

TEXAS REGISTER

IN THIS ISSUE

Volume 20, Number 62 August 18, 1995

Page 6239-6374

Office of the Governor

Appointments Made August 9, 1995

| | |
|---|------|
| Texas Commission for the Blind | 6249 |
| Guadalupe-Blanco River Authority Board of Directors | 6249 |
| Lavaca-Navidad River Authority Board of Directors | 6249 |
| Juvenile Justice Advisory Board..... | 6249 |
| Texas State Library and Archives Commission..... | 6249 |
| Governing Board of the International Trade Commission | 6249 |
| Texas-Mexico Authority Advisory Board | 6249 |
| Texas Commission for the Blind | 6249 |
| Texas State Board of Chiropractic Examiners..... | 6249 |

| | |
|---|------|
| Texas Department of Transportation Motor Vehicle Board | 6249 |
| Texas State Board of Medical Examiners | 6249 |
| Texas Optometry Board..... | 6249 |
| Credit Union Department | 6249 |
| Texas Lottery Commission..... | 6249 |
| Texas Department of Housing and Community Affairs | 6250 |
| Executive Council of Physical Therapy and Occupational Therapy Examiners..... | 6250 |
| Texas Council on Offenders With Mental Impairments | 6250 |
| Appointments Made August 10, 1995 | |
| El Paso Quadricentennial Commission | 6250 |
| Texas Ethics Commission | |
| Advisory Opinion Request | |
| AOR-303..... | 6251 |

Contents Continued Inside



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Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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

1111.1:40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
40 TAC §3.704..... 950, 1820

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.

