the reopened hearing.

(h) Based upon the information gathered from subsection (e) of this section, the TDMHMR Dangerousness Review Board will determine whether or not each individual reviewed is manifestly dangerous. A written report of each determination, including reasons for the determination, must be submitted to the CEO of Vernon State Hospital and a copy filed in the permanent clinical record of the individual

(1) A determination that an individual is not manifestly dangerous requires a unanimous vote.

(2) If a decision of the board is not unanimous, any member may prepare a written dissent, stating the reason for such dissent. The dissent must be filed in the permanent clinical record of the individual and a copy provided to the CEO of Vernon State Hospital and the Review Board chair.

(i) If the Review Board determines that an individual is manifestly dangerous, then the individual must remain at the Maximum Security Unit at Vernon State Hospital for continued treatment.

(j) If the Review Board determines that an individual is not manifestly dangerous, then the individual must, within 30 days of the determination, be transferred to a less secure mental health facility recom-

mended by the Review Board in accordance with procedures outlined in §402.78(b) of this title (relating to Transfer of Individuals).

(1) If the less secure mental health facility serving the individual's county of residence is not suitable for the individual's continued treatment needs, then the Review Board may recommend another less secure mental health facility.

(2) In order to establish a new county of residence:

(A) the individual's physician and treatment team at Vernon State Hospital must establish that a facility serving the new county of residence would ensure appropriate treatment;

(B) the individual and/or legal guardian and, with the individual's consent, family members must agree with the proposed change; and

(C) the CEO of Vernon State Hospital must accomplish transfer of residency and treatment responsibility by communicating with:

(i) the mental health authorities of the original county of residence and the proposed county of residence; and

(ii) the CEO of the proposed less secure mental health facility.

(k) TDMHMR Review Board hearings, with the exception of final deliberations, must be tape-recorded or otherwise recorded, with the recording made a part of the individual's medical record.

§402.78. *Transfer of Individuals.*

(a) Transfer to the Maximum Security Unit at Vernon State Hospital.

(1) When an individual has been determined to be manifestly dangerous by a facility review board:

(A) the clinical findings and security needs of the individual must be immediately submitted to the CEO of Vernon State Hospital; and

(B) the appropriate physician and treatment team at the Maximum Security Unit at Vernon State Hospital communicate with the sending physician and treatment team regarding the characteristics and treatment needs of the individual in order to establish a liaison for ongoing reports and collaboration regarding the individual's progress and eligibility for transfer back to the sending facility or community setting, as appropriate.

(2) The sending facility is responsible for the individual's transportation.

(3) The sending facility must notify the committing court of transfer when it occurs.

(b) Transfer from the Maximum Security Unit at Vernon State Hospital.

(1) The physician and treatment team of the individual at Vernon State Hospital must communicate with the receiving physician and treatment team regarding the individual's characteristics and treatment needs to facilitate successful transition and continued treatment. The assessment and attestation documentation provided to the TDMHMR Dangerousness Review Board as well as the board's summary and findings must be included in the individual's permanent clinical record, which must be transferred with the individual.

(2) Staff at Vernon State Hospital must notify the committing court and any other persons who need to be informed of the transfer.

(3) Upon completion of the transfer, the receiving facility must contact the committing court to establish communication between the new facility and the court (e.g., inform court of new contact concerning the individual).

(4) If the individual is transferred to a less secure mental health facility in accordance with procedures of this subchapter, then the individual may not be made subject to another hearing to determine manifest dangerousness unless the facility CEO has cause to believe that a change in the individual's condition is sufficient to warrant a new hearing.

(c) Transfer, furlough, or discharge to community setting. Treatment teams must include risk assessment in considering the transfer, furlough, or discharge to a community setting of each individual who has previously been found manifestly dangerous and subsequently received services at the Maximum Security Unit at Vernon State Hospital.

(1) The facility review board must provide consultation, including recommendations, as appropriate, to the individual's treatment team utilizing procedures outlined in §402.76(c) of this title (relating to Procedures for the Determination of Manifest Dangerousness by Facility Review Boards).

(2) Prior to transfer, furlough, or discharge, the requirements for attestation of availability of appropriate services must be conducted utilizing the "Directions for Compiling a Comprehensive Individual Assessment of Risk for the Occurrence of Manifestly Dangerous Behaviors."

§402.79. *Procedures for Hearings.*

(a) In a review board hearing, the individual is entitled to representation. If the individual does not have a representative and requests one, then the facility CEO must appoint an individual on the facility's staff who is not directly connected with the individual's treatment to assist the individual at the hearing.

(1) The individual may waive representation in writing.

(2) If the individual does not have the capacity to make this determination, representation will automatically be provided.

(b) The individual and his or her representative, if any, must have the opportunity to:

(1) participate in all stages of the hearing except during final deliberations of the review board;

(2) present witnesses on the individual's behalf;

(3) respond and present evidence and argument on all issues involved; and

(4) cross-examine witnesses.

(c) In connection with any hearing held before a review board, the review board may swear or affirm witnesses and take their testimony under oath.

(d) All parties, witnesses, attorneys, or other representatives must conduct themselves in all proceedings governed by this subchapter with proper dignity, courtesy, and respect for the department, the review board, and members of the review board. Disorderly conduct will not be tolerated. Attorneys and other representatives must observe and practice the standards of ethical behavior prescribed for attorneys at law by the State Bar of Texas.

§402.80. *Request and Decision for New Hearing by CEO or Individual.*

(a) Facility review boards.

(1) If the individual or his or her representative believes that a fair hearing did not occur, he or she may request that the facility CEO review the issue. If the CEO agrees that a procedural error may have affected the outcome of the hearing, the CEO may reconvene the facility review board to hold a new hearing.

(2) If the facility CEO or the individual or his or her representative disagrees with the facility review board's determination, he or she may appeal the decision to the TDMHMR Review Board by submitting a written notice of the matter and other necessary supporting documents to the chair of the TDMHMR Review Board.

(A) The chair of the TDMHMR Review Board will distribute the notice and supporting documents to the other members of the Board. Each member will notify the chair of his or her recommendation to uphold or overturn the facility review board's decision within 30 days of receipt of the information.

(B) If there is not a unanimous decision, the chair will convene the TDMHMR Review Board within 45 days of the chair's receipt of the written notice to conclude whether to overturn or uphold the facility review board's decision. The meeting may be convened by teleconference.

(C) Transfer of the individual to Vernon State Hospital, if ordered, does not have to be stayed pending appeal.

(b) TDMHMR Dangerousness Review Board.

(1) If the CEO of Vernon State Hospital disagrees with the TDMHMR Dangerousness Review Board's determination, the CEO may appeal the determination to the commissioner by submitting a written notice of the matter and other necessary supporting documents. The commissioner must make a decision concerning the matter within 45 days.

(2) The CEO of Vernon State Hospital may request a new hearing by the TDMHMR Dangerousness Review Board at any time if there is cause to believe that a change in the individual's condition is sufficient to warrant a new hearing.

(3) The individual or his or her representative may request a new hearing by the TDMHMR Dangerousness Review Board and will be granted a new hearing upon showing of good cause. For the purposes of this subparagraph, good cause is defined as sufficient change in condition to be deemed as not manifestly dangerous by the individual's physician and treatment team or by an independent evaluator.

(4) The TDMHMR Dangerousness Review Board may grant a new hearing at any time upon request of the CEO of Vernon State Hospital or upon its own motion.

§402.81. Research Concerning Standards for Manifest Dangerousness.

(a) As a service to review board members, the CEO of Vernon State Hospital will provide review board members with a non-inclusive compilation of current clinical or scientific literature that contain information useful to their deliberations.

(b) Review board members and alternates are expected to be informed of

modern clinical and scientific information relevant to prediction of violence and determination of manifest dangerousness.

§402.82. Distribution.

(a) This subchapter will be distributed to all members of the Texas Board of Mental Health and Mental Retardation; the TDMHMR medical director, deputy commissioners, associate deputy commissioners, assistant deputy commissioners, and directors of central office; CEOs of all department facilities; and members of all review boards.

(b) The facility CEO will be responsible for the distribution of copies of this subchapter to all appropriate staff members.

(c) The CEO of Vernon State Hospital will be responsible for ensuring that this subchapter is explained and copies made available upon request to all staff members of the Maximum Security Unit of Vernon State Hospital.

(d) A copy of this subchapter will be provided upon request to individuals subject to its provisions and their representatives.

§402.83. References. Reference is made to the following statutes and rules:

(1) Texas Code of Criminal Procedure, Article 46.02; and

(2) Texas Code of Criminal Procedure, Article 46.03.

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 August 1, 1995

TRD-9509545

Ann Utley
Chair, Texas MHMR Board
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption: September 8, 1995

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

The Texas Department of Human Services (DHS) proposes amendments to §§15.433,

15.435, 15.455, 15.465, 15.500, 15.610, and 15.623, in its Medicaid Eligibility rule chapter because federal and state funding for the §1929(b) program ends, effective October 1, 1995.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the proposed sections will be in effect is an estimated additional cost of \$2, 580,339 for fiscal year 1996; \$12,701,929 for fiscal year 1997; \$13,479,314 for fiscal year 1998; \$14,302,200 for fiscal year 1999; and \$15,179,785 for fiscal year 2000.

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 section will be that DHS will remain within its appropriated budget. Clients served by the §1929(b) program will be transferred to the Community Based Alternatives Waiver or the Family Care program. 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 Judy Coke, at (512) 450-3227 in DHS's Long Term Care Division. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-516, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

Subchapter D. Resources

• **40 TAC §15.433, §15.435**

The amendments are proposed 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 amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

§15.433. Transfer of Resources Penalty Period.

(a) The penalty period begins with the month the transfer occurred. For resources transferred in different months, penalty periods run concurrently. The penalty applies only to nursing facility care and home/community-based waiver services (Type Program 19). If a transfer occurred with the client's knowledge and consent, the department considers the fair market value of the resource at the time of transfer in order to determine the penalty period. The client remains eligible for all other Medicaid benefits and continues to receive

a monthly identification form. Both the client and the service provider are notified of the penalty period SSI clients or clients in the community who are eligible under Type Program 03, 11, 18, or 22 [or 1929(b)] may transfer resources without penalty provided they do not become institutionalized. For community-based MAO clients, except Type Program 19, the department gathers information about transfers occurring on or after July 1, 1988, and notifies the client of potential penalty if he is institutionalized. Type Program 19 clients may be ineligible for home/community-based waiver services [for up to 30 months] if the transfer results in any uncompensated value.

(b) (No change.)

§15.435. *Liquid Resources.*

(a)-(b) (No change)

(c) Patient trust funds and nursing facility refunds.

(1) (No change.)

(2) A nursing facility must refund any advance payments made by the client for periods that are also covered by Medicaid following certification. [This refund policy also applies to home health agencies for 1929(b) clients.] The refund becomes a countable resource as of 12:01 a.m. on the first day of the month after the month of receipt.

(d)-(o) (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 August 2, 1995.

TRD-9509612

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

Proposed date of adoption. October 1, 1995

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

◆ ◆ ◆
Subchapter E. Income

• 40 TAC §15.455, §15.465

The amendments are proposed 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 amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

§15.455. *Unearned Income.*

(a) (No change.)

(b) Support and maintenance (S/M). The following requirements apply to support and maintenance.

(1) Support and maintenance not counted as income. Support and maintenance are not counted as income if:

(A) eligibility is being tested for a waiver program; for example, Community Living Assistance and Support Services (CLASS), the Community Based Alternative Program [Nursing Facility Waiver (NFW)], Home and Community-Based Services (HCS), and Medically Dependent Children's Program (MDCP) [The 1929(b) program is not a waiver program];

(B)-(I) (No change.)

(2) (No change.)

(3) Support and maintenance when the client resides in the household of another person

(A) (No change.)

(B) 1/3 FBR plus \$20 as S/M.

(i) (No change.)

(ii) If the client's eligibility is based on institutional income criteria; that is, the client is [1929(b) or] Type Program (TP) 51, Status-in-Group (SIG) J, then count 1/3 FBR plus \$20 as S/M. If the client is income-eligible, no further development is required. If counting 1/3 FBR plus \$20 causes ineligibility, prior to denial the client must be given an opportunity to rebut and show that the actual value is less.

(iii)-(iv) (No change.)

(4)-(9) (No change.)

(c)-(e) (No change.)

§15.465. *Income Exclusions.*

(a) General exclusion. For each month, the first \$20 of unearned or earned income is excluded. This exclusion is applied first to unearned income, then to earned income if the unearned income is less than \$20. If no unearned income exists, the entire \$20-exclusion is applied to the earned income. Exceptions are as follows:

(1)-(2) (No change.)

(3) The \$20-general exclusion does not apply to Type Program 14 [and 1929(b)] cases.

(b)-(h) (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 August 2, 1995.

TRD-9509613

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

Proposed date of adoption: October 1, 1995

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

◆ ◆ ◆
Subchapter F. Budgets and
Payment Plans

• 40 TAC §15.500

The amendment is proposed 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 implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

§15.500. *Nonvendor Living Arrangements.*

(a) The department determines eligibility for individuals and couples (in nonvendor living arrangements) who:

(1) (No change.)

(2) apply for or have eligibility redetermined under Type Program 03[, the Social Security Act, 1929(b)(2)(B)], or TP51J criteria;

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

(b) The department uses the full SSI-payment standard (in a nonvendor individual budget) for a client or the special income limit for [the Social Security Act, 1929(b)(2)(B), or] a TP51J client and considers only his income. The department prepares an individual budget if the client is single, widowed, or divorced; or a married person who is:

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

(c) The department prepares a companion budget, using the full SSI federal benefit rate for an individual, if a client lives with his ineligible spouse during any part of a calendar month. [The department prepares companion budgets for 1929(b) clients using the department's special income limit.] The income of the ineligible spouse may be deemed available to the client (except for TP51J clients).

(d) (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 August 2, 1995

TRD-9509614 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: October 1, 1995

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

Subchapter G. Application for Medicaid

• 40 TAC §15.610. §15.623

The amendments are proposed 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 amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.042

§15.610. Medicaid Coverage.

(a) For payment purposes, there are four types of Medicaid coverage

(1) regular coverage The department pays a premium to cover the cost of services provided by physicians and hospitals. Other services, such as drugs and nursing facility care, are paid for directly by the department.

(2) institutional coverage The department pays the Department of Mental Health and Mental Retardation to provide all Medicaid services to eligible individuals in state schools. No premium is paid

[(3) 1929(b) coverage. The department pays for primary home care but no other Medicaid services are provided to the 1929(b) client]

(3)[(4)] qualified Medicare beneficiary Coverage. The department pays Medicare premiums, deductibles, and coinsurance for individuals who are enrolled in Medicare A, have income below the specified percentages of the federal poverty level, and have resources no more than twice the limits for the SSI program

(b)-(c) (No change)

(d) SSI-MAO eligibility requirements.

(1) General requirements. Although the applicant need not be currently eligible, he must prove that SSI-MAO re-

quirements were met in the month of requested coverage. [Except for 1929(b) clients, a] A client eligible for three months prior coverage receives a medical care identification for the retroactive period. He presents this information to providers so that claims can be filed within 90 days of the Medicaid decision. To meet requirements, the individual must have been:

(A)-(E) (No change.)

(2)-(4) (No change.)

§15.623. *Previously Completed Application for Assistance.* A previously completed application for assistance may be used in the following situations:

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

[(4) The application for assistance is referred to the eligibility specialist from staff in the Community Care for the Aged and Disabled (CCAD) program for a determination of eligibility under 1929(b), regardless of the signature date on the form.

[(5) A program transfer is being accomplished, no annual review is due, and computer edits require denial and recertification.]

(4)[(6)] An application should be accepted to protect the application file date for clients entering non-certified facilities pending certification of the facility as a Title XIX provider. If a client's application is denied because the facility has not been certified by the application due date, the previously completed application for assistance should be used whenever the facility is certified, and the original application file date is reported on the notice of application. Verification must be updated if circumstances have changed.

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 August 2, 1995

TRD 9509615 Nancy Murphy
Section Manager, Media
and Policy Services
Texas Department of
Human Services

Proposed date of adoption: October 1, 1995

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

Chapter 47. Primary Home Care

The Texas Department of Human Services (DHS) proposes amendments to §§47.1901, 47.2902, and 47.2913, concerning definitions, requesting prior approval for primary home care and prior approval renewal for primary

home care, in its Primary Home Care chapter. The purpose of the amendments is to delete references to the §1929(b) program. Federal funding for this Medicaid program will end October 1, 1995.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the amendments will be in effect is an estimated additional cost of \$2,580,339 for fiscal year 1996; \$12,701,929 for fiscal year 1997; \$13,479,314 for fiscal year 1998; \$14,302,200 for fiscal year 1999; and \$15,179,785 for fiscal year 2000.