Emergency Sections

Texas Commission on Alcohol and Drug Abuse

General Provisions

40 TAC §§141.1-141.7, 141.21-141.24, 141.31-141.34, 141.41, 141.51, 141.61, 141.62, 141.71, 141.81..... 6253

40 TAC §§141.1-141.14, 141.31, 141.33, 141.34, 141.41, 141.51, 141.61, 141.62..... 6253

Investigations and Hearings

40 TAC §§142.11, 142.21, 142.22, 142.31-142.33
..... 6257

Introduction

40 TAC §§143.11-143.19, 143.31-143.36 6259

Awards

40 TAC §§143.11-143.16..... 6260

40 TAC §§143.21-143.25..... 6261

40 TAC §§143.31-143.46..... 6261

Facility Licensure Standards

40 TAC §§148.1-148.4..... 6263

Facility Licensure

40 TAC §§148.1-148.4, 148.21-148.27, 148.41, 148.42, 148.61 6264

Facility Licensure Standards

40 TAC §§148.21-148.27..... 6268

40 TAC §§148.41-148.46..... 6268

40 TAC §148.61 6268

40 TAC §§148.71-148.74..... 6268

40 TAC §§148.71-148.75, 148.91-148.93, 148.111-148.117, 148.131, 148.132..... 6269

40 TAC §§148.91-148.93..... 6272

40 TAC §§148.111-148.117..... 6272

40 TAC §148.131, §148.132..... 6272

40 TAC §§148.141-148.146..... 6273

40 TAC §§148.161-148.163, 148.165..... 6273

40 TAC §§148.171-148.173..... 6273

40 TAC §§148.181-148.185..... 6273

40 TAC §148.201, §148.202..... 6274

40 TAC §§148.211-148.214..... 6274

40 TAC §§148.231-148.235..... 6274

40 TAC §§148.251-148.254..... 6274

40 TAC §§148.261-148.268..... 6274

40 TAC §§148.281-148.284..... 6275

40 TAC §§148.291-148.293..... 6275

40 TAC §§148.301-148.304..... 6275

40 TAC §§148.321-148.325..... 6275

40 TAC §148.341..... 6276

40 TAC §§148.341, 148.351-148.359, 148.371, 148.372..... 6276

40 TAC §§148.351-148.359..... 6278

40 TAC §148.371, §148.372..... 6279

Court Commitments and Related Procedures

40 TAC §§149.11-149.16, 149.21, 149.22, 149.31-149.33, 149.54..... 6279

Project Funding

40 TAC §149.26..... 6284

40 TAC §§149.81-149.83..... 6284

Licensure of Chemical Dependency Counselors

40 TAC §§150.1-150.18, 150.20, 150.22..... 6285

Peer Assistance

40 TAC §§151.21-151.28..... 6285

Licensure

40 TAC §151.601, §151.602..... 6286

Community Services

40 TAC §§155.21-155.27, 155.31-155.34, 155.41-155.45
..... 6287

Proposed Sections

Office of the Secretary of State

Unincorporated Business Entities

1 TAC §§80.21-80.29..... 6289

Solicitations

1 TAC §§105.201, 105.204-105.207..... 6291

Texas State Board of Examiners of Psychologists

Fees

22 TAC §473.5..... 6292

| | |
|---|------|
| Texas Department of Insurance | |
| Property and Casualty | |
| 28 TAC §5.10000..... | 6292 |
| Corporate and Financial Regulation | |
| 28 TAC §7.1404..... | 6294 |
| Agents' Licensing | |
| 28 TAC §19.201..... | 6294 |
| Insurance Premium Finance | |
| 28 TAC §25.9..... | 6295 |
| Texas Workers' Compensation | |
| Commission | |
| Practice and Procedures | |
| 28 TAC §102.6..... | 6296 |
| Required Notices of Coverage | |
| 28 TAC §110.110..... | 6296 |
| Self-Insurance | |
| 28 TAC §114.2..... | 6297 |
| Employers | |
| 28 TAC §120.2, §120.3..... | 6298 |
| Carriers: Required Notices and Mode of Payment | |
| 28 TAC §124.1..... | 6299 |
| Texas Water Development Board | |
| Research and Planning Fund | |
| 31 TAC §§355.1-355.5, 355.8, 355.10..... | 6301 |
| Texas Youth Commission | |
| Administrative Provisions | |
| 37 TAC §81.31..... | 6301 |
| Texas Commission on Alcohol and Drug Abuse | |
| General Provisions | |
| 40 TAC §§141.1-141.7, 141.21-141.24, 141.31-141.34, 141.41, 141.51, 141.61, 141.62, 141.71, 141.81..... | 6302 |
| 40 TAC §§141.1-141.14, 141.31, 141.33, 141.34, 141.41, 141.51, 141.61, 141.62..... | 6302 |
| Investigations and Hearings | |
| 40 TAC §§142.11, 142.21, 142.22, 142.31-142.33..... | 6303 |
| Introduction | |
| 40 TAC §§143.11-143.19, 143.31-143.36..... | 6303 |
| Awards | |
| 40 TAC §§143.11-143.16..... | 6304 |
| 40 TAC §§143.21-143.25..... | 6304 |
| 40 TAC §§143.31-143.46..... | 6304 |
| Facility Licensure Standards | |
| 40 TAC §§148.1-148.4..... | 6305 |
| Facility Licensure | |
| 40 TAC §§148.1-148.4, 148.21-148.27, 148.41, 148.42, 148.61..... | 6305 |
| 40 TAC §§148.21-148.27..... | 6305 |
| 40 TAC §§148.41-148.46..... | 6306 |
| 40 TAC §148.61..... | 6306 |
| 40 TAC §§148.71-148.74..... | 6307 |
| 40 TAC §§148.71-148.75, 148.91-148.93, 148.111-148.117, 148.131, 148.132..... | 6307 |
| 40 TAC §§148.91-148.93..... | 6307 |
| 40 TAC §§148.111-148.117..... | 6308 |
| 40 TAC §148.131, §148.132..... | 6308 |
| 40 TAC §§148.141-148.146..... | 6308 |
| 40 TAC §§148.161-148.163, 148.165..... | 6309 |
| 40 TAC §§148.171-148.173..... | 6309 |
| 40 TAC §§148.181-148.185..... | 6310 |
| 40 TAC §148.201, §148.202..... | 6310 |
| 40 TAC §§148.211-148.214..... | 6310 |
| 40 TAC §§148.231-148.235..... | 6311 |
| 40 TAC §§148.251-148.254..... | 6311 |
| 40 TAC §§148.261-148.268..... | 6311 |
| 40 TAC §§148.281-148.284..... | 6312 |
| 40 TAC §§148.291-148.293..... | 6312 |
| 40 TAC §§148.301-148.304..... | 6313 |
| 40 TAC §§148.321-148.325..... | 6313 |
| 40 TAC §148.341..... | 6313 |
| 40 TAC §§148.341, 148.351-148.359, 148.371, 148.372..... | 6314 |
| 40 TAC §§148.351-148.359..... | 6314 |
| 40 TAC §148.371, §148.372..... | 6314 |