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 that DHS will remain within its appropriated budget. Clients served by the §1929(b) program will be transferred to the Community Based Alternatives waiver or the Family Care program. 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 Maria Garcia Montoya at (512) 450-3155 in DHS's Community Care Program Services section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-537, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

General Provisions and Services

• 40 TAC §47.1901

The amendment is proposed 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 provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.041.

§47.1901. *Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

[Waiver 5-Federally approved waiver for individuals who meet income and resources criteria for Medicaid nursing home placement in Texas and who meet functional assessment and medical criteria for primary home care.]

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 August 1, 1995.

TRD-9509552

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

Proposed date of adoption: October 1, 1995

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

Service Requirements

• 40 TAC §47.2902, §47.2913

The amendments are proposed 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 provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendments implement the Human Resources Code, §§22.001-22.024 and §§32.001-32.041.

§47.2902. Requesting Prior Approval for Primary Home Care.

(a) Provider agencies must obtain, from the regional nurse, prior approval of medical need for applicants and renewal of prior approval for certain clients.

(1) [Except as indicated in paragraph (2) of this subsection, only initial] Initial prior approval of medical need by the department regional nurse is required for applicants who have a chronic medical condition causing functional impairment in personal care that is expected to be long-standing. However, annual reauthorization of service by the caseworker is required.

[(2) Annual renewal of prior approval by the department regional nurse is required for clients who are eligible under the provisions of the Social Security Act, §1929(b).]

(2)[(3)] The department regional nurse gives a time-limited prior approval for applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve in less than 12 months.

(b)-(g) (No change.)

§47.2913 Prior Approval Renewal for Primary Home Care.

(a) (No change.)

[(b) For clients who are eligible for primary home care under the provisions of the Social Security Act, §1929(b), the RN supervisor must send the following forms to the regional nurse to obtain renewal of prior approval.

[(1) summary of client need for service, if provided;

[(2) approval for CCAD services—referral response, if received from the caseworker; and

[(3) client health assessment/proposed service plan.]

(b)[(c)] The RN supervisor must submit the prior approval material to the regional nurse in time for it to be post-marked or date-stamped by the department no later than one day after the termination date of the current prior approval period. If the required forms are not submitted within this time frame, a gap in client coverage occurs.

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 August 1, 1995.

TRD-9509553

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

Proposed date of adoption: October 1, 1995

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

Chapter 48. Community Care for Aged and Disabled

Eligibility

• 40 TAC §48.2918

The Texas Department of Human Services (DHS) proposes an amendment to §48.2918, concerning eligibility for primary home care, in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to delete references to the §1929(b) program. Federal funding for this Medicaid program will end October 1, 1995.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the amendment will be in effect is an estimated additional cost of \$2,580,339 for fiscal year 1996, \$12,701,929 for fiscal year 1997; \$13,479,314 for fiscal year 1998, \$14,302,200 for fiscal year 1999; and \$15,179,785 for fiscal year 2000.

Mr. Raiford 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 that DHS will remain within its appropriated budget. Clients served by the §1929(b) program will be transferred to the Community Based Alternatives waiver or the Family Care program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section

Questions about the content of the proposal may be directed to Armando Delgado at (512) 450-3217 in DHS's Long Term Care Services section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Media and Policy Services-527, 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 amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provide the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.041.

§48.2918. Eligibility for Primary Home Care.

(a) Applicants/clients for primary home care services must meet all of the following eligibility criteria. The applicant/client must:

(1) be eligible for Medicaid outside an institution, [or be eligible under the provisions of the Social Security Act, §1929(b)(2)(B);]

(2)-(5) (No change.)

(b)-(c) (No change.)

(d) Applicants must have prior approval of medical need for primary home care from the department regional nurse. Only initial prior approval of medical need is required for applicants who have a chronic medical condition causing functional impairment in personal care that is expected to be long-standing. [Annual prior approval by the department regional nurse is required for clients who are eligible under the provisions of the Social Security Act, §1929(b).] Time-limited prior approval is given to applicants with a medical need and related functional impairment based on an acute medical condition that is expected to improve in less than 12 months. For clients who have time-limited prior approval and who request renewal of prior approval, a new physician's order is required.

(e)-(f) (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 August 1, 1995.

TRD-9509554

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

Proposed date of adoption: October 1, 1995

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

Part XII. Texas Board of Occupational Therapy Examiners

Chapter 362. Definitions

• 40 TAC §362.1

The Texas Board of Occupational Therapy Examiners proposes an amendment to §362.1, concerning Definitions. The amendment clarifies the definitions of two categories of licenses and to whom they may be issued.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 issuance of licenses to qualified occupational therapists and occupational therapy assistants. 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 Joy L. Vaughn, Acting OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provide the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§362.1 Definitions. The following words and terms, when used in these rules, shall have the following meanings, unless the context clearly indicates otherwise:

Provisional License—A license issued to an applicant holding a valid license [applicants] in good standing from another state, District of Columbia, or territory of the United States requesting licensure; [or a license issued to an applicant certified by the AOTCB and who has been employed as an OTR or COTA within the past six months in a non-licensing state,] or a license issued to an applicant certified by the AOTCB [, who has not been licensed in Texas, but] and who has been employed as an OTR or COTA within five years of the receipt date of current, complete application for licensure with TBOTE in Texas or in a non-licensing state or foreign

country. [date of application in a non-licensing state.]

Temporary License—A license issued to an applicant who meets all the qualifications for a license except taking the first available AOTCB examination after completion of all education requirements; or a license issued to an applicant certified by the AOTCB and who has not been employed as an OTR or COTA for five years or more from the receipt date of current, complete application for licensure with TBOTE. [worked as an OTR or COTA in the past five years prior to the date of application.]

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 August 2, 1995.

TRD-9509626

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995.

For further information, please call (512) 443-8202.

Chapter 365. Type of Licenses

• 40 TAC §365.1

The Texas Board of Occupational Therapy Examiners proposes an amendment to §365.1, concerning Types of Licenses. The amendment clarifies the requirements of two categories of licenses and to whom they may be issued.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 issuance of licenses to qualified occupational therapists and occupational therapy assistants. 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 Joy L. Vaughn, Acting OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provide the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§365.1 Types of Licenses.

(a)-(b) (No change)

(c) There are two types of temporary licenses:

(1) (No change)

(2) **Temporary Extended License**—The applicant is certified by the AOTCB and has not been employed as an OTR or COTA for five years or more from the receipt date of current, complete application for licensure with TBOTE. [worked as an OTR or COTA in the past five years prior to the date of application.] A temporary license is issued for a maximum of 12 months, during which time the AOTCB examination must be taken. The temporary license will be canceled if the applicant fails the certification examination and must be returned to the board. The continuing supervision by a licensed OTR is required, and the licensee shall complete additional hours of continuing education within a specified period of time as determined by the Coordinator of the Occupational Therapy Program.

(d) **Provisional License**—

(1) The applicant for a Provisional License must meet one of the following:

(A) The applicant is certified by the AOTCB, has a valid license to practice as an OTR or COTA in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of Senate Bill 690, and has been employed as an OTR or COTA in that state, District of Columbia, or territory within five years from the receipt date of current, complete application for licensure with TBOTE; [within the past five years in that state, District of Columbia, or territory;]

(B) The applicant is certified by the AOTCB and has been employed as an OTR or COTA within the past six months of the receipt date of current, complete application for licensure with TBOTE in a non-licensing state, foreign country, or state or federal government facility which does not require a license or other form of registration. [in a non-licensing state or state or federal government facility which does not require a license or other form of registration.] No extra hours of continuing education required; or

(C) The applicant is certified by the AOTCB [has not been licensed in Texas, but] and has been employed as an OTR or COTA within five years of the receipt date of current, complete application for licensure with TBOTE in Texas, a non-licensing state, foreign country, or state or federal government facility which does not require a license or other form of registration. [date of application in a non-licensing state or state or federal government facility which does not require a license or other form of registration.] Such provisional licensees shall complete extra hours of continuing education within a specified period of time as determined by the Coordinator of the Occupational Therapy Program.

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

(e)-(h) (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 August 2, 1995.

TRD-9509627

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call. (512) 443-8202

Chapter 366. Application for License

• 40 TAC §366.1

The Texas Board of Occupational Therapy Examiners proposes an amendment to §366.1, concerning Application for License. The amendment modifies which documents are included in application packets sent out to qualified occupational therapist and occupational therapy assistant applicants.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 streamlined procedure for disseminating application packets to qualified occupational therapist and occupational therapy assistant applicants. 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 Joy L. Vaughn, Acting OT Coordinator,

Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§366.1. Application for License.

(a) (No change.)

(b) Upon receipt of a request for application, the applicant will be sent a complete application packet containing an instruction sheet, application form, [a copy of the Act and rules,] and any other information required by the board.

(c)-(e) (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 August 2, 1995.

TRD-9509628

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

Chapter 367. Continuing Education

• 40 TAC §367.1

The Texas Board of Occupational Therapy Examiners proposes an amendment to §367.1, concerning Continuing Education. The amendment delineates continuing education requirements for annual license renewals and biennial license renewals.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 clarification of continuing education requirements directly related to occupational therapists' and occupational therapy assistants' license renewals. 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 Joy L. Vaughn, Acting OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§367.1. Continuing Education.

(a) (No change.)

(b) Licensees must complete 15 contact hours of continuing education each renewal year. [(from birth month to birth month)] Fifteen contact hours of continuing education must be obtained in the 12 months immediately preceding the renewal month. For example, if the next renewal month is August 1996, the continuing education must be earned between August 1, 1995 and July 31, 1996. This requirement becomes effective January 1, 1995 for renewals due beginning January 1, 1996.

(c) Licensees must complete 30 contact hours of continuing education each biennial renewal. Thirty contact hours of continuing education must be obtained in the 24 months immediately preceding the renewal month.

(d)[(c)] Record of attendance/verification for all continuing education must be submitted to the board, on the board approved Continuing Education Record Card, with the annual application for license renewal.

(e)[(d)] Continuing education hours may be earned in the following manner:

(1) Attendance at workshops, refresher courses, professional conferences, seminars, or facility based continuing education programs. Hour for hour credit on program content only. No maximum;

(2) Presentations by Licensee:

(A) Professional presentations, e.g. in-services, workshops, institutes (any presentation counted only one time). Hour for hour credit. No maximum;

(B) Community/service organization presentations (any presentation counted only one time). Hour for hour credit. Four hours maximum;

(3) Formal academic coursework:

(A) 1-2 credit hour class-7.5 contact hours;

(B) 3-4 credit hour class-15 contact hours;

(4) AOTA Self Study Series: Hour for hour credit based on the number of hours awarded by AOTA for each course. A copy of the self study completion certificate must accompany the Continuing Education Record Card at renewal;

(5) Other continuing education: Publications/Media; or research/grant activities. A request to receive credit for this category must be submitted in writing for approval to the Coordinator of Occupational Therapy a minimum of 60 days prior to the expiration of the license. If warranted, the request may be reviewed by the Continuing Education Committee for final approval.

(f)[(e)] Any deviation from the above continuing education categories will be reviewed on a case by case basis by the Coordinator of Occupational Therapy or by the Continuing Education Committee. A request for special consideration must be submitted in writing a minimum of 60 days prior to expiration of the license.

(g)[(f)] Definitions for continuing education rules.

(1) Record of Attendance/Verification-actual proof of participation in the continuing education activity(ies), shall be by submission of a Continuing Education Record Card.

(A) The Continuing Education Record Card must contain the title of the presentation, the presenter(s), the dates attended, the number of contact hours received, and a signature by the presenter, workshop coordinator, supervisor, or training coordinator verifying attendance at the stated continuing education activity(ies) for the renewal year.

(B) A licensee listing himself/herself as the presenter of a continuing education program must obtain the signature of the workshop coordinator, supervisor, or training coordinator.

(C) For formal academic coursework, an official transcript or grade report must be submitted at renewal.

(2) Contact hour=equals one clock hour of attendance.

(3) CEU-formal Continuing Education Unit. Usually one (1.0) CEU equals ten contact hours.

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 August 2, 1995.

TRD-9509629

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

Chapter 369. Display of Licenses

• 40 TAC §369.2

The Texas Board of Occupational Therapy Examiners proposes an amendment to §369.2, concerning Changes of Name or Address of Licensees. The amendment delineates which documents that licensees and applicants must submit to evidence changes in name.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 accurate documentation of legal name changes for all applicants and licensees on file with the board. 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 Joy L. Vaughn, Acting OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§369.2. Changes of Name or Address of Licensees.

(a) A licensee or applicant shall notify the board in writing of changes in name, residential and/or primary business address and/or supervisor within 30 days of such change(s). A copy of a marriage license, court decree, or divorce decree evidencing a change in name must be submitted by the licensee or applicant with any written notification in a change in name.

(b) (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 August 2, 1995.

TRD-9509630

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call: (512) 443-8202

Chapter 374. Disciplinary Actions

• 40 TAC §374.1

The Texas Board of Occupational Therapy Examiners proposes an amendment to §374.1, concerning Disciplinary Actions. The amendment clarifies remuneration as it relates to practicing occupational therapy in a manner detrimental to the public health and welfare.

John Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, 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. Maline 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 clearer delineation of one area of detrimental practice. 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 Joy L. Vaughn, Acting OT Coordinator, Texas Board of Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendment is proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by the amendment.

§374.1. Disciplinary Actions.

(a) (No change.)

(b) The Act, §30(b)(6), states "practiced occupational therapy in a manner detrimental to the public health and welfare," which is defined but not limited to the following:

(1)-(5) (No change)

(6) Intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under the Texas Health and Safety Code, §§161.091-161.094, the Social Security Act, §1128B, 42 United States Code, 1320a-7b, or the Social Security Act, §1877, 42 United States Code, 1395m or its regulations. [Appearing to refer or referring a patient to a third person for the purpose of receiving a fee or other consideration from the third person.]

(7)-(14) (No change.)

(c)-(e) (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 August 2, 1995

TRD-9509632

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: September 8, 1995

For further information, please call. (512) 443-8202

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 25. Traffic Operations

General

• 43 TAC §25.7

The Texas Department of Transportation proposes new §25.7, concerning removal and storage of spilled cargo and personal property.

Texas Civil Statutes, Article 6673g, provides authorization for the department to remove, store, and dispose of cargo and personal property spilled on the state highway system and state right of way

Section 25.7 defines the department's criteria for removal of this property, the procedures for contacting the owner of the property, the procedures for storage of the property if necessary, and the owner's responsibilities in regard to reimbursement for storage and removal costs.

Gary K. Trietsch, P.E., Director of Traffic Operations, has determined that for each year of

the first five-year period the new section is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section.

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

Mr. Trietsch has also determined for each year of the first five years the new section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that roadways on the state highway system are operated at maximum efficiency by clearing spilled cargo or personal property that may be obstructing the flow of people and goods. There will be no effect on small businesses. There may be an economic cost to persons who are required to comply with the section as proposed. These individuals will also be expected to reimburse the department for costs associated with the removal and storage of material removed from the state highway system. The cost of removal and storage cannot be determined, because it will be based on the type and amount of cargo.

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 new section. A public hearing will be held at 9:00 a.m. on Wednesday, September 6, 1995, in the first floor hearing room of the Dewitt C. Greer, State Highway Building, 125 East 11th Street, Austin, Texas, 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. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or request for alternative language or other revisions in the proposed text should be submitted in written form. 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 have special communication or accommodation needs and who plan to attend the hearing 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 78701-2483, (512) 463-8588 at least two days prior to the hearing so that appropriate arrangements can be made.

Written comments on the proposed new section may be submitted to Gary K. Trietsch, P.E., Director of Traffic Operations, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be 5:00 p.m. on September 8, 1995.

This new section is proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation and more specifically, Texas Civil Statutes, Article 6673g, which authorize the Texas Department of Transportation to remove and dispose of spilled cargo and other personal property, on state highways and right of way.

Texas Civil Statutes, Article 6673g, is affected by this new section

§25.7. Removal and Storage of Spilled Cargo and Personal Property.

(a) Purpose. Texas Civil Statutes, Article 6673g, authorizes the Texas Department of Transportation to remove and dispose of spilled cargo or other personal property on state rights of way or a portion of the roadway of the state highway system. This section prescribes the requirements and procedures for the removal of spilled cargo or other personal property from the highway system.

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

(1) Department—The Texas Department of Transportation.

(2) District—One of the 25 geographical areas managed by a district engineer, in which the department conducts its primary work activities.

(3) Hazardous material—Material as defined by the Hazardous Material Transportation Act (49 United States Code, §1801).

(4) Hazardous substance—Material as defined by the Texas Hazardous Substances Spill Prevention and Control Act (Water Code, §26.263).

(5) Spilled cargo or personal property—Material that separates from the vehicle in which it is being transported and which comes to rest within state right of way or a portion of the roadway of the state highway system.

(c) General conditions warranting removal of spilled cargo or personal property

(1) The department may, without the consent of the owner or carrier,

remove spilled cargo or other personal property from the state's right of way if the department considers this cargo or property to be blocking the roadway or endangering public safety.