40 TAC §§149.11-149.16, 149.21, 149.22, 149.31-149.33, 149.54 6315

40 TAC §149.26 6315

40 TAC §§149.81-149.83 6316
Licensure of Chemical Dependency Counselors

40 TAC §§150.1-150.18, 150.20, 150.22 6316
Peer Assistance

40 TAC §§151.21-151.28 6317
Licensure

40 TAC §151.601, §151.602 6317
Community Services

40 TAC §§155.21-155.27, 155.31-155.34, 155.41-155.45 6317

Texas Department of Insurance

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L 6317

Withdrawn Sections

Texas Department of Health

Memorandums of Understanding With Other State Agencies

25 TAC §3.22 6319

Texas Department of Mental Health and Mental Retardation

System Administration

25 TAC §401.58 6319

Texas Department of Human Services

Intermediate Care Facilities for the Mentally Retarded

40 TAC §§27.401, 27.403, 27.405, 27.407, 27.409, 27.411, 27.413, 27.419, 27.421 6319

Adopted Sections

Texas Alcoholic Beverage Commission

Licensing

16 TAC §33.5 6321

16 TAC §33.23 6322

16 TAC §33.24 6322

Ports of Entry

16 TAC §39.1 6323

Alcohol Awareness and Education

16 TAC §50.9 6323

Texas Cancer Council

Project Contract and Grants

25 TAC §703.9, §703.10 6324

Texas Natural Resource Conservation Commission

Control of Air Pollution by Permits for New Construction or Modification

30 TAC §116.14 6327

30 TAC §§116.610, 116.615, 116.617 6328

Comptroller of Public Accounts

Tax Administration

34 TAC §3.315 6333

Texas Commission on Fire Protection

Standards for Certification

37 TAC §421.5 6333

Fire Suppression

37 TAC §§423.3, 423.5, 423.7 6333

37 TAC §§423.205, 423.207, 423.209 6334

37 TAC §§423.305, 423.307, 423.309 6334

Minimum Standards for Fire Inspectors

37 TAC §§429.5, 429.7, 429.9 6335

Minimum Standards for Fire Arson Investigator

37 TAC §§431.5, 431.7, 431.9 6335

Fire Fighter Safety

37 TAC §435.3 6336

Examinations for Certification

37 TAC §§439.5, 439.7, 439.9 6336

Application Criteria

37 TAC §463.1, §463.4 6336

Texas Board of Occupational Therapy Examiners

Types of Licenses

40 TAC §365.1 6337

Referral

40 TAC §372.1 6337

Supervision

40 TAC §373.1 6337

Disciplinary Actions/Complaints

40 TAC §374.1 6338

Registration of Facilities

40 TAC §376.5, §376.8 6338

Texas Department of Insurance

Notifications Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L..... 6338

Tables and Graphics Section

Tables and Graphics..... 6341

Open Meetings Sections

Texas Department of Agriculture..... 6347

Texas Commission on the Arts..... 6347

State Banking Board..... 6348

Conservatorship Board..... 6348

Employees Retirement System of Texas..... 6348

Texas Employment Commission..... 6348

General Services Commission..... 6349

Texas Department of Health..... 6349

Texas Higher Education Coordinating Board..... 6349

Texas Department of Housing and Community Affairs..... 6349

Texas Department of Insurance..... 6350

Texas State Board of Medical Examiners..... 6350

Texas Natural Resource Conservation Commission...6350

Board of Nurse Examiners..... 6351

Texas Board of Physical Therapy Examiners..... 6351

Texas Board of Plumbing Examiners..... 6351

State Preservation Board..... 6351

Texas Department of Protective and Regulatory Services..... 6352

Texas State Board of Examiners of Psychologists...6352

Public Utility Commission of Texas..... 6352

Railroad Commission of Texas..... 6352

Office of the Secretary of State..... 6353

State Seed and Plant Board..... 6353

Texas Sustainable Energy Development Council.... 6354

Teacher Retirement System of Texas..... 6354

Texas State Technical College System..... 6354

Texas State Treasury..... 6354

University of Houston System..... 6354

University of North Texas/University of North Texas Health Science Center..... 6354

University of Texas Health Science Center at San Antonio..... 6355

Texas Water Development Board..... 6355

Regional Meetings..... 6355

In Addition Sections

Texas Department of Criminal Justice

Request of Qualifications..... 6359

Texas Education Agency

Request for Applications..... 6359

Advisory Commission on State Emergency Communications

Notice of Execution..... 6360

Employees Retirement System of Texas

Request for Proposal for Independent Audit Services

..... 6361

Texas Department of Health

Notice of Intent to Revoke Certificates of Registration..... 6362

Notice of Intent to Revoke Radioactive Material Licenses..... 6362

Notice of Revocation of a Certificate of Registration..... 6362

Texas Department of Insurance

Company License..... 6363

Notice of Applicatons by Small Employer Carriers to be Risk-Assuming Carriers..... 6363

Notice of Public Hearing..... 6363

Commission on Jail Standards

Consultant Proposal Request..... 6364

Texas Natural Resource Conservation Commission

Enforcement Order..... 6364

Notices of Application for Municipal Solid Waste Management Facilities..... 6364

Notice of Application for Waste Disposal Permits..... 6365

Notice of Opportunity to Comment on Permitting Actions..... 6366

Notice of Opportunity to Comment on Settlement Agreements of Administrative Actions..... 6366

Notice of Receipt of Application and Declaration of Administrative Completeness for Municipal Solid Waste Management Facilities..... 6369

Provisionally-Issued Temporary Permits to Appropriate State Water..... 6369

**Texas State Occupational Information
Coordinating Committee**

Notice of Invitations..... 6369

Texas Parks and Wildlife Department

Notice of Application.....6372

Public Utility Commission of Texas

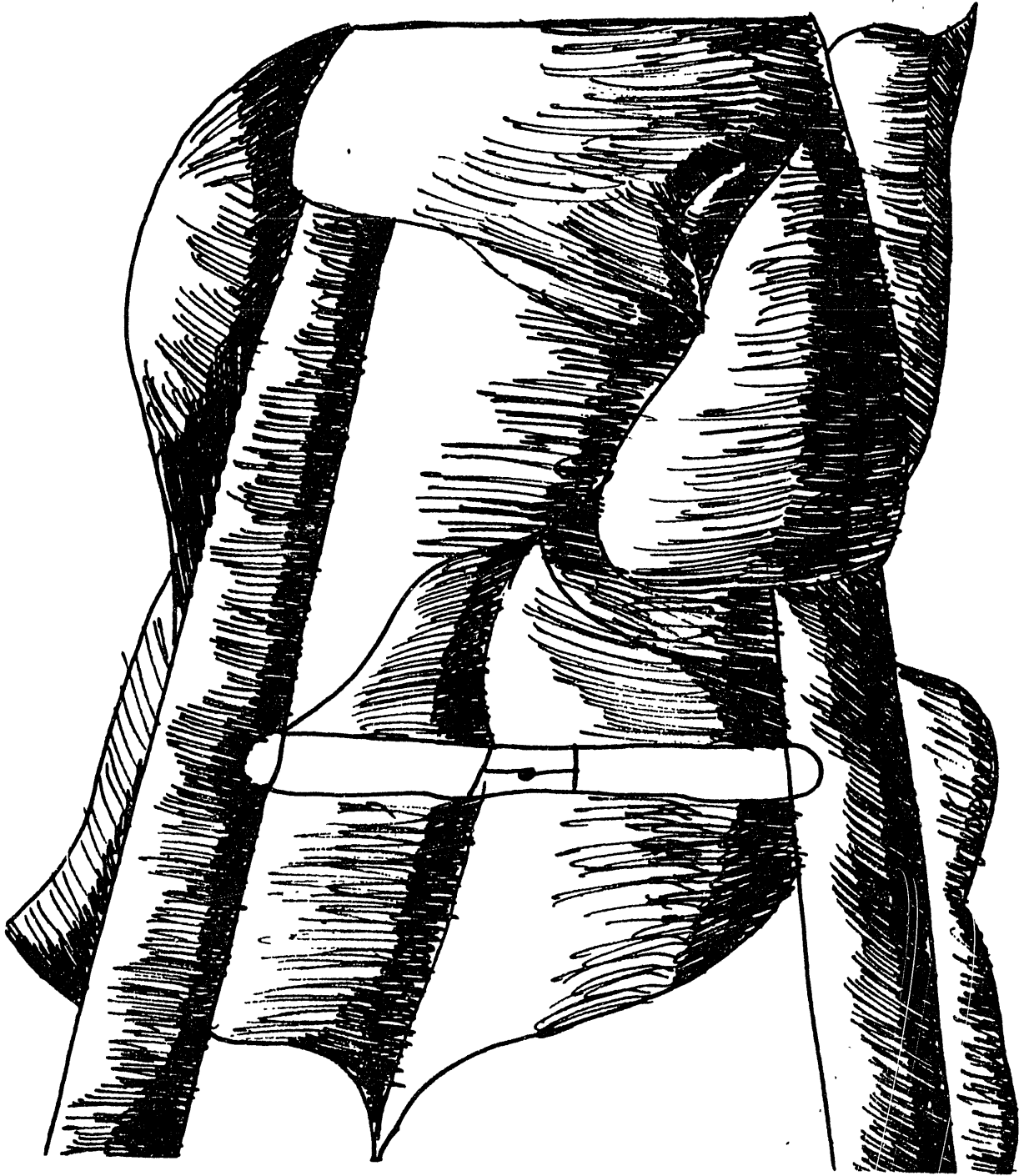
Notice of Applications to Amend Certificate of Convenience and Necessity.....6372