(2) For each occurrence, the department will determine whether the removal of the cargo or property is warranted based on the following considerations:

(A) the safety of department employees;

(B) the safety of the public;

(C) the operation of the highway facilities;

(D) the protection of the state investment;

(E) the availability of resources for removal operations; and

(F) the availability of storage space at a department facility.

(3) If the department determines that removal is necessary, it will remove the cargo or property with as much care as is practical under the existing conditions.

(4) The department will remove cargo or property that it believes is a hazardous material or a hazardous substance in compliance with Government Code, §411.018, and the Texas Hazardous Substances Spill Prevention and Control Act, Water Code, Chapter 26, Subchapter G.

(5) The department and its employees do not assume responsibility for damage to the cargo or property resulting from removal.

(d) Notification of property owner.

(1) The department, through its local districts, will attempt to contact the owner or carrier of the cargo or property through information obtained from the property or through inquiries from the owner or carrier.

(2) If the department is unable to ascertain the identity of the property owner within 30 days of the removal, the department will dispose of the property in the manner the department deems most suitable.

(e) Storage of Cargo and Property.

(1) Removal of cargo or property may include transportation to and/or storage of the property at a site other than the spill location.

(2) The owner or carrier is responsible for the security of the cargo or

property and the integrity of any perishable goods at all times.

(3) The owner or carrier will claim and take possession of the cargo or property as soon as possible after its relocation from the spill site. The department may dispose of the cargo or property if the owner, after notification, fails to take possession of the cargo within ten days.

(4) The owner or carrier is responsible for the costs of removal and disposing of the cargo or property. The department will bill the responsible party for all costs and the responsible party shall remit the costs to the department within 30 days of the date of billing. If the responsible party fails to remit all costs, the department may refer the matter to the Office of the Attorney General for collection.

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 August 2, 1995.

TRD-9509635

Robert E. Shaddock
General Counsel
Texas Department of
Transportation

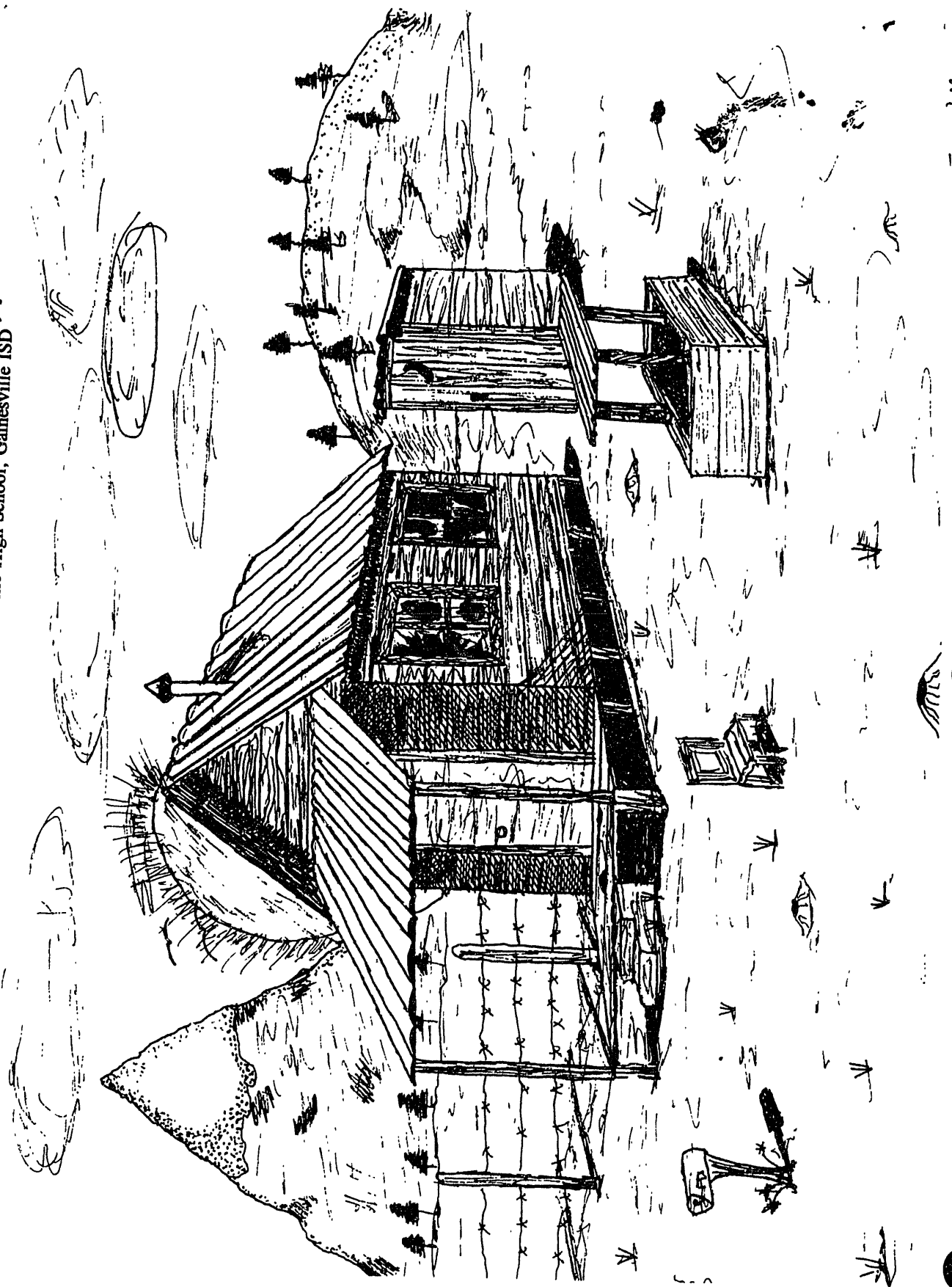
Earliest possible date of adoption: September 8, 1995

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

◆ ◆ ◆

Name: Carter
Grade: 9

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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 7. BANKING AND SECURITIES

Part II. State Finance Commission

Chapter 9. Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings

Subchapter B. Contested Case Hearings

• 7 TAC §§9.11-9.30

The State Finance Commission has withdrawn from consideration for permanent adoption a proposed new §§9.11-9.30, which appeared in the July 28, 1995, issue of the *Texas Register* (20 TexReg 5564). The effective date of this withdrawal is August 1, 1995.

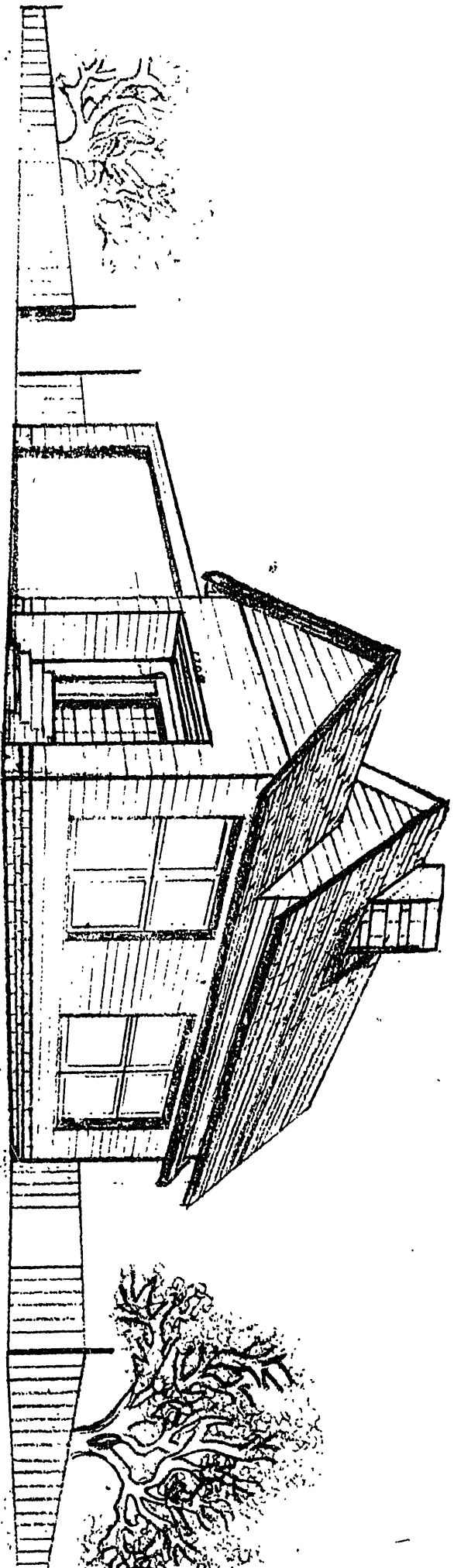
Issued in Austin, Texas, on August 1, 1995

TRD-9509576 Everette D. Jobe
 General Counsel
 State Finance Commission

Effective date August 1, 1995

For further information, please call: (512)
475-1300





Name: Perez Refugio
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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 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Commercial Carriers

• 16 TAC §5.23

The Railroad Commission of Texas adopts an amendment to §5.23, concerning cab cards for commercial carriers, without changes to the proposed text as published in the May 2, 1995, issue of the *Texas Register* (20 TexReg 3237).

The commission adopts this amendment to reduce the cost of a cab card issued to a commercial carrier to replace a previously issued cab card that has been lost, stolen, destroyed, mutilated, or becomes illegible. The amendment also permits transfer of a cab card from a motor vehicle that is retired from service to a motor vehicle which is substituted for the retired vehicle upon the filing of a report in a form prescribed by the director, accompanied by the cab card of the retired vehicle and a fee of \$1.00 for each motor vehicle so substituted.

The commission received two comments supporting the proposed amendment but no comments opposing the proposed amendment; the commission received no comments from any group or association.

The commission adopts the amendment pursuant to the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to prescribe rules and regulations for the operations of motor carriers of property; and Texas Civil Statutes, Article 6701d, §139(c) and (j), which authorizes the commission to require insurance coverage for motor carriers and to impose certain sanctions for failure to maintain the required insurance coverage.

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 authority.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509563 Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Effective date: August 22, 1995

Proposal publication date: May 2, 1995

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

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Appli- cability and Requirements

• 16 TAC §9.2

The Railroad Commission of Texas adopts an amendment to §9.2, relating to definitions, with changes to the proposed text as published in the May 23, 1995, *Texas Register* (20 TexReg 3812).

The adopted amendment which has been changed from the proposed version relates to the definitions of "nonspecification unit" and "specification unit."

The adopted amendment adds definitions for some frequently used terms, including acronyms, and to clarify some definitions. Other nonsubstantive changes include some changes in wording, punctuation, and organization to provide clearer language.

No groups or associations submitted comments. One individual submitted comments regarding seven of the definitions proposed to be amended. The commission disagrees with four of the comments (relating to "connector, gas supply," "material handling equipment," "pullaway," and "water capacity"); the revisions offered in the comments do not add any clarification to the definitions. Additionally, the commission's proposed definition for "water capacity" is more specific and follows the language in the National Fire Protection Association's Pamphlet 58, *Standard for the Storage and Handling of Liquefied Petroleum Gases*. The commission disagrees with the comments regarding the definition of "farm cart;" as far as can be determined, the LP-gas division has not approved a farm cart

with other than a single axle. The commission agrees with the suggested changes to the definitions for "nonspecification unit" and "specification unit" and has made those changes in the adopted amendment.

This amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

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

Aggregate water capacity (AWC)—The sum of all individual container capacities measured by weight or volume of water in a battery at an installation.

ANSI—American National Standards Institute.

Approved—Authorized by the commission or the Railroad Commission.

ASME—American Society of Mechanical Engineers.

ASME Code—ASME Boiler and Pressure Vessel Code.

ASME container—Any LP-gas container manufactured to the specifications of the ASME Code, Division 1, Section VIII, in effect at the time of fabrication.

Auxiliary engine—An engine which is mounted on a vehicle but used for purposes other than propelling the vehicle.

Camping trailer—A portable vehicular unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use. (See also "recreational vehicle" in this section).

Certified—Authorized to perform LP-gas work as set forth in the Texas Natural Resources Code. Employee certification alone does not allow an individual to perform those activities which require licensing.

Commercial installation—Any LP-gas installation located on premises other than a single family dwelling used as a

residence, including but not limited to a retail business establishment, school, bulk storage facility, convalescent home, hospital retail LP-gas cylinder filling/exchange operation, service station, forklift refueling facility, or private motor/mobile fuel cylinder filling operation

Connector, gas supply-The tubing or piping connecting a recreational vehicle to a gas supply source

Container-Any receptacle, such as ASME or DOT containers, designed for the transportation or storage of LP-gas, or any receptacle designed for the purpose of receiving injections of LP-gas for use or consumption by or through an LP-gas system

Dispensing system-That combination of valves, meters, hoses, piping, electrical connections, and fuel connections at a stationary installation used to distribute LP-gas to portable DOT containers or DOI/ASME mobile or motor fuel containers

DOT-United States Department of Transportation

DOT container-Any LP-gas container manufactured to DOT or ICC specifications, regardless of whether those standards are still in effect or whether those agencies assert jurisdiction over a particular container

Employee-Any individual who renders or performs any services or labor for compensation, including individuals hired on a part-time or temporary basis, on a full-time or permanent basis, or an owner-employee

Farm cart-A single-axle trailer upon which is mounted a container with a capacity of 1 000 gallons or less used to transport fuel for farm or ranch use.

Final approval-The authority issued by the commission or the Railroad Commission allowing the introduction of LP-gas into a container and system

ICC-Interstate Commerce Commission

Interim approval-The authority issued by the Railroad Commission of Texas following a public hearing allowing construction of an LP-gas installation

Licensed-Authorized to perform LP-gas activities through the issuance of a valid license

Material handling equipment-Pumps, meters, filling connections, compressors, emergency shut-off valves, and bulkheads, excluding automatic or manual dispensers, used to facilitate the flow of LP-gas

Motor home-A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle. (See also "recreational vehicle" in this section)

Nonspecification unit-An LP-gas transport not constructed to DOT MC-330 or MC-331 specifications (See also "Specification unit" in this section.)

Outlet-A site operated by an LP-gas licensee at which the business conducted materially duplicates the operations for which the licensee is initially granted a license

Property line-The boundary which designates the point at which one real property interest ends and another begins

PSI-Pounds per square inch

PSIA-Pounds per square inch absolute.

PSIG-Pounds per square inch gauge

Public transportation vehicle-A vehicle for hire to transport persons, including but not limited to taxis, buses (excluding school buses and mass transit or special transit vehicles), or airport courtesy cars.

Pullaway-The accidental separation of a hose from a cylinder, container, transfer equipment, or dispensing equipment, which could occur on a cylinder, container, transfer equipment, or dispensing equipment whether or not they are protected by a pullaway device.

Recreational vehicle-A vehicular unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or towed by another vehicle, including but not limited to a travel trailer, camping trailer, truck camper, or motor home.

Repair to container-The correction of damage or deterioration to an LP-gas container, the alteration of the structure of such a container, or the welding on such container in a manner which causes the temperature of the container to rise above 400 degrees Fahrenheit.

Representative-The individual designated by an applicant or licensee as the principal individual in authority who is responsible for actively supervising the licensee's LP-gas activities.

Special transit vehicle-A vehicle designed with limited passenger capacity which is used by a school or mass transit authority for special transit purposes, such as transport of mobility impaired persons.

Specification unit-An LP-gas transport constructed to DOT MC-330 or MC-331 specifications. (See also "Nonspecification unit" in this section.)

Subframing-The attachment of supporting structural members to the pads of a container, excluding welding directly to or on the container.

Travel trailer-A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less

than 320 square feet. (See also "recreational vehicle" in this section)

Truck camper-A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck (See also "recreational vehicle" in this section.)

Ultimate consumer-The individual controlling LP-gas immediately prior to its ignition.

Water capacity-The amount of water, in pounds or gallons, at 60 degrees Fahrenheit (15.6 degrees Centigrade) required to fill a container

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 authority.

Issued in Austin, Texas, on August 1, 1995

TRD-9509569

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Effective date: August 22, 1995

Proposal publication date: May 23, 1995

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

◆ ◆ ◆
• 16 TAC §9.33

The Railroad Commission of Texas adopts an amendment to §9.33, relating to the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee, without changes to the proposed text as published in the July 4, 1995, *Texas Register* (20 TexReg 4895).

Under the current rule, this advisory committee will be abolished on July 1, 1995, unless the commission amends the section to establish a different date; since the commission has received approval to extend the grant period, the commission extends the advisory committee through June 15, 1996. Although the grant money is available only through December 17, 1995, the additional time is necessary to ensure the completion of all required reports and activities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public. The amendment implements the provisions of Senate Bill 383, 73rd Legislature, 1993, which mandates that state agency advisory committees conform to specific requirements set forth in the 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 authority.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509571

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Effective date: August 22, 1995

Proposal publication date: July 4, 1995

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

◆ ◆ ◆
**Chapter 13. Regulations for
Compressed Natural Gas
(CNG) Fuel Systems**

**Subchapter A. Scope and Defi-
nitions**

• **16 TAC §13.3**

The Railroad Commission of Texas adopts an amendment to §13.3, relating to definitions, without changes to the proposed text as published in the May 23, 1995, *Texas Register* (20 TexReg 3814).

Section 13.3 defines terms relating to compressed natural gas equipment and installations, acronyms of associations or societies, and commission licensing procedures.

The adopted amendment adds definitions for some frequently used terms, including acronyms, and clarifies some definitions. Other proposed nonsubstantive changes include some changes in wording, punctuation, and organization to provide clearer language.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Natural Resources Code, §116.012, which authorizes the commission to adopt rules and standards relating to compressed natural gas work and operations to protect the health, welfare, and safety of the general 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 authority.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509570

Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/LP Gas
Railroad Commission of
Texas

Effective date: August 22, 1995

Proposal publication date: May 23, 1995

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

**TITLE 25. HEALTH SER-
VICES**

**Part I. Texas Department
of Health**

**Chapter 1. Texas Board of
Health**

The Texas Department of Health (department) adopts the repeal of existing §1.104 and proposed new §1.104, concerning signs on the prohibition of the sale, or provision of tobacco products to a minor under 18 years of age. New §1.104 is adopted with changes to the proposed text as published in the March 7, 1995, issue of the *Texas Register* (20 TexReg 1615).

The new signs say that the sale or provision of tobacco products to a minor under 18 years of age is prohibited by law, and that upon conviction a maximum fine of up to \$500 may be imposed. The existing signs specify that the maximum fine is \$200 for violation. This change is necessitated by the legislative change in the definition of a Class C misdemeanor. The new sign also provides a toll free hot line where individuals can acquire more information. In addition to these changes, the new signs have been enlarged and changed in color and design. The existing rule is repealed and is replaced by the new rule.

The new section will comply with the requirements of Health and Safety Code, §161.082, which requires the board to determine by rule the design and size of signs on the prohibition of the sale or provision of tobacco products to a minor under 18 years of age, and on request to provide the sign without charge to any person who sells cigarette products.

No comments were received during the comment period. However, in review of the proposed new section, department staff discovered an error in one of the sites in subsection (a). The second sentence of subsection (a) should read: "Section 161.082 also requires the Board of Health to determine the design and size of the sign."

Public Health Promotion

• **25 TAC §1.104**

The repeal is adopted under the Health and Safety Code, §161.082, which provides the Texas Board of Health with authority to adopt rules concerning the design and size of signs on the prohibition of the sale or provision of tobacco products to a minor under 18 years of age, and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

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 August 1, 1995.

TRD-9509600

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: August 23, 1995

Proposal publication date: March 7, 1995

For further information, please call: (512)
458-7236

◆ ◆ ◆
The new section is adopted under the Health and Safety Code, §161.082, which provides the Texas Board of Health with authority to adopt rules concerning the design and size of signs on the prohibition of the sale or provision of tobacco products to a minor under 18 years of age, and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

§1.104. Signs Covering the Prohibition of the Sale or Provision of Tobacco Products to a Minor Under 18 Years of Age.

(a) The Health and Safety Code, §161.081, requires that each person who sells tobacco products at retail or by vending machine shall post a sign in a location that is conspicuous to all employees and customers and that is close to the place at which the tobacco products may be purchased. Section 161.082 also requires the Board of Health to determine the design and size of the sign. To implement this provision, the Board of Health has approved a sign to be placed on vending machines and a sign to be placed close to a cash register or check-out stand. The design and minimum size of each sign are as follows.

(1) The minimum size of the sign to be posted close to the cash register or check-out stand shall be 8 1/2 by 11 inches. The sign shall be printed black on goldenrod colored paper or stock. The design of the sign, including wording and minimum print size, shall be as shown in the replica published as follows.

Figure 1: 25 TAC §1.104(a)(1)

(2) The minimum size of the sign to be posted close to the vending machine shall be three by seven inches. The sign shall be printed black on goldenrod colored paper or stock. The design of the sign, including wording and minimum print size, shall be as shown in the replica published as follows.

Figure 2: 25 TAC §1.104(a)(2)

(b) The department on request shall provide the sign without charge to any person who sells tobacco products. The department will provide the sign without charge to distributors or wholesale dealers of tobacco products in this state for distribution to persons who sell tobacco products.

(c) Requests for signs shall be made to the Texas Department of Health, Literature and Forms Division, Warehouse Facility, 1100 West 49th Street, Austin, Texas 78756-3199. A requestor shall indicate the warehouse stock number, (#4-171 for vending machine signs, #4-171A for vending machine signs in Spanish, #4-172 for cash register or check-out area signs, and #4-172A for cash register or check-out area signs in Spanish), the number of signs desired, and the person and address to whom the signs are to be mailed.

(d) Retailers and wholesalers may develop their own signs provided they meet the minimum size specifications and the designs (including wording and minimum print size) for the signs as described in subsection (a) of this section. A wholesaler or retailer may submit a sample of its proposed sign for review to the department's Office of Smoking and Health, 1100 West 49th Street, Austin, Texas 78756.

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 August 1, 1995.

TRD-9509601 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: August 23, 1995

Proposal publication date: March 7, 1995

For further information, please call: (512) 458-7236

Chapter 37. Maternal and Child Health Services

Surveillance and Control of Birth Defects

• 25 TAC §37.307

The Texas Department of Health (department) adopts new §37.307, concerning a Scientific Advisory Committee on Birth Defects in Texas, without changes to the proposed text as published in the March 7, 1995, issue of the *Texas Register* (20 TexReg 1616).

The new section is necessary to implement Health and Safety Code, Chapter 87, Birth Defects, §87.006, which requires the department to establish a scientific advisory committee on birth defects in Texas. Section 37.307 defines the committee's purposes, composition, meeting procedures and reporting responsibilities.

No comments were received regarding adoption of the new section

The new section is adopted under the Texas Health and Safety Code, Chapter 87, Birth Defects, Subchapter A, General Provisions, §87.006, which requires the department to establish a scientific advisory committee; and

Health and Safety Code, §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department, and the commissioner of health.

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 August 1, 1995.

TRD-9509599 Susan K Steeg
General Counsel
Texas Department of
Health

Effective date: August 23, 1995

Proposal publication date: March 7, 1995

For further information, please call: (512) 458-7236

Chapter 157. Emergency Medical Care

EMS Personnel Certification

• 25 TAC §157.45

The Texas Department of Health adopts an amendment to §157.45, concerning recertification of emergency medical services personnel, with changes to the proposed text as published in the March 31, 1995, issue of the *Texas Register* (20 TexReg 2377).

The amendment is needed to facilitate the processing of application and examination results, in order to comply with processing timelines established by the Health and Safety Code, Chapter 773, §773.055; as well as those defined in 25 Texas Administrative Code, §157.3, regarding processing EMS provider licenses and applications for EMS personnel certification.

The following comment was received concerning the proposed amendment.

COMMENT: Concerning §157.45(b)(1)(D), seven commenters asked that this subsection not be revised as proposed. The commenters felt that the proposed deletion of language would eliminate the definition and purpose to the continuing education (CE) evaluation. The deletion of language would also allow significant changes to be made in the CE evaluation.

RESPONSE: The department agrees with the comment and had not intended to change the CE evaluation. The language, therefore, has been retained.

The commenters were individuals who were generally in favor of the proposed amendments, however they had concerns regarding a particular subsection and offered suggestions for change

The amendment is adopted under the Health and Safety Code, Chapter 773, which provides the board with the authority to adopt rules for recertification of EMS personnel; and §12.001, which provides the board with the authority to adopt rules for the performance of

every duty imposed by law on the board, the department, and the commissioner of health.

§157.45. Recertification.

(a) General.

(1) Prior to the expiration of a certificate, the Texas Department of Health's (department) Bureau of Emergency Management (bureau) shall mail a notice of expiration by United States mail to the certificant at the address shown in the bureau's records. It is the responsibility of emergency medical services (EMS) personnel to notify the bureau of any change of address.

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

(4) If the application approval process is prolonged due to a felony/misdemeanor conviction investigation, the 90-day time period in subsection (c)(1) of this section may be extended to accommodate the candidate who is deemed eligible for recertification.

(5) An application for a lower level of certification may be submitted with the applicable fee as described in subsection (b)(1)(B) of this section if the certificant meets the requirements for the level of certification requested as described in subsection (b)(1)(A) and (C) of this section.

(b) Timely recertification.

(1) A certificant shall meet the following requirements for recertification. The certificant shall:

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

(D) complete the department's CE evaluation which shall be an attempt to measure the individual's knowledge necessary for the adequate provision of emergency care for current level of certification. The department has final authority for scheduling all written CE evaluation sessions.

(2)-(4) (No change.)

(5) In conjunction with the certificant's two-year interim CE reporting cycle, the certificant may elect to complete the CE evaluation or the certificant's medical directors, providers, first responder organizations and/or employers may mandate that the certificant complete the CE evaluation and, if applicable, one re-evaluation. The first CE evaluation shall be completed within 180 days after the deadline date of the interim two-year reporting cycle. The re-evaluation may be completed after the 180-day period. The CE evaluation results will be issued as described in paragraph (3) of this subsection.

(6) (No change.)

(c) Late recertification.

(1) If an application and the non-refundable fee for recertification, including a \$25 late fee, are postmarked within 90 days following the expiration date, the applicant shall qualify for recertification by:

(A) completing the CE requirements for recertification as required in §157.38 of this title (relating to Continuing Education); and

(B) meeting the certification requirement as described in subsection (b)(1)(C) and (D) of this section no later than 90 days from the expiration date. Certification shall continue during the 90-day period.

(2) Persons who do not complete the recertification process by the 90th day following their expiration date shall follow the procedure in subsection (d) of this section to become certified

(d) Re-entry.

(1) If an application, and non-refundable fee, for certification is received after the 90-day period beyond the expiration date of the previous certificate, but within one year following the expiration date, the applicant shall submit, in addition to the certification fee, a non-refundable late fee of \$25. The applicant is not certified during this period. If he represents himself as a certified EMS person, the applicant may be denied certification and may be subject to the civil and criminal penalties under the Health and Safety Code, §§773.063 and §773.064.

(A) A person who submitted an application, fee, and late fee if applicable under subsections (b) and (c) of this section, but who did not complete recertification requirements within the established time frames is not required to submit a new application and fee under this subsection.

(B) All requirements in subparagraph (C)(i)-(iii) of this paragraph shall be completed no later than one year from the expiration date of the most recent certificate.

(C) The applicant shall qualify for certification by successfully:

(i) completing the CE requirements for recertification as required in §157.38 of this title (relating to Continuing Education) no earlier than two years prior to the application;

(ii) completing verification of skills proficiency as described in

§157.41(a)(5) of this title (relating to Certification); and

(iii) achieving a passing grade on the certification examination as required in §157.41(a)(6) of this title (relating to Certification) and on each critical subscale. An applicant who fails the certification examination may retest one time, provided a fee of \$25, if applicable, accompanies the application for retest.

(D) A candidate who fails the retest and wishes to become certified shall take a department-approved refresher course, complete skills proficiency verification, and submit an application and non-refundable fee as appropriate prior to completing the certification examination. An applicant who fails the certification examination may retest one time provided a fee of \$25 accompanies the application for a retest. The process in this paragraph may be repeated if necessary and if time allows.

(E) A candidate who does not successfully complete the re-entry requirements in subparagraph (B), (C), or (D) of this paragraph within one year following their expiration date shall meet the requirements in paragraph (2) of this subsection prior to being eligible for certification or the requirements of §157.41 of this title (relating to Certification) as appropriate.

(2) If an application and non-refundable fee for certification and a non-refundable late fee of \$25 is received more than one year following the expiration date but within two years following the expiration date, the applicant shall qualify for recertification by completing the requirements in subsection (f)(1)(A)(i), (B)(i), or (C)(i) of this section for the appropriate level of certification. To receive credit, these requirements must be completed no earlier than two years prior to the application.

(A) Candidates completing the requirement of this subsection shall achieve a passing grade on the certification examination as required in §157.41(a)(6) of this title (relating to Certification) and on each subscale. An applicant who fails the certification examination may retest one time provided a fee of \$25 accompanies the application for a retest.

(B) A candidate who fails the retest and wishes to become certified shall take a department-approved refresher course, complete skills proficiency verification, and submit an application and non-refundable fee as appropriate prior to completing the certification exam. An applicant who fails the certification examination may

retest one time provided a fee of \$25 accompanies the application for a retest.

(C) All requirements shall be completed within two years from the expiration date of the most recent certificate.

(D) A candidate who does not successfully complete the re-entry requirements in this subsection shall meet the requirements of §157.41 of this title (relating to Certification) prior to being eligible for certification.

(e) Inactive status. A certified emergency medical technician (EMT), EMT-Intermediate (EMT-I), or EMT-Paramedic (EMT-P) may make application to the department for inactive status.

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

(f) Return into active status.

(1) To regain active status a certificant shall complete the following requirements prior to submitting an application and fee as set out in §157.41(a)(4) of this title (relating to Certification). All requirements shall be completed within the two years prior to the application.

(A) Paramedics.

(i) The paramedic shall successfully complete:

(I)-(II) (No change.)

(III) a Prehospital Pediatric Provider Course (PPPC) or Pediatric Advanced Life Support (PALS) course;

(IV)-(V) (No change.)

(ii) (No change.)

(iii) A candidate who fails and wishes to become certified shall take a department-approved refresher course, complete skills proficiency verification, and submit an application and non-refundable fee as appropriate prior to completing the certification exam. An applicant who fails the certification examination may retest one time provided a fee of \$25 accompanies the application for a retest.

(B) EMT-I.

(i) The EMT-I shall successfully complete:

(I)-(II) (No change.)

(III) a PPPC or PALS course;

(IV)-(V) (No change.)

(ii) (No change.)

(iii) A candidate who fails and wishes to become certified shall take a department-approved refresher course, complete skills proficiency verification, and submit an application and non-refundable fee as appropriate prior to completing the certification exam. An applicant who fails the certification examination may retake one time provided a fee of \$25 accompanies the application for a retake.

(C) EMT.

(i)-(ii) (No change.)

(iii) A candidate who fails and wishes to become certified shall take a department-approved refresher course, complete skills proficiency verification, and submit an application and non-refundable fee as appropriate prior to com-

pleting the certification exam. An applicant who fails the certification examination may retake one time provided a fee of \$25 accompanies the application for a retake.

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

(g) Military personnel. An individual who fails to renew certification within 90 days of the expiration date because of active duty serving outside the State of Texas, shall have one year from the date of return to the state in which to:

(1) complete department-approved CE requirements as outlined in §157.38 of this title (relating to Continuing Education);

(2)-(4) (No change.)

(h) Hardship cases. The bureau chief may review special hardship cases and allow a candidate additional time to complete requirements beyond the two-year CE reporting deadline or certification expiration

date. Although additional time may be allowed to complete requirements, certification shall not continue beyond 90 days following the certification expiration date. This subsection does not apply to re-entry or return candidates as described in subsections (d) and (f) of this section.

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 August 1, 1995.