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27.....6373

Texas Department of Transportation

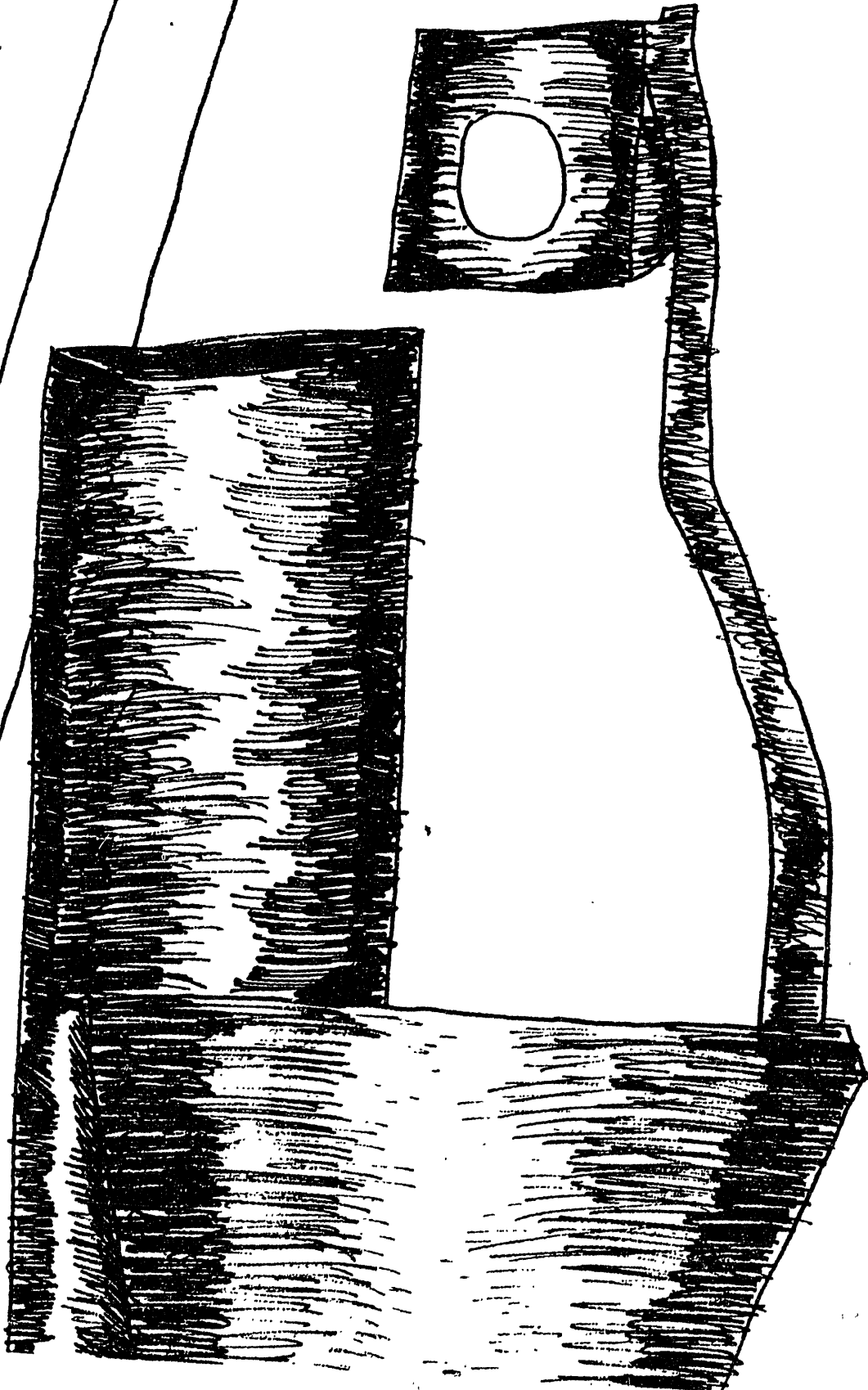
Public Hearing Notice.....6373

Name: Andrey Olivarez
Grade: 12
School: Skyline High School, Dallas ISD



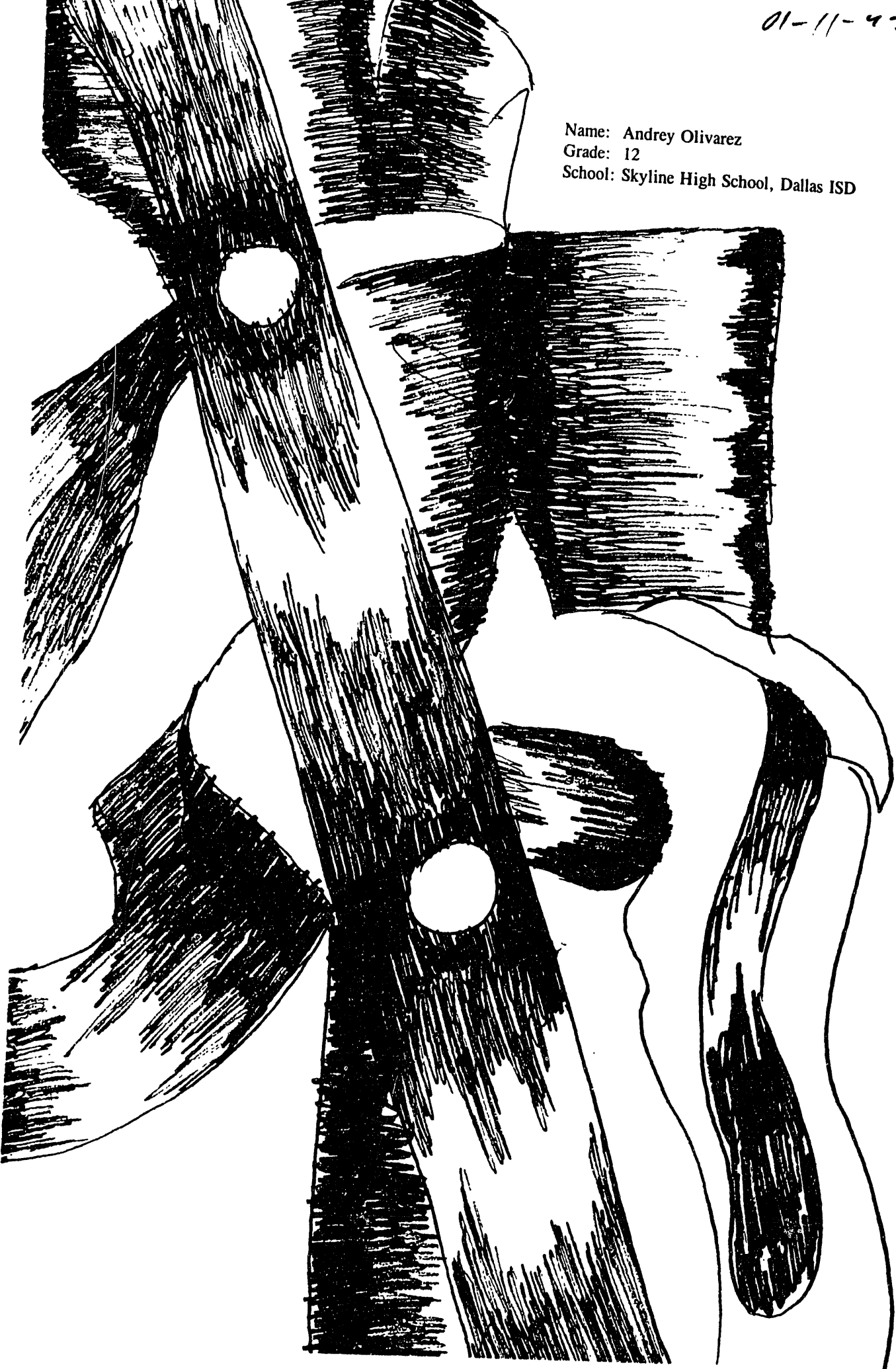
✓

Name: Andrey Olivarez
Grade: 12
School: Skyline High School, Dallas ISD



01-11-97

Name: Andrey Olivarez
Grade: 12
School: Skyline High School, Dallas ISD



THE GOVERNOR

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

Appointments Made August 9, 1995

To be a member of the Texas Commission for the Blind for a term to expire February 1, 2001: C. Robert Keeney, Jr., 1218 Voss Road, Apartment Number 4, Houston, Texas 77055. Mr. Keeney will be replacing Ann Masterson of Houston whose term expired.

To be a member of the Guadalupe-Blanco River Authority Board of Directors for a term to expire February 1, 2001: Anne Cooper, 1920 Uhland Road, San Marcos, Texas 78666. Mrs. Cooper will be replacing Jen F. Ripley of Waelder whose term expired.

To be a member of the Guadalupe-Blanco River Authority Board of Directors for a term to expire February 1, 2001: William A. (Bill) Blackwell, 10 Shadywood Lane, P.O. Box 844, Cuero, Texas 77954. Mr. Blackwell is being reappointed.