TRD-9509597

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: August 23, 1995

Proposal publication date: March 31, 1995

For further information, please call: (512) 458-7236

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TABLES AND GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

16 TAC <*> 9.771(b)



Sale of Cigarettes or Any Tobacco Products to Persons Under Age 18

IS ILLEGAL

**Sale or Provision of Tobacco Products to a Minor Under 18
Years of Age is Prohibited by Law. Upon Conviction, a
Maximum Fine of up to \$200* May be Imposed.**

FOR INFORMATION CALL:

1-800-345-8647

**Office of Smoking and Health, Texas Department of Health
TEXAS DEPARTMENT OF HEALTH**

**Approved by Texas Board of Health, Texas Cancer Council
Supported and funded by the Texas Cancer Council**

***Section 161.081 of the Texas Health and Safety Code imposes a Class C Misdemeanor, now punishable by a fine of up to \$500.
Do not remove under penalty of law.**

FIGURE 2: 25 TAC 1.104(a)(2)

**Sale of Cigarettes or Any
Tobacco Product To Persons
Under Age 18
IS ILLEGAL**

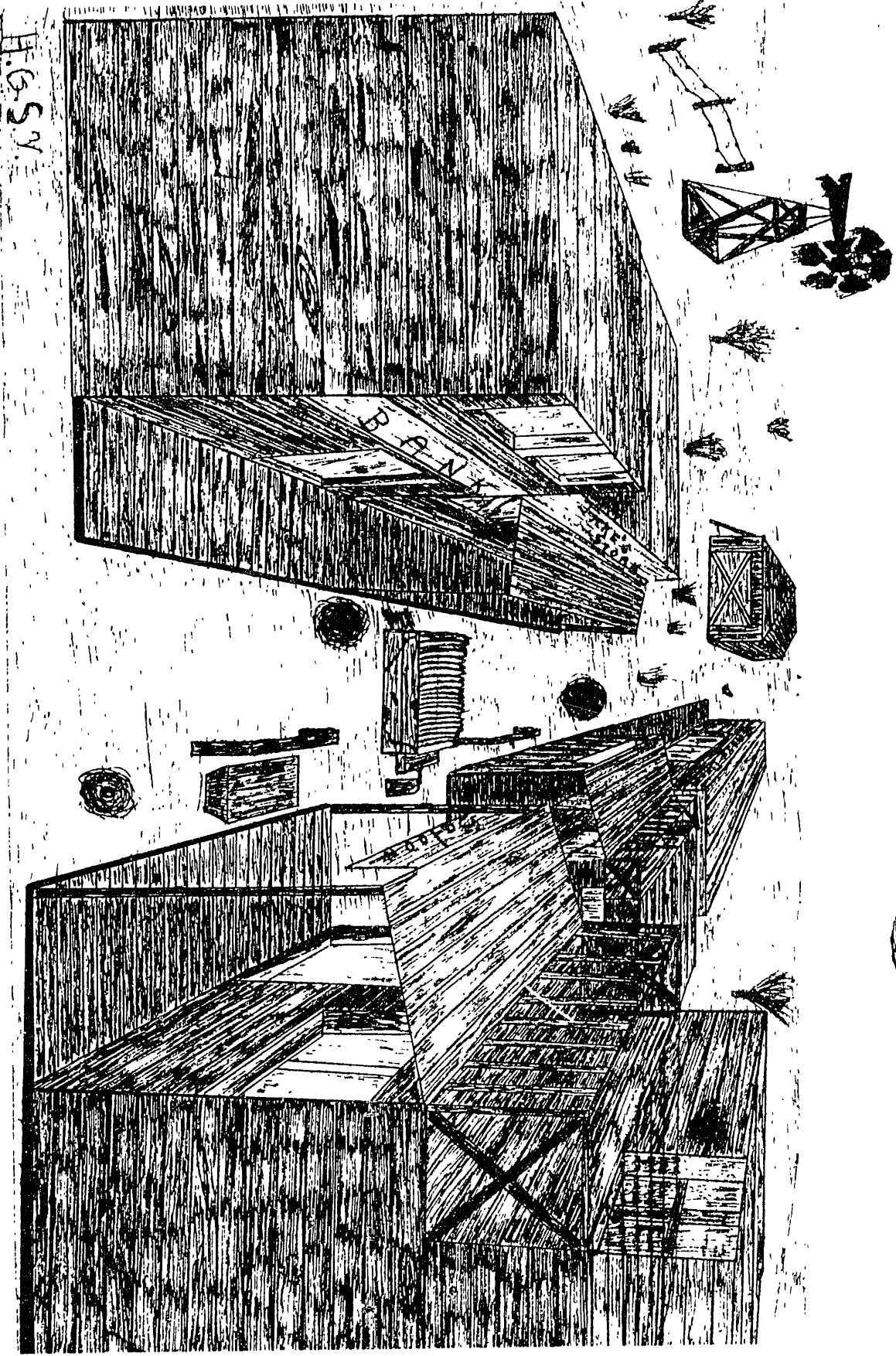
**Sale or Provision of Tobacco Products to a Minor Under 18 Years of Age is Prohibited by
Law. Upon Conviction, a Maximum Fine of up to \$200* May be Imposed.**

FOR INFORMATION CALL:

1-800-345-8647

Approved by Texas Board of Health, TEXAS DEPARTMENT OF HEALTH
Supported and Funded by the Texas Cancer Council

*Section 161.081 of the Texas Health and Safety Code imposes a Class C Misdemeanor, now punishable by a fine of up to \$500.



H.G.S.V.

Name: Humberto Garcia-Salas
Grade: 11
School: Gainesville High School, Gainesville ISD

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).

State Bar of Texas

Thursday-Friday, August 10-11, 1995,
9:30 a.m. and 8:30 a.m., respectively.

The Texas Law Center, 1414 Colorado,
Room 206

Austin

Texas Commission for Lawyer Discipline

AGENDA:

Call to order/introductions/review minutes of prior meetings/report on matters unresolved at prior meetings/review and discuss statistical reports; Commission's compliance with State Bar Act, Texas Rules of Disciplinary Procedure and Orders of the Supreme Court; budget and operations of the General Counsel and the Commission; grievance committee issues; special counsel program; mediation of disciplinary matters/presentations by trial staff regarding their dockets/Closed Session to discuss: pending litigation and evidentiary cases; assignment of special counsel to disciplinary cases; personnel matters/Public Session to discuss and take appropriate action with respect to matters discussed in closed session/discuss future meetings/discuss other matters as may appropriately come before the Commission/review public comment/adjourn.

Contact: Anne McKenna, P.O. Box 12437,
Austin, Texas 78711, 1 (800) 204-2222

Filed: August 2, 1995, 2:58 p.m.

TRD-9509672

Conservatorship Board

Tuesday, August 8, 1995, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Meeting

AGENDA

Call to order, approval of July 25, 1995 minutes; executive session to discuss personnel matters; reconvene; action on administrative hearing decisions; in the matter of the license of Gary W. Cox (#517-95-0618), in the matter of the license of Joe Bob Fisher (#517-95-0696), in the matter of the license of David M. Park (#517-95-0697), in the matter of the license of Gary P. Chambers (#517-95-0617), and in the matter of the appeal of Transitional Treatment Centers, Inc. (517-94-2099); approval of compliance guide rules; review of organizational chart; and adjournment.

Reason for emergency: Necessary for Conservatorship Board to meet in order to meet statutory mandate.

Contact: Tomm Mann, 710 Brazos, Austin,
Texas 78701, (512) 867-8809.

Filed: August 3, 1995, 9:34 a.m.

TRD-9509620

State Board of Dental Examiners

Friday, August 11, 1995, 9:30 a.m.

SBDE Offices, 333 Guadalupe, Tower
Three, Suite 800

Austin

Credentials Review Committee

AGENDA:

I Call to order

II. Roll call

III. Approval of minutes of July 14, 1995 committee meeting

IV. Review applications for licensure by credentials and make recommendations to the Board of approval or denial of said applications

V. Discuss and consider proposing amendments to Rule 101.7-licensure by credentials for dentists

VI. Announcements

VII. Adjourn

Contact: Douglas A. Beran, Ph.D., 333
Guadalupe, Tower Three, Suite 800, Austin,
Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:50 p.m.

TRD-9509593

Friday, August 11, 1995, 10:00 a.m.

SBDE Offices, 333 Guadalupe, Tower Three, Suite 800

Austin

Dental Hygiene Advisory Committee

AGENDA:

I. Call to order

II Roll call

III. Approval of minutes from July 21, 1995 committee meeting

IV. Discuss and consider rules proposed at the June 30 and July 21 meetings that define licensure by credentials for dental hygienists

V Announcements

VI. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:50 p.m.

TRD-9509589

Friday, August 11, 1995, Noon

SBDE Offices, 333 Guadalupe, Tower Three, Suite 800

Austin

Credentials Review Committee and Dental Hygiene Advisory Committee

AGENDA.

I. Call to order

II Roll call

III. Discuss and consider rules proposed at the joint meeting held on June 30, 1995 between the credentials review committee and the dental hygiene advisory committee and the July 21, 1995 dental hygiene advisory committee meeting that defined licensure by credentials for dental hygienists

IV Announcements

V. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3.50 p.m.

TRD-9509590

Friday, August 11, 1995, 2:00 p.m.

SBDE Offices, 333 Guadalupe, Tower Three, Suite 800

Austin

Board Meeting

AGENDA.

I. Call to order

II. Roll call

III. Executive Session to discuss pending litigation pursuant to Article 551.071, Texas Government Code, Texas Civil Statutes, 1994, Cause Number 94-01264-L, Dale Silver Robinowitz vs TSBDE, District Court Dallas County, 193rd Judicial District.

IV. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:49 p.m.

TRD-9509587

Wednesday, August 16, 1995, 10:00 a.m.

SBDE Offices, 333 Guadalupe, Tower Three, Suite 800

Austin

Continuing Education Committee

AGENDA:

I. Call to order

II. Roll call

III. Discuss and consider process for proposing rules to develop criteria defining continuing education requirements for dentists and dental hygienists

IV. Discuss and consider process for selecting providers to the continuing education program

V. Discuss and consider proposing rules to develop criteria for continuing education requirements for dentists and dental hygienists

VI. Announcements

VII. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:49 p.m.

TRD-9509588

Friday, August 18, 1995, 8:30 a.m.

William Hobby Building, Hearing Room 102, First Floor Lobby, 333 Guadalupe

Austin

Settlement Conference Hearing

AGENDA:

I. Call to order

II. Discuss and consider the following complaints

A. 94-183-0105K

B. 94-356-0428K

C. 95-042-0929B

D. 94-379-0509B

E. 94-216-0124K

F. 94-029-0920B

III. Executive Session to discuss pending contemplated litigation pursuant to Article 551.071, Texas Government Code, Texas Civil Statutes, 1994

A. 94-183-0105K

B. 94-356-0428K

C. 95-042-0929B

D. 94-379-0509B

E. 94-216-0124K

F. 94-029-0920B

IV. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:50 p.m.

TRD-9509591

Saturday, August 19, 1995, 8:30 a.m.

William Hobby Building, Hearing Room 102, First Floor Lobby, 333 Guadalupe

Austin

Settlement Conference Hearing

Austin

AGENDA:

I. Call to order

II. Discuss and consider the following complaints

A. 94-005-0907K

B. 94-016-0907K

C. 94-088-1104M

D. 94-282-0316S

E. 94-363-0502B

F. 95-050-1004B

III. Executive Session to discuss pending contemplated litigation pursuant to Article 551.071, Texas Government Code, Texas Civil Statutes, 1994

A. 94-005-0907K

B. 94-016-0907K

C. 94-088-1104M

D. 94-282-0316S

E. 94-363-0502B

F. 95-050-1004B

IV. Adjourn

Contact: Douglas A. Beran, Ph.D., 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 1, 1995, 3:50 p.m.

TRD-9509592

Texas Planning Council for Developmental Disabilities

Thursday, August 10, 1995, 1:00 p.m.

Hilton Hotel, 6000 Middle Fiskville Road, Hill Country A-B Room

Austin

Executive Committee Meeting

AGENDA:

Thursday, August 10, 1995

1:00 p.m.-1. Call to order

2. Public comments

3. Approval of minutes

4. Consideration of stipend funds application

5. Associate member travel policy

6. Update on federal funding

2:00 p.m.-Adjourn

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 Rosalinda Lopez at (512) 483-4094.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: August 2, 1995, 12:45 p.m.

TRD-9509648

Thursday-Friday, August 10-11, 1995, 2:00 p.m. and 9:00 a.m., respectively.

Hilton Hotel, 6000 Middle Fiskville Road

Austin

Council Meeting

AGENDA:

Thursday, August 10, 1995

2:00 p.m.-1. Call to order

2. Introductions

3. Public comments

4. Consent agenda items (marked with *)

5. * Approval of minutes

6. Advocacy and Public Information Committee report

A. Recommendations on federal legislation and policy matters

1. DD Act appropriations

2. Labor, HHHS, and education appropriations

3. Children's SSI Program proposal

4. Workforce consolidation proposals

5. Community Attendant Services Act proposal

Break

B. Discussion on other federal policy matters

C. Update on state policy issues

D. Public information report

5:00 p.m.-Recess

Friday, August 11, 1995

9:00 a.m.-Reconvene

1. Introductions

2. Continuation of unfinished business

3. Presentation: Inclusion Works! Project

4. Chair's report

5. Executive director's report

6. Executive Committee report

A. * Proposed fiscal year 1996 budget

B. * Associate member

C. Report items

7. Planning Committee report

A. * Proposed State Plan amendment

B. Report items

8. Announcements

2:30 p.m.-Adjourn

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 Rosalinda Lopez at (512) 483-4094.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4080.

Filed: August 2, 1995, 12:44 p.m.

TRD-9509647

Texas Education Agency

Monday, August 21, 1995, 9:00 a.m.

Texas Education Agency Headquarters, William B. Travis Building, 1701 North Congress Avenue, Room 1-104

Texas Environmental Education Advisory Committee (TEEAC)

AGENDA:

Welcome and introductions

Discussion of the combination of Texas Environmental Education Advisory Committee's programs

Presentation by the TEEAC fund-Funds needed during the 1995-1996 fiscal year

Subcommittee reports: Finance, Institutional Resources, Communications, Teacher Standards, Rio Grande Border Task Force

Development of plans for TEEAC staff development sites' annual meeting on September 8, 1995

Reports: TEEAC representation to other conferences, City of Austin award, announcements

Election of officers

Contact: Irene Pickhardt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9556.

Filed: August 2, 1995, 12:03 p.m.

TRD-9509643

State Employee Charitable Campaign

Wednesday, August 23, 1995, Noon.

Abilene State School, 2501 Maple Street

Abilene

Local Employee Committee-Abilene

AGENDA:

1. Review 1994 campaign

2. Plan 1995 campaign

Contact: Dixie Bassett, 240 Cypress, Abilene, Texas 79604-0082, (915) 677-1841, Fax: (915) 677-1844.

Filed: August 1, 1995, 12:53 p.m.

TRD-9509557

Office of the Governor-Criminal Justice Division

Wednesday-Thursday, August 9-10, 1995, 10:00 a.m. and 2:00 p.m., respectively. (Rescheduled from Wednesday-Thursday, August 9-10, 1995, 8:45 a.m.)

1100 North Stanton, Suite 610, Main Conference Room

El Paso

Emergency Revised Agenda

Governor's Juvenile Justice and Delinquency Prevention Board Annual Planning Meeting

AGENDA:

August 9, 1995

I. Call to order; II. Welcome; III. Approval of minutes; IV. 1997 Plan process; V. Results of public hearings; VI. Draft problem statements for the 1997 Plan; VII. Board discussion of draft problem statements; VIII. Fiscal year 1997 fund allocations; IX. Staff reports; X. Adjourn.

August 10, 1995

I. Call to order; II. Board prioritization of problem statements for the 1997 State Plan; III. Implementation; IV. Adjourn.

Reason for emergency: To meet in conjunction with the Governor's Town Hall meeting which is focusing on juvenile justice issues.

Contact: Glenn Brooks, P.O. Box 12428, Austin, Texas 78711, (512) 463-1944.

Filed: August 2, 1995, 9:13 a.m.

TRD-9509616

Friday, August 11, 1995, 10:00 a.m.

Criminal Justice Division, 221 East 11th Street, First Floor Conference Room

Austin

Governor's Planning Council for STOP, Violence Against Women

AGENDA:

I. Call to order; II. Introduction of members; III. Designation of chair and vice-chair; IV. Review of planning council's mission and tasks; V. Review Committee composition and structure; VI. Discuss members roles and challenges; VII. Develop mission statement; VIII. Discuss coordination and collaboration requirements—includes two videos; IX. Review demographics; X. Work planning; XI. Timelines; XII. Adjourn.

Contact: Carol Funderburgh, P.O. Box 12428, Austin, Texas 78711, (512) 463-1929.

Filed: August 2, 1995, 3:12 p.m.

TRD-9509675

Thursday, August 17, 1995, 10:00 a.m.

Insurance Annex Building, 221 East 11th Street

Austin

Texas Narcotics Control Program

AGENDA:

The Governor's Drug Policy Advisory Board is having a meeting to discuss the Strategy for Drug and Violent Crime Control for 1996 to be published in January 1996.

I. Call to order

II. Discussion of strategy

III. Prioritization of authorized purpose areas

IV. Adjourn

Contact: Sharon Chesnutt, P.O. Box 12428, Austin, Texas 78711-2428, (512) 463-1957.

Filed: August 1, 1995, 12:55 p.m.

TRD-9509558

Texas Department of Health

Tuesday, August 15, 1995, 9:00 a.m.

9101 Burnet Road, Room 104

Austin

Texas Department of Health/Board of Nurse Examiners Memorandum of Understanding Advisory Committee

AGENDA:

The Committee will discuss and possibly act on: introduction of committee members, Texas Department of Health (TDH) and Board of Nurse Examiners (BNE) staff and guests; drawing of terms; overview or committee's responsibilities and limitations; current TDH/BNE memorandum of understanding; and public comment.

Contact: Merrie Duflot, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6648. For ADA assistance, contact Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 2, 1995, 3:14 p.m.

TRD-9509676

Texas State Library and Archives Commission

Friday, August 18, 1995, 10:00 a.m.

Lorenzo de Zavala Building-Room 202, 1201 Brazos Street

Austin

Texas Historical Records Advisory Board

AGENDA:

1. Approval of minutes of meeting—January 25, 1995

2. Review and discussion of consultant report on statewide assessment survey and strategic plan

3. Discussion of committee assignments and responsibilities

4. Report—Status of information brochure

5. Report—Status of board appointments

6. Report—Status of NHPRC executive director and budget

7. Determination of site and date of next meeting

Contact: Chris LaPlante, P.O. Box 12927, Austin, Texas 78711, (512) 463-5467.

Filed: August 1, 1995, 3:15 p.m.

TRD-9509580

Texas Natural Resource Conservation Commission

Monday, August 28, 1995, 7:00 p.m.

Gordon Public Schools Cafeteria, 112/116 Rusk Street

Gordon

AGENDA:

On an application by Blue Flats Disposal, Inc., Proposed Permit Number MSW2247, to authorize a Type I (Landfill) municipal solid waste facility. The proposed facility covers approximately 140.872 acres of land, is to receive approximately 640 tons of solid waste per day, and is to be located on the north side of Interstate 20 at the Blue Flat/Panama Road exit, four miles east of the City of Gordon in Palo Pinto County.

Contact: Charles Stavley or Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-4756.

Filed: August 3, 1995, 8:10 a.m.

TRD-9509680

Wednesday, August 30, 1995, 9:30 a.m.

Room 201S of Building E, 12118 North IH-35, TNRCC Park 35 Office Complex

Austin

AGENDA:

For an agenda hearing to consider costs for Watermaster operations in the South Texas Water Division for fiscal year 1996, which begins on September 1, 1995. The South Texas Water Division consists of the Nueces, San Antonio, and Guadalupe River Basins, as well as the Lavaca-Guadalupe Coastal Basin, the San Antonio-Nueces Coastal Basin, and the Nueces-Rio Grande Coastal Basin, except that part of the Nueces-Rio Grande Coastal Basin located in Hidalgo, Cameron, Willacy, and Starr counties. The executive director recommends the commission set a base charge of \$50 applicable to each assessment account, a reinstatement fee of \$25 for delinquent payments, and a total amount to be assessed for collection in fiscal year 1996 of \$354,404. For a complete listing of the itemized assessment rates, contact Toby Cisneroz, 140 Heimer Road, Suite 440, San Antonio, Texas 78232-5028, or telephone him at (210) 494-3556 in San Antonio or, if long distance, dial 1-800-733-2733. Docket Number 95-1195-WR.

Contact: Toby Cisneroz, Mail Code 211, 140 Heimer Road, Suite 440, San Antonio, Texas 78232-5028, (210) 494-3556 in San

Antonio, or dial 1-800-733-2733 if long distance.

Filed: August 1, 1995, 3:19 p.m.

TRD-9509581

Wednesday, August 30, 1995, 6:00 p.m.

Fort Bend County Building and Mustang Park, 4725 F.M. 521

Fresno

AGENDA:

On an application by American 3CI, Proposed Registration Number MSW40079, to construct and operate a Type V municipal solid waste transfer facility. The proposed site contains approximately 1.944 acres of land and will accept approximately 1.5 million pounds of waste per month. The proposed facility will be located at 2725C F.M. 521N, in the City of Fresno, in Fort Bend County, Texas.

Contact: Charles Stavley or Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-4756.

Filed: August 3, 1995, 8:10 a.m.

TRD-9509681

Board of Nurse Examiners

Friday, August 18, 1995, 9:30 a.m.

9101 Burnet Road, Suite 104

Austin

Nursing Practice Advisory Committee

AGENDA:

9:30 a.m. Call to order

Roll call

Approval of minutes of April 21, 1995, meeting

Approval of agenda

9:45 a.m. Draft position statement in competency

10:30 a.m. Guidelines for renewal of expired license

10:45 a.m. Break

11:00 a.m. Guidelines for graduate nurses

11:15 a.m. Nursing issues from open discussion of April 21, 1995 meeting

1. Treatment of pain

2. Nurses employed by insurance companies as screening agents

3. Accustomation course for foreign educated nurses

Noon. Working lunch

12:45 p.m. Open discussion

1:45 p.m. Break

2:00 p.m. Comments from committee members

2:30 p.m. Comments from observers

2:40 p.m. Set agenda for next meeting

3:00 p.m. Adjourn

Contact: Kathy Burshnick, Box 140466, Austin, Texas 78714, (512) 873-6599.

Filed: August 1, 1995, 4:31 p.m.

TRD-9509594

Texas Board of Physical Therapy Examiners

Friday, August 11, 1995, 9:00 a.m.

3001 South Lamar Boulevard, Suite 101

Austin

Investigations Committee

AGENDA:

I. Call to order

II. Consideration and possible action on cases 95152, 95129, 95102, 95099, 95144, 95141, 95096, 95142, 95058, 95157, 95056, 95126, 95162, 95161, 95160, 95165, 94022

III. Consideration and possible recommendation regarding felony applicants

IV. Informal conferences: Case #95126, 94162

V. Discussion and review of ranges of disciplinary actions

VI. Adjourn

Contact: Gerard Swain, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704, (512) 443-8202.

Filed: August 2, 1995, 11:48 a.m.

TRD-9509642

Texas Department of Public Safety

Friday, August 11, 1995, 1:00 p.m.

DPS Headquarters, 5805 North Lamar Boulevard

Austin

Public Safety Commission

AGENDA:

Approval of minutes

Budget matters

Internal audit report

Personnel matters

Pending and contemplated litigation

Real Estate matters

Public comment

Miscellaneous and other unfinished business

Discharge Appeal Hearing of DPS Employee Arturo Moreno

Discharge Appeal Hearing of DPS Employee Robert Maldonado

Contact: James Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700

Filed: August 2, 1995, 3:02 p.m.

TRD-9509673

Public Utility Commission of Texas

Wednesday, August 2, 1995, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Emergency Revised Agenda

AGENDA:

In addition to the previously submitted agenda, the commissioners will also consider emergency procedures related to the State Emergency Management System because of the impending hurricane scheduled to hit the Texas Coast as early as Wednesday, August 2, 1995.

Reason for emergency: Prompt commission action is necessary in order to take action with regard to the impending hurricane scheduled to hit the Texas Coast as early as August 2, 1995.

Contact: Amalija J. Hodgins, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 1, 1995, 4:42 p.m.

TRD-9509596

Tuesday, October 24, 1995, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Hearings Division

AGENDA:

A hearing on the merits will be held at the above date and time in Docket Number 14435--Application of Southwestern Electric Power Company for approval of agreement for electric service to Eastman Chemical Company.

Contact: Amalija J. Hodgins, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 1, 1995, 10:14 a.m.

TRD-9509544

Stephen F. Austin State University

Monday, August 7, 1995, 12:30 p.m.

1936 North Street, Room 307, Austin Building

Nacogdoches

Board of Regents, Finance Committee

AGENDA

Consideration of recommendation regarding 1995-1996 budget and related agenda items. (Posted for August 7th and 8th)

Contact: Dan Angel, P.O. Box 6078, Nacogdoches, Texas 75962-6078, (409) 468-2201

Filed: August 2, 1995, 11:48 a.m.

TRD-9509640

Texas Tech University and Texas Tech University Health Sciences Center

Friday, August 11, 1995, 8:00 a.m.

Board of Regents' Meeting Room, Administration Building, Campus

Lubbock

Executive Session

AGENDA:

Approve June 9, 1995 minutes.

Consider: V.T.C.A. Government Code §551.074-Personnel matters: a. employee disciplinary matter; and b. employee evaluations and V.T.C.A. Government Code §551.071-Pending and contemplated litigation update Reports

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2138

Filed: August 1, 1995, 3:45 p.m.

TRD-9509583

Friday, August 11, 1995, 10:30 a.m. or following executive session.

104 Academic Conference Room, Administration Building, Campus

Lubbock

Campus and Building

AGENDA:

Approve June 9, 1995, committee meeting minutes. Consider.

Texas Tech University: Authorization for president to approve and submit Campus Master Plan for the University to the Texas Higher Education Coordinating Board to comply with the October 15, 1995 deadline;

renaming the Ex-Students Association Building to Gerald and Louise Merket Alumni Center Building, authorization for the president to proceed with planning, establish a project budget and appoint a project architect, approve the schematic design, authorization to proceed with contract documents and the receipt of bids and authorization for the president to award a construction contract for the renovation of Fuller Track; authorization for president to proceed with planning, establish a project budget and appoint a project architect for replacement of windows in Sneed Hall; authorization for the president to proceed with planning, establish a planning budget and appoint an architect to complete a needs analysis for Carpenter/Wells Hall; authorization for president to proceed with planning, establish a project budget, appoint a project engineer, approve schematic design and proceed with contract documents and the receipt of bids for renovation of the mechanical system in Horn/Knapp residence halls; authorization for president to proceed with planning, establish a planning budget and appoint a project architect for roof replacement on East Research Center Building; and authorization for president to approve plans and specifications and authorizes construction for the expansion of the Ronald McDonald House to provide eight additional bedrooms for temporary housing for families under care of University Medical Center Hospital. Reports.

Texas Tech University Health Sciences Center: Authorization for the president to approve and submit the Master Plan for the Health Sciences Center to the Texas Higher Education Coordinating Board to comply with the October 15, 1995 deadline; authorization for the president to proceed with planning, establish a planning budget and appoint a project architect for design and development of an Ambulatory Health Center for the TTUHSC at Odessa; authorization for the president to proceed with planning; establish a project budget, appoint a project architect, approve the schematic design and authorization for the president to proceed with contract documents and the receipt of bids for completion of the renovation of the Neurology Clinic on the third floor, Pod A, of the HSC Building, Lubbock; authorization for the president to award a construction contract for the completion of the infrastructure in Mechanical Room D, Phase I, of the HSC Building, Lubbock; and authorization for the president to proceed with planning, approve schematic design, establish a project budget, proceed with contract documents for submittal to the Texas Higher Education Coordinating Board for review and approval for completion of Phase II of the TTUHSC at El Paso. Reports.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: August 1, 1995, 3:45 p.m.

TRD-9509586

Friday, August 11, 1995, 10:30 a.m. or following executive session.

Board of Regents' Meeting Room, Administration Building, Campus

Lubbock

Finance and Administration

AGENDA:

Approve June 9, 1995, committee meeting minutes. Consider:

Texas Tech University: TTU operating budget for fiscal year 1996; revisions to Board of Regent's Policy 04.05, Contracting Policies and Procedures; approval and adoption of an amended policy statement for the investments of institutional funds of TTU, authorization to request the Texas Higher Education Coordinating Board to set a tuition rate for residents of the states of New Mexico and Oklahoma effective with the fall, 1995 semester; approval of a cooperative purchasing agreement with Houston-Galveston Area Council; approval of the exemption of senior citizens from the payment of tuition; appointment of members to the Board of Directors of the TT Foundation; acceptance of gifts-in-kind with value in excess of \$25,000; authorization to increase the price of men's and women's regular season collegiate basketball tickets; approval of an agreement for the radio rights to the men's basketball and football games; ratification of administrative actions relating to finance: a. delegation of officers and administrators to approve travel; b. delegation of officers and/or employees to approve official travel reimbursements from appropriated funds; c. delegation of officers and/or employees to authorize and approve expenditures from appropriated funds; d. specification of officers and/or employees to sign checks; e. specification of officers and/or employees to sign cashier's checks only; f. specification of officers and/or employees to authorize wire transfers, g. delegation of officers and/or employees to approve and sign documents for the sale purchase and transfer of securities owned or controlled by the University; budget adjustments for the period of May 1, 1995 through June 30, 1995; and salary adjustments to be effective September 1, 1995. Reports

Texas Tech University Health Sciences Center: TTUHSC operating budget for fiscal year 1996; revisions to Board of Regent's Policy 04.05, Contracting Policies and Procedures; approval and adoption of an amended policy statement for the investments of institutional funds of TTUHSC;

approval of the exemption of senior citizens from the payment of tuition; ratification of administrative actions relating to finance: a. delegation of officers and administrators to approve travel; b. delegation of officers and/or employees to approve official travel reimbursements from appropriated funds; c. delegation of officers and/or employees to authorize and approve expenditures from appropriated funds; d. specification of officer and/or employees to sign checks; e. specification of officers and/or employees to sign cashier's checks only; f. specification of officers and/or employees to authorize wire transfers; g. delegation of officers and/or employees to approve and sign documents for the sale, purchase and transfer of securities owned or controlled by the HSC; and salary adjustments to be effective September 1, 1995 Reports.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2138.

Filed: August 1, 1995, 3:45 p.m.

TRD-9509585

Friday, August 11, 1995, 10:30 a.m. or following executive session.

Board of Regents' Committee Room, Administration Building, Campus

Lubbock

Academic and Student Affairs and Academic, Clinical and Student Affairs

AGENDA.

Approve June 9, 1995, committee meeting minutes. Consider:

Texas Texas University: Revisions to Board of Regent's Policy 01.01, By-Laws of the Board of Regents of Texas Tech University; approval of Biennial Operating Plan for Information Resources Management for TTU; approval of ethics policy for faculty and staff; consideration of degree program leading to a Master of Arts degree in Applied Linguistics; adoption of resolution supporting Lubbock/Reese Redevelopment Committee, its goals and objectives, and the appointment of President Lawless to the committee; finding of fact regarding the appointment of an employee to another position of honor, trust or profit; and ratification of administrative actions related to academic and student affairs: a. Leaves of absence; b. commissioning of peace officers; and c. establish the Center for Financial Responsibility in the College of Human Sciences. Reports.

Texas Tech University Health Sciences Center: Revisions to Board of Regent's Policy 01.01, By-Laws of the Board of Regents of Texas University Health Sciences Center; approval of the Biennial Operating Plan for Information Resources Management for TTUHSC; approval of an ethics policy for

faculty and staff; faculty grievance policy for the School of Medicine; revision of intellectual property policy; approval of the addendum to the affiliation agreement between TTUHSC and Medical Center Hospital for funding of resident and other services; approval of the renewal of the interagency cooperation contract between TTUHSC and the Managed Health Care Advisory Committee and all related subcontracts to provide health care to prison, jail, hospital inmates and clients of the Texas Youth Commission, approval to renew the contract between TTUHSC and Midland County Hospital District for resident and faculty support; approval to renew the contract between TTUHSC and Life Management Center for Mental Health and Mental Retardation Services to provide psychiatric crisis stabilization to clients of Life Management Center; granting of academic tenure with appointment, consideration of faculty disciplinary action and notice of non-appointment, and ratification: commissioning of peace officer Reports.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: August 1, 1995, 3:45 p.m.

TRD-9509584

Friday, August 11, 1995, 10:30 a.m. or following executive session.

Board of Regents' Meeting Room, Administration Building, Campus

Lubbock

Revised Agenda

Finance and Administration

AGENDA:

Approve June 9, 1995, committee meeting minutes Consider:

Texas Tech University. TTU operating budget for fiscal year 1996; revisions to Board of Regent's Policy 04.05, Contracting Policies and Procedures; approval and adoption of an amended policy statement for the investments of institutional funds of TTU; authorization to request the Texas Higher Education Coordinating Board to set a tuition rate for residents of the states of New Mexico and Oklahoma effective with the fall, 1995 semester; approval of a cooperative purchasing agreement with Houston-Galveston Area Council; approval of the exemption of senior citizens from the payment of tuition; appointment of members to the Board of Directors of the TT Foundation; acceptance of gifts-in-kind with value in excess of \$25,000; authorization to increase the price of men's and women's regular season collegiate basketball tickets; authorize the president to award and sign an agreement for the radio rights to the men's basketball and football games; ratification

of administrative actions relating to finance: a. delegating of officers and administrators to approve travel; b. delegation of officers and/or employees to approve official travel reimbursements from appropriated funds; c. delegation of officers and/or employees to authorize and approve expenditures from appropriated funds; d. specification of officers and/or employees to sign checks; e. specification of officers and/or employees to sign cashier's checks only; f. specification of officers and/or employees to authorize wire transfers; g. delegation of officers and/or employees to approve and sign documents for the sale purchase and transfer of securities owned or controlled by the University, and budget adjustments for the period May 1, 1995 through June 30, 1995. Reports.

Texas Tech University Health Sciences Center TTUHSC operating budget for fiscal year 1996, revisions to Board of Regent's Policy 04.05, Contracting Policies and Procedures; approval and adoption of an amended policy statement for the investments of institutional funds of TTUHSC; approval of the exemption of senior citizens from the payment of tuition; and ratification of administrative actions relating to finance. a. delegation of officers and administrators to approve travel, b. delegation of officers and/or employees to approve official travel reimbursements from appropriated funds; c. delegation of officers and/or employees to authorize and approve expenditures from appropriated funds; d. specification of officers and/or employees to sign checks; e. specification of officers and/or employees to sign cashier's checks only; f. specification of officers and/or employees to authorize wire transfers; g. delegation of officers and/or employees to approve and sign documents for the sale, purchase and transfer of securities owned or controlled by the HSC Reports.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: August 3, 1995, 10:02 a.m.

TRD-9509688

Friday, August 11, 1995, 1:00 p.m.

Board Suite, Administration Building, Campus

Lubbock

Board of Regents

AGENDA:

Action and/or reports on:

Minutes; Academic and Student Affairs; Academic Clinical and Student Affairs; Finance and Administration; Campus and Building; and president's report.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: August 1, 1995, 3:45 p.m.