To be a member of the Guadalupe-Blanco River Authority Board of Directors for a term to expire February 1, 2001: Ashley Holmes Turberville, Route 1, Box 110, Nixon, Texas 78140. Mr. Turberville will be replacing Jay Moore of San Marcos whose term expired.

To be a member of the Lavaca-Navidad River Authority Board of Directors for a term to expire May 1, 2001: Charles M. "Chuck" Hasdorff, P.O. Box 803, Ganado, Texas 77962. Mr. Hasdorff will be replacing Dennis S. Simons of Edna whose term expired.

To be a member of the Lavaca-Navidad River Authority Board of Directors for a term to expire May 1, 2001: Sandra Rae Green, P.O. Box 246, County Road 453, LaWard, Texas 77970. Mrs. Green will be replacing Joyce Jarratt of Edna whose term expired.

To be a member of the Lavaca-Navidad River Authority Board of Directors for a term to expire May 1, 2001: Michael W. Menefee, P.O. Box 781, Edna, Texas 77957. Mr. Menefee will be replacing August E. (Gus) Westhoff II of Edna whose term expired.

To be a member of the Juvenile Justice Advisory Board for a term at the pleasure of the Governor: Charles A. Brawner, Chief

of Police, Spring Branch Independent School District, 8888 Westview, Houston, Texas 77055, (713) 984-9805. Chief Brawner is being appointed pursuant to Executive Order GWB 95-6 dated May 26, 1995.