TRD-9509582

Friday, August 11, 1995, 1:00 p.m.

Board Suite, Administration Building, Campus

Lubbock

Revised Agenda

Board of Regents

AGENDA:

Action and/or reports on:

Minutes; Academic and Student Affairs; Academic Clinical and Student Affairs; Finance and Administration; Campus and Building; and president's report.

Revisions are as follows: Under TTU Finance and Administration, add Item IV. 9a; revise Item IV.11; delete Item IV.14. Under TTUHSC Finance and Administration, delete Item IV.6.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: August 3, 1995, 9:59 a.m.

TRD-9509687

Regional Meetings

Meetings Filed August 1, 1995

The Blanco County Appraisal District 1995 Board of Directors will meet at 200 North Avenue G, Johnson City, August 8, 1995, at Noon. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9509556.

The Permian Basin Regional Planning Commission Board of Directors will meet at 2910 La Force Boulevard, Midland, August 9, 1995, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9509579.

The South Franklin Water Supply Corporation Board of Directors will meet at the Office of South Franklin Water Supply Corporation, 4430 Highway 115, South of Mount Vernon, August 8, 1995, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9509555.

The State Preservation Board Permanent Advisory Committee will meet at the Texas Capitol Extension, Room E1.012, 1400 North Congress Avenue, Austin, August 9, 1995, at 4:00 p.m. Information may be obtained from Dealey Herndon, 1700 North

Congress Avenue, Room 1029, Austin, Texas 78701, (512) 463-5425. TRD-9509595.

Meetings Filed August 2, 1995

The Concho Valley Council of Governments Executive Committee will meet at the Horseshoe Bay Inn and Country Club, Marble Falls, August 9, 1995, at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9509622.

The Education Service Center, Region X Board of Directors will meet at 400 East Spring Valley Road, Richardson, August 9, 1995, at 1:15 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley Road, Richardson, Texas 75081, (214) 231-6301. TRD-9509674.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, August 8, 1995, at 11:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9509641.

The Hamilton County Appraisal District Board will meet at 119 East Henry, Hamilton, August 8, 1995, at 7:00 p.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945. TRD-9509646.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, August 9, 1995, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5291. TRD-9509671.

The High Plains Underground Water Conservation District Number 1 Board will meet at 2930 Avenue Q, Board Room, Lubbock, August 8, 1995, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9509639.

The Martin County Appraisal District MCAD Board of Directors will meet at 308 North St. Peter, Stanton, August 8, 1995, at 7:00 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9509678.

The Nolan County Central Appraisal District Board of Directors will meet at Betty's Breakfast, Oak Street, Sweetwater, August 15, 1995, at 7:00 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9509619.

The North Plains Ground Water Conservation District Number Two Board (Special Meeting) will meet at 603 East First, Dumas, August 8, 1995, at 1:00 p.m. Infor-

mation may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9509649.

The North Plains Ground Water Conservation District Number Two (Revised Agenda.) Board (Special Meeting) will meet at 603 East First, Dumas, August 8, 1995, at 1:00 p.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9509677.

The Quality Work Force Planning, Region VIII Upper Rio Grande Private Industry Council Board will meet at 1155 Westmoreland, Suite 211, El Paso, August 16, 1995, at 7:30 a.m. Information may be obtained from Norman R. Haley, 1155 Westmoreland, Suite 211, El Paso, Texas 79925, (915) 772-5627. TRD-9509679.

The San Antonio-Bexar County Metropolitan Planning Organization Technical Advisory Committee will meet at 434 South Main, Suite 205, San Antonio, August 8, 1995, at 9:00 a.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9509650.

The South Plains Association of Governments Executive Committee will meet at 1323 58th Street, Lubbock, August 8, 1995, at 9:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8271. TRD-9509644.

The South Plains Association of Governments Board of Directors will meet at 1323 58th Street, Lubbock, August 8, 1995, at 10:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9509645.

The Wood County Appraisal District (Rescheduled from August 8, 1995.) Board of Directors will meet at 217 North Main, Quitman, August 9, 1995, at 1:30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P. O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9509621.

Meetings Filed August 3, 1995

The Upshur County Appraisal District Board of Directors will meet at Warren and Trinity Streets, Gilmer, August 14, 1995, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9509682.

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.

Comptroller of Public Accounts Notice of International Fuel Tax Agreement

Pursuant to the Tax Code, §153.017, the Comptroller of Public Accounts announces the implementation of the International Fuel Tax Agreement. Parties interested in additional information or viewing a copy of the International Fuel Tax Agreement should contact the Comptroller of Public Accounts, Tax Administration Division, 111 West Sixth Street, Austin, Texas 78701, or call 1-800-252-1383 toll free. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621).

Issued in Austin, Texas, on August 1, 1995.

TRD-9509542 Martin E. Cherry
 Chief, General Law Section
 Comptroller of Public Accounts

Filed: August 1, 1995

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 ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	08/07/95-08/13/95	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on July 31, 1995.

TRD-9509618 Leslie L. Pettijohn
 Commissioner
 Office of Consumer Credit Commissioner

Filed: August 2, 1995

Texas Education Agency Request for Applications Concerning State Adult Education Funding for 1995-1996

Filing Authority. The availability of grant funds under Request for Applications (RFA) #701-95-043 is authorized by the Texas Education Code, §29.251.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from eligible grant recipients, including public local education agencies, public postsecondary education institutions, community-based organizations, and public nonprofit agencies to provide literacy services to adults. The state plan requires that applicants must have at least one year of experience in providing adult education and literacy services.

Description. The purpose of the adult education and literacy programs is to provide educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, including services to educationally disadvantaged adults. In addition, the programs are intended to encourage the establishment of adult education programs that will: (1) enable these students to acquire the basic educational skills necessary for literate functioning; (2) provide these adults with

sufficient basic education to enable them to benefit from job training and retraining programs and to obtain and retain productive employment so they might more fully enjoy the benefits and responsibilities of citizenship; and (3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

Eligible recipients are encouraged to maximize the state fiscal resources available for service to undereducated adults and avoid unproductive duplication of services and excessive administrative costs by coordinating and by forming consortia or cooperatives as contained in the state plan and State Board of Education (SBOE) rules for adult education. A list of the fiscal year (FY) 1994-1995 fiscal agents may be obtained from the Division of Adult and Community Education. Eligible applicants may apply and compete for funding to provide services to a school district region, a portion of a school district, multiple school district regions, a county, or multiple counties.

Dates of Project. The state adult education and literacy program will be implemented during the 1995-1996 school year. Applicants should plan for a starting date of no earlier than September 1, 1995, and an ending date of no later than August 31, 1996.

Project Amount. The application package contains details regarding available funds allocated to school district regions.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. The TEA reserves the right to select from the highest ranking applications those that address all requirements in the RFA. The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-95-043 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Dr. Pavlos Roussos, Division of Adult and Community Education, Texas Education Agency, (512) 463-9294.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m. (Central Standard Time), Wednesday, August 30, 1995, to be considered.

Issued in Austin, Texas, on August 2, 1995.

TRD-9509624 Chris Cloutd
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: August 2, 1995

Request for Applications Concerning Title I, Part A-Capital Expenses, 1995-1996

Filing Authority. The availability of grant funds under Request for Applications (RFA) #701-95-035 is authorized by Public Law (PL) 103-382, Elementary and Secondary Education Act (ESEA), Title I, Part A, §1120(e).

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from school districts that have incurred capital expenses since July 1, 1985, in serving private, religiously affiliated schools as a result of implementation of alternative delivery systems to comply with the requirements of *Aguilar v. Felton*.

Description. Under PL 103-382, §1120(e), the term "capital expenses" means expenditures for noninstructional goods and services, such as: the purchase, lease, rental, and renovation of real and personal property (including, but not limited to, mobile educational units and leasing of neutral sites or space); insurance and maintenance costs; transportation; technician costs for the supervision of computer-assisted instruction (CAI); and other comparable goods and services. Under 34 CFR, §200.16, capital expenses do not include the purchase of instructional equipment such as computers.

Dates of Project. The Title I, Part A-Capital Expenses project will be implemented during the 1995-1996 school year, starting no earlier than October 2, 1995, and ending no later than June 30, 1996.

Project Amount. A state total of \$1,270,913 is available for these projects, which are 100% funded from ESEA, as amended by PL 103-382, Title I, Part A-Capital Expenses.

Selection Criteria. Applications submitted in response to this RFA must meet the following conditions to be considered for approval.

a. The local education agency (LEA) must be planning to incur capital expenses during the 1995-1996 school year.

b. Awards to LEAs for current-year capital expenses will be based on the total number of points accrued under the following criteria:

1. the average amount of funds (SAS-201) the LEA has paid for capital expenses for the years 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991-1992, 1992-1993, 1993-1994, and 1994-1995;

2. the percentage of increase in the number of students from religiously affiliated private schools who are served in 1995-1996, compared with the average of the years 1990-1991, 1991-1992, 1992-1993, 1993-1994, and 1994-1995;

3. the average percentage of funds the LEA has paid for capital expenses in relation to its basic Chapter 1 grant for the years 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991-1992, 1992-1993, 1993-1994, and 1994-1995; and

4. the average expenditure per private school student served.

The TEA reserves the right to select from the highest ranking applications those that address all requirements in the RFA. The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA

to pay any costs incurred before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or to pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-95-035 may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701-1494, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further Information. For clarifying information about the RFA, contact Lou Beavers or Vivian Smyrl, Division of Accelerated Instruction, Texas Education Agency, (512) 305-9209.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Monday, October 2, 1995, to be considered.

Issued in Austin, Texas, on August 2, 1995.

TRD-9509623 Criss Cloud
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: August 2, 1995

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Request for Proposals Concerning the State Engineering and Science Recruitment (SENSR) Fund

Filing Authority. Request for Proposals (RFP) #701-95-037 is filed under the Texas Education Code, §51.601, Engineering and Science Recruitment Fund.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from organizations that serve groups of women or minority group members who, considering their percentages of the Texas population, are under-represented at institutions of higher education in programs of engineering, applied science, and technology. The organization must qualify for exemption from federal income tax under the Internal Revenue Code, §501(c)(3), and not distribute net earnings to any private shareholder or other individual.

Description. The objective of this project is to allocate funds to eligible organizations to establish or operate educational programs. The programs must support the recruitment of women and members of ethnic minority groups to assist them in preparing for, or participating in, programs leading to an undergraduate degree in engineering or science from an institution of higher education. Funding also shall be used to disseminate information concerning career opportunities in engineering and science, as well as information about these programs that are funded under the requirements of the Texas Education Code, §§51.601-51.608.

Dates of Project. The State Engineering and Science Recruitment (SENSR) Fund project will be implemented during school year 1995-1996. Proposers should plan for a starting date of no earlier than September 1, 1995, and an ending date of no later than August 31, 1996.

Project Amount. For fiscal year 1995-1996, this project will distribute a total amount of approximately \$400,000, subject to the availability of funds and approval of the

commissioner of education. Funding will be provided to eligible nonprofit, tax-exempt organizations receiving contributions from other sources. For any individual program operated by an eligible proposer, funding provided under this RFP may not exceed \$25,000 or 50% of the contributions received by the program in the preceding fiscal year, whichever is less. Initial funding to eligible organizations shall be allocated in proportion to the percentage of women and under-represented minority students or teachers participating in eligible programs.

After all grants have been awarded, funds may be allocated to establish or continue to operate eligible programs that have not received any contributions. The total amount budgeted by the contracting project organization for administration may not exceed 11% of the total amount budgeted for all selected programs sponsored by that organization. Any money remaining on January 1 of each year may be allocated to funded organizations in proportion to each organization's calculated share as previously prescribed. Contributions are defined as gifts, grants, donations, and market value of in-kind contributions from public and private entities, including the federal government, but excluding state appropriations.

Selection Criteria. Proposals will first be considered based on the ability of each proposer to satisfy all requirements contained in the RFP. Preference shall be given to programs that stress the development of mathematical and scientific competence. Programs in the social sciences (for example, psychology or sociology) will not be considered. The TEA reserves the right to select from the highest ranking proposals those that would serve the most participants who are women and under-represented minority group members in the objectives specified. Other program quality indicators are specified throughout the RFP. To be approved for funding, programs offered by eligible organizations must meet certain guidelines. Each program must: (1) use professional volunteers at each level of instruction; (2) require parental involvement; (3) coordinate with public school preparation for scientific and mathematical careers; (4) coordinate with postsecondary educational institutions, involve organizations of women and minority group members, and provide demonstrated professional leadership in educational activities for women and minority group members; and (5) be compatible with state and federal laws governing education.

The TEA is not obligated to execute a resulting contract, provide funds, or endorse any proposal submitted in response to this RFP. This RFP does not commit TEA to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate TEA to award a contract or pay any costs incurred in preparing a response.

Proposals will be selected for funding on or about September 15 for an effective date of September 1. For those proposers not selected for funding, TEA is not liable for any costs incurred between September 1 and the date of notification of nonselection.

Requesting the Proposal. A complete copy of RFP #701-95-037 may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFP number in your request.

Further Information. For clarifying information about this request, contact Walter Tillman, Director of Programs II, Office of Education of Special Populations and Adults,

Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9661.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the Texas Education Agency no later than 5:00 p.m., Friday, September 1, 1995, to be considered.

Issued in Austin, Texas, on August 2, 1995.

TRD-9509625 Criss Cloudt
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: August 2, 1995

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Finance Commission of Texas and Office of Consumer Credit Commissioner

Notice of Public Hearing

A public hearing will be held to accept oral and written testimony, evidence, data or arguments on proposed new Chapter 9, Subchapters A-E, comprised of proposed §§9.1-9.5, 9.11-9.31, 9.51-9.57, 9.71, 9.72, and 9.81-9.84, concerning uniform practice and procedure with respect to administrative hearings and rulemakings at the Finance Commission of Texas, the Department of Banking, the Savings and Loan Department, and the Office of the Consumer Credit Commissioner. The hearing will be Tuesday, August 15, 1995, at 9:00 a.m., in the Third Floor Hearing Room, State Finance Commission Building, 2601 North Lamar Boulevard, Austin, Texas 78705-4294. If special arrangements for persons with disabilities are needed, or if additional information is desired, please contact Larry J. Craddock, Administrative Law Judge, Finance Commission of Texas, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705-4294, (512) 475-1300.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509577 Everette D. Jobe
General Counsel/Department of Banking
Finance Commission of Texas and Office
of Consumer Credit Commissioner

Filed: August 1, 1995

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Texas General Land Office

Correction of Error

The Texas General Land Office proposed amendments to §§501.10-501.14. The rules appeared in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5177).

The rule contained errors as submitted.

On page 5179, §501.14(i)(1)(F) reads as follows: "Piers, docks, wharves, bulkheads, jetties, groins, fishing cabins, and artificial reefs (including artificial reefs for compensatory mitigation) shall be limited to the minimum necessary to serve the project purpose and shall be constructed in a manner than:"

The corrected version should read: "Piers, docks, wharves, bulkheads, jetties, groins, fishing cabins, and artificial reefs (including artificial reefs for compensatory mitigation) shall be limited to the minimum necessary to serve

the project purpose and shall be constructed in a manner that:"

On page 5204, §506.41(e) reads as follows: "If the any three members of the council do [chairman does] not refer a federal agency action described in detail in an OCS plan [license or permit] to the council within 45 [90] days of the date the council secretary receives a consistency certification with all required information, then the council's concurrence with the consistency certification shall be conclusively presumed. "

The corrected version should read: "If any three members of the council do [the chairman does] not refer a federal agency action described in detail in an OCS plan [license or permit] to the council within 45 [90] days of the date the council secretary receives a consistency certification with all required information, then the council's concurrence with the consistency certification shall be conclusively presumed. "

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Texas Department of Health

Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Rodelka Incorporated (registrant M-00545) of Brownsville to cease and desist performing mammographic examinations until all health related violations noted during a recent inspection have been corrected. The bureau determined that performing mammography without an adequate quality control program, and not performing or properly analyzing quality assurance tests 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 August 1, 1995.

TRD-9509606 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: August 2, 1995

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Notice of Intent to Revoke a Certificate of Registration

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 registrant: Fred L. Perez, Jr., M.D., Edinburg, (Certificate of Registration R13637).

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of such radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant 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 items in the complaint are corrected within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate 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 items in the complaint are not corrected, the certificate 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 August 1, 1995.

TRD-9509605 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: August 2, 1995

Request for Funding Proposal

The Texas Department of Health (TDH) is requesting proposals for the provision of genetic services to facilitate achievement of its mission of providing access to excellent, comprehensive genetic services to Texans. Comprehensive genetic services may include medical genetics, screening and diagnosis, genetic counseling, psychosocial support services, developmental screening and essential public health services such as outreach education and disease surveillance as defined in the request for funding proposal (RFP). Public and private agencies and organizations which are current or potential providers of comprehensive genetic services are eligible to apply for funds. Programs must be directed by a clinical geneticist (board certified or eligible M.D. or D.O.)

This request by TDH Bureau of Women and Children for comprehensive genetic services is filed under the provisions of Title V (Maternal and Child Health Block Grant) and related state funds for the time period, January 1, 1996-August 31, 1997.

Contact. Parties interested in submitting a proposal and obtaining a complete copy of the RFP should contact Linda Prentice, M.D., Director, Division of Health Promotion for Children and Adolescents, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7700.

Due Date and Submittal Location. Proposals must be received by 5:00 p.m., September 12, 1995, by Judith Livingston, Genetics and Newborn Screening Coordinator, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7700.

Review Process. The application must first be submitted to the TDH Regional Directors in the applicant's target area(s) for review and comment. These comments should be incorporated into the application and then submitted to the TDH Central Office by September 12, 1995, for evaluation.

Award Procedure. All proposals will be subject to evaluation using the criteria set forth in the RFP. Priority consideration will be given to applications that document outreach to low income individuals and underserved populations (including rural areas), clearly demonstrate plans for care coordination with primary care providers in the community and other specialty service providers, demonstrate plans for consumer-oriented services, demonstrate coordination with public health regions and local health departments and clinics in targeted service areas and demonstrate progress toward plans for measuring outcomes.

TDH reserves the right to accept or reject any of the proposals received. TDH is under no legal obligation to execute a resulting contract on the basis of this notice or distribution of the RFP. Neither this notice nor the RFP commits TDH to pay for any costs incurred prior to the execution of a contract.

Anticipated Schedule of Events. The anticipated schedule of events is as follows: RFP available for request August 8, 1995; Deadline for written questions on August 15, 1995; Proposals must be received by 5:00 p.m., central-standard time, September 12, 1995, to TDH Central Office. Review of Proposals September 4-8, 1995; Notice of award on September 15, 1995, or as soon as possible thereafter.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509604 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: August 2, 1995

Texas Natural Resource Conservation Commission

Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Natural Resource Conservation Commission publishes this notice of consultant contract award. The consultant proposal request was published in the May 2, 1995, issue of the *Texas Register* (20 TexReg 3272). The contract effort consists of providing facilitation and support services to the commission and environmental agencies from other states in their participation with the U.S. Environmental Protection Agency (EPA) in national hazardous waste policy and rule development.

The contractor selected to perform this service is Ross & Associates Environmental Consulting, Ltd., 1218 Third Avenue, Suite 1207, Seattle, Washington 98101. The total value of the contract is \$249,999. The contract began July 25, 1995, and will terminate December 31, 1996. The work products of the consultant will be provided on an ongoing basis to various workgroups in the form of facilitative and other support services to assist the workgroups in developing their regulatory and policy proposals. These services will include drafting agenda outlines for up to 18 meetings ranging from two to four days; providing research and analytical support; facilitating workgroup meetings; preparing meeting summaries; preparing review guides and distributing to the 50 states for comment on emerging issues; compiling state responses and reporting to the commission's project manager and EPA to facilitate resolution of disputes arising in the process; and facilitating the states' conduct of a hazardous waste forum.

Issued in Austin, Texas, on July 31, 1995.

TRD-9509617

Lydia Gonzalez-Gromatzky
Acting Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: August 2, 1995

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Public Utility Commission of Texas

Correction of Error

The Public Utility Commission of Texas proposed amendments to §§22 71-22, 73, 22.75, 22.78, and 22.80. The rules appeared in the July 11, 1995, issue of the *Texas Register* (20 TexReg 4995).

There was an error made in the publishing of Procedural Rule 22.80. The sentence beginning with "Prior to the implementation of any new" the following words were left off. "Form or significant change to an existing form, the commission may".

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**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 Texas Tech University, Lubbock, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Texas Tech University pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14463.

The Application. Southwestern Bell Telephone Company is requesting approval of an optional feature addition to the existing PLEXAR-Custom service for Texas Tech University. The geographic service market for this specific service is the Lubbock, 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 August 1, 1995.

TRD-9509547

Amalija J. Hodgins
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 1, 1995

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Public Notices

On July 27, 1995, Southwestern Bell Telephone Company filed notice to file a LRIC study pursuant to Substantive Rule 23.91 for the following basic network functions (BNF's): (1) Sent Paid Directory Assistance Call per Call, (2) Alternate Billing Directory Assistance Call per Call, (3) Personalized Ring per Line-Residence/Business, (4) Voice Grade to/from DS-1 Multiplexing per Arrangement,

(5) DS-1 to/from DS-3 Multiplexing per Arrangement, (6) Network Access Channel DS-1 Level per NAC, (7) Network Access Channel DS-3 Level Quantity 1 per NAC, (8) Network Access Channel DS-3 Level Quantity 3 per NAC, (9) Network Access Channel DS-3 Level Quantity 6 per NAC, (10) Network Access Channel DS-3 Level Quantity 12 per NAC, (11) Network Access Channel DS-3 Level Quantity 24 per NAC, (12) Network Access Channel DS-3 Level Quantity 48 per NAC, (13) DS-1 Dedicated Interoffice Facility per Bandwidth Specific I/O Channel, (14) DS-3 Dedicated Interoffice Facility per Bandwidth Specific I/O Channel, (15) DS-1 Dedicated Transport Termination per Bandwidth Specific I/O Channel, (16) DS-3 Dedicated Transport Termination per Bandwidth Specific I/O Channel, (17) Dedicated Network Access Channel Connection-DS1 Level per Channel Connection; and (18) Dedicated Network Access Channel Connection-DS3 Level per Channel Connection Service in Project Numbers 12475 and 12481, Application of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Studies Workplans Pursuant to Public Utility Commission Substantive Rule 23.91. Southwestern Bell Telephone Company expects to file these studies on August 8, 1995.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by September 22, 1995. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509550

Amalija J. Hodgins
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 1, 1995

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On July 28, 1995, GTE Southwest Incorporated filed notice to file a LRIC study pursuant to Substantive Rule 23.91 for the following: (1) NAC DS-1 Level BNF, (2) NACC DS-1 Level BNF, (3) NAC DS-3 Level BNF, (4) NACC DS-3 Level BNF, (5) VG/DS1 Multiplexing BNF, (6) DS1/DS3 Multiplexing BNF, (7) Smart Ring Service; and (8) Custom Calling Packages Service in Project Numbers 12475 and 12481, Application of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Studies Workplans Pursuant to Public Utility Commission Substantive Rule 23.91. GTE expects to file these studies on August 8, 1995.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by September 22, 1995. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509549 Amallja J. Hodgins
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 1, 1995

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On July 28, 1995, GTE Southwest Incorporated filed notice to file a LRIC study pursuant to Substantive Rule 23.91 for the following: (1) DID Trunks, (2) DID Numbers BNF; and (3) DID Service in Project Number 12475 and 12481, Application of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Studies Workplans Pursuant to Public Utility Commission Substantive Rule 23.91. GTE expects to file these studies on August 8, 1995.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by September 22, 1995. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on August 1, 1995.

TRD-9509548 Amallja J. Hodgins
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 1, 1995

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San Antonio-Bexar County Metropolitan Planning Organization Request for Proposals

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to conduct a Major Investment Study for the Northeast (IH-35) Corridor from US 281/IH 37 Interchange to Loop 1604 in San Antonio. The purpose of the study is to develop and refine the project plan, and assist in decision-making by the MPO in corporation with the appropriate agencies, on design and scope of the Northeast (IH-35) Corridor.

A copy of the Request for Proposals (RFP) may be requested by calling Betsy Boyd, Transportation Planner, at (210) 227-8651. Anyone wishing to submit a proposal must do so by Noon, August 31, 1995, at the MPO office: Heritage Plaza Building, 434 South Main, Suite 205, San Antonio, Texas 78204.

A mandatory pre-proposal meeting is scheduled for 1:30 p.m., Thursday, August 10, 1995, in the VIA Metropolitan Transit Board Room at 800 West Myrtle, San Antonio, Texas. Proposals will not be accepted from any Prime Consultant who fails, for any reason, to attend the mandatory pre-proposal meeting.

The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the study's consultant selection committee. The Northeast (IH-35) Corridor Study Selection Committee will

review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$500,000 in contingent upon the availability of Federal transportation planning funds.

Issued in Austin, Texas, on July 26, 1995.

TRD-9509371 Charlotte A. Roszelle
Office Manager/Grants Coordinator
San Antonio-Bexar County Metropolitan
Planning Organization

Filed: July 27, 1995

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State Securities Board Correction of Errors

The State Securities Board proposed an amendment to §113.4. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5351).

The following errors appeared in the text of the proposed rule sections as published.

Section 113.4(g)(1)-the first two lines should be bold type.

Section 113.4(g)(2)-all of paragraph (2) should be bold type.

Section 113.4(g)(3)-all of paragraph (3) should be bold type.

The State Securities Board proposed an amendment to §115.3. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5352).

Section 115.3(c)(3)(C)-on lines seven and eight, "Articles 6573a et seq" should be replaced with "Article 6573a et seq".

Section 115.3(c)(3)(I)-on line eleven, the space between "§13." and "D" should be eliminated.

The State Securities Board proposed an amendment to §115.4. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5354).

Section 115.4(b)(1)-on line five, "amendment" should be replaced with "amendments".

Section 115.4(g)(1)-on line eleven, the space between "Form 133." and "36" should be eliminated.

The State Securities Board proposed an amendment to §123.1. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5355).

Section 123.1(b)(3)-on line nine, the space between "Commissioner" and the period should be eliminated.

The State Securities Board proposed a repeal to §133.7. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5357).

Section 133.7-on line four of new Form 133.7, the word "Form" should be replaced with "form".

The State Securities Board proposed an amendment to §139.16. The rule appeared in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5359).

Section 139.16(e)(1)(C)—the text of subparagraph (C) should be reproduced and the word "and" at the end of the subparagraph should be bracketed.

Section 139.16(e)(1)(E)—on the last line, the space between "year." and the closing quotation mark should be eliminated.

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Texas Department of Transportation Request for Proposals

Notice of Invitation: The Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract #09-6XXP5007 and 09-6XXP5008 for off-system BRINSAP safety inspections and PONTIS elemental data collection in two different areas within the Waco District. The providers will be evaluated and selected based on their knowledge and experience in routine bridge inspections. The selected provider(s) will be expected to attend a two day PONTIS elemental data inspection training course conducted by TxDOT, prior to executing a contract.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal shall be either hand-delivered to TxDOT, Waco District Office, to the attention of Kathy Smith, Bridge Design, 100 South Loop Drive, Waco, Texas, or mailed to TxDOT, Waco District Office, P.O. Box 1010, Waco, Texas 76703-1010. Letters of interest will be received until 5:00 p.m. May 31, 1995. The letter of interest must include the engineer's name, address, telephone number, name of engineer's contact person and number of TxDOT contract. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Proposal Submittal Deadline: Proposals for contracts #09-6XXP5007 and #09-6XXP5008 will be accepted until 5:00 p.m. on Tuesday, September 5, 1995, at the previously mentioned address.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Kathy Smith (817) 867-2747 or by FAX to (817) 867-2890.

Issued in Austin, Texas, on August 2, 1995.

TRD-9509634 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: August 2, 1995

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Texas Workers' Compensation Commission Correction of Error

The Texas Workers' Compensation Commission adopted new §§166.1-166.7 and §166.9, concerning accident prevention services. The rules appeared in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5248).

All corrected language and punctuation is shown in italics in this notice.

The following errors as submitted by the commission appear in the summary of comments portion of the preamble.

(1) The word "proposed" should have been replaced with the word "adopted" in the following commission responses to comments:

(A) the commission's response to the first comment in the category of definition of Field Safety Representative in §166.1 (20 TexReg 5250) should read "The commission disagrees, since the *adopted* definition is specifically designed to formalize the distinction between a Field Safety Representative and an Approved Professional Source qualification.";

(B) the commission's response to the second comment in the category of general comments received on §166.4(c)(2) (20 TexReg 5251) should read: "The commission disagrees. The commenter's assumption that a letter to a large policyholder is sufficient to constitute "other appropriate service" in *adopted* §166.1 requires more than a letter. Additionally, the minimum service any small policyholder (under \$25,000 premium) must receive in Texas is solicitation of comments by mail at least annually. To assume this requirement can be applied as the only service a large policyholder should receive is not substantiated in the rules.";

(C) the commission's response to the first comment in the category of the A. M. Best Hazard Index under §166.4(c)(2)(B)(i) (20 TexReg 5252) should read: "The commission agrees with removing the A.M. Best Hazard Index criteria from the rules. While the A.M. Best Hazard Index is the most widely used product of its type in the insurance industry, it is not an industry standard and requiring its use could result in significant administrative costs. However, the purpose for its inclusion, a proactive approach to injury reduction, is still relevant. This goal shall be met with the use of premium triggers for service. All references to A.M. Best Hazard Index have been removed from the *adopted* rules."; and

(D) the commission's response to the first comment in the category of educational programs under §166.9 (20 TexReg 5255) should read: "The commission disagrees. The standards in the *adopted rule* are essentially the same as required in the *repealed rule*. The most significant change is to restrict these programs to educational institutions. Insurance company intern programs may be used as an option to institutional programs to meet insurance company needs. See the commission response to the first comment regarding FSR training courses."

(2) In the commission's response to the second comment in the category of notification of services on the declaration page under §166.4(c)(7) (20 TexReg 5253) all references to subparagraph (D) should have been replaced with references to subparagraph (E).

The following errors, as submitted by the commission, appear in the following rules.

(1) In §166.4(a), the word "are" should have been replaced by the word "is" in the last sentence. Subsection (a) should read: "An insurance company writing workers' compensation insurance in Texas shall maintain or provide accident prevention facilities and services and shall have them inspected by the division. An insurance company writing

only excess or reinsurance *is* not required to maintain or provide such facilities or services."

(2) In §166.6(a)(1)(A), a comma was inadvertently omitted from the first sentence, between the words "discounts" and "and". The subparagraph should read: "(A) a list of policyholder accounts by policyholder name, policy number, effective date or expiration date of policy, written premium before any adjustments, including deductibles or discounts, and Texas locations. The list shall be taken from the insurance company's most current records, separated by affiliated companies, arranged in descending order by premium, and include all policies which had been in effect or have been written since the policyholder list was prepared for the last inspection of the insurance company's accident prevention services by the division; and"

(3) In §166.7(a)(2), some text was inadvertently omitted. Paragraph (2) should read: "Based on the information obtained under subsection (a)(1) of this section and a review of the selected files and other accident prevention related information, the division inspector shall make the insurance company representative aware of any areas of non-compliance noted. *The insurance company will be afforded an opportunity to respond to the findings. The inspector shall evaluate the adequacy of the accident prevention services of the insurance company and, if no other relevant information is available or anticipated, advise the insurance company's representative of the resulting conclusions.*"

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PUBLICATION SCHEDULE

The following is the 1995 Publication Schedule for the Texas Register. Listed below are the deadline dates for the June-December 1995 issues of the Texas Register. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the Texas Register are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 7, November 10, November 28, and December 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
42 Friday, June 2	*Friday, May 26	Tuesday, May 30
43 Tuesday, June 6	Wednesday, May 31	Thursday, June 1
44 Friday, June 9	Monday, June 5	Tuesday, June 6
45 Tuesday, June 13	Wednesday, June 7	Thursday, June 8
46 Friday, June 16	Monday, June 12	Tuesday, June 13
47 Tuesday, June 20	Wednesday, June 14	Thursday, June 15
48 Friday, June 23	Monday, June 19	Tuesday, June 20
49 Tuesday, June 27	Wednesday, June 21	Thursday, June 22
50 Friday, June 30	Monday, June 26	Tuesday, June 27
51 Tuesday, July 4	Wednesday, June 28	Thursday, June 29
Friday, July 7	NO ISSUE PUBLISHED	
52 Tuesday, July 11	Wednesday, July 5	Thursday, July 6
Friday, July 14	Second Quarterly Index	
53 Tuesday, July 18	Wednesday, July 12	Thursday, July 13
54 Friday, July 21	Monday, July 17	Tuesday, July 18
55 Tuesday, July 25	Wednesday, July 19	Thursday, July 20
56 Friday, July 28	Monday, July 24	Tuesday, July 25
57 Tuesday, August 1	Wednesday, July 26	Thursday, July 27
58 Friday, August 4	Monday, July 31	Tuesday, August 1
59 Tuesday, August 8	Wednesday, August 2	Thursday, August 3
60 Friday, August 11	Monday, August 7	Tuesday, August 8
61 Tuesday, August 15	Wednesday, August 9	Thursday, August 10
62 Friday, August 18	Monday, August 14	Tuesday, August 15
63 Tuesday, August 22	Wednesday, August 16	Thursday, August 17
64 Friday, August 25	Monday, August 21	Tuesday, August 22
65 Tuesday, August 29	Wednesday, August 23	Thursday, August 24
66 Friday, September 1	Monday, August 28	Tuesday, August 29