To be a member of the Texas State Library and Archives Commission for a term to expire September 28, 1995: Sandy Melton, 6622 Chevy Chase, Dallas, Texas 75225. Mrs. Melton will be filling the unexpired term of James H. Banks of Austin who is deceased.

To be a member of the Governing Board of the International Trade Commission for a term to expire February 1, 1999: Jose E. Martinez, 735 Sweetbrush, San Antonio, Texas 78258. Mr. Martinez will be replacing Dr. Dominic Man-Kit Lam of Conroe whose term expired.

To be a member of the Texas-Mexico Authority Board of Directors for a term to expire February 1, 2001: Betti Maldonado, 1450 Munger, Houston, Texas 77023. Ms. Maldonado will be replacing Lillian A. Lamon of Harlingen whose term expired.

To be a member of the Texas Commission for the Blind for a term to expire February 1, 2001: W. Frank Mullican, Jr., 3713 45th Street, Lubbock, Texas 79413. Mr. Mullican will be replacing Carol Santry of San Angelo whose term expired.

To be a member of the Texas Commission for the Blind for a term to expire February 1, 2001: James Laurence Caldwell, Ph.D., 6804 Rockledge Cove, Austin, Texas 78731. Dr. Caldwell is being reappointed.

To be a member of the Texas State Board of Chiropractic Examiners for a term to expire February 1, 2001: John C. Weddle, D.C., 1601 Alamo Road, Rockwall, Texas 75087. Mr. Weddle will be replacing Dr. Nancy Jones of Dallas whose term expired.

To be a member of the Texas State Board of Chiropractic Examiners for a term to expire February 1, 1997: Kevin E. Raef, D.C., 1206 Creekmere, Canyon Texas 79015. Dr. Raef will be filling the unexpired term of Dr. Danny Doyle of Fort Worth who resigned.

To be a member of the Texas State Board of Chiropractic Examiners for a term to expire February 1, 1999: Keith Hubbard,

D.C., 7104 Francisco Drive, Fort Worth, Texas 76133. Dr. Hubbard will be filling the unexpired term of Dr. Sidney Isdale of Killeen who resigned.

To be a member of the Texas Department of Transportation Motor Vehicle Board for a term to expire January 31, 1997: Robert (Bob) C. Barnes, 2901 Bainbridge, Odessa, Texas 79762. Mr. Barnes will be filling the unexpired term of T. J. Connolly of San Antonio who resigned.

To be a member of the Texas Department of Transportation Motor Vehicle Board for a term to expire January 31, 2001: Manuel Marrufo, 5159 Memory Lane, El Paso, Texas 79932. Mr. Marrufo is being appointed to an unfilled position.

To be a member of the Texas State Board of Medical Examiners for a term to expire April 13, 1999: Ann Forehand, 5 Northridge Circle, Texarkana, Texas 75503. Mrs. Forehand will be filling the unexpired term of Carol M. Barger of Dallas who was not confirmed by the Senate.

To be a member of the Texas Optometry Board for a term to expire January 31, 2001: Kevin D. DeWolfe, O.D., 3105 Barton Point Drive, Austin, Texas 78733. Dr. DeWolfe will be replacing Dr. Barry Joel Davis of Port Arthur whose term expired.

To be a member of the Credit Union Department for a term to expire February 15, 2001: L. Gail Mackie, 14803 Blue Max, San Antonio, Texas 78248. Mrs. Mackie will be replacing William Ruelle Parker of Port Arthur whose term expired.

To be a member of the Credit Union Department for a term to expire February 15, 2001: Robert S. Hayes, 4117 Tulane Drive, Amarillo, Texas 79109. Mr. Hayes will be replacing Gerald W. Gurney of Plano whose term expired.

To be a member of the Credit Union Department for a term to expire February 15, 2001: Garold R. Base, 2100 Crown Knoll, Plano, Texas 75093. Mr. Base will be replacing Joe G. Thornton of Texarkana whose term expired.

To be a member of the Texas Lottery Commission for a term to expire February 1, 1999: Joe H. Morin, 3306 Gallop Cove, Austin, Texas 78745. Mr. Morin will be

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Request

AOR-303. File closed. Withdrawn by requestor.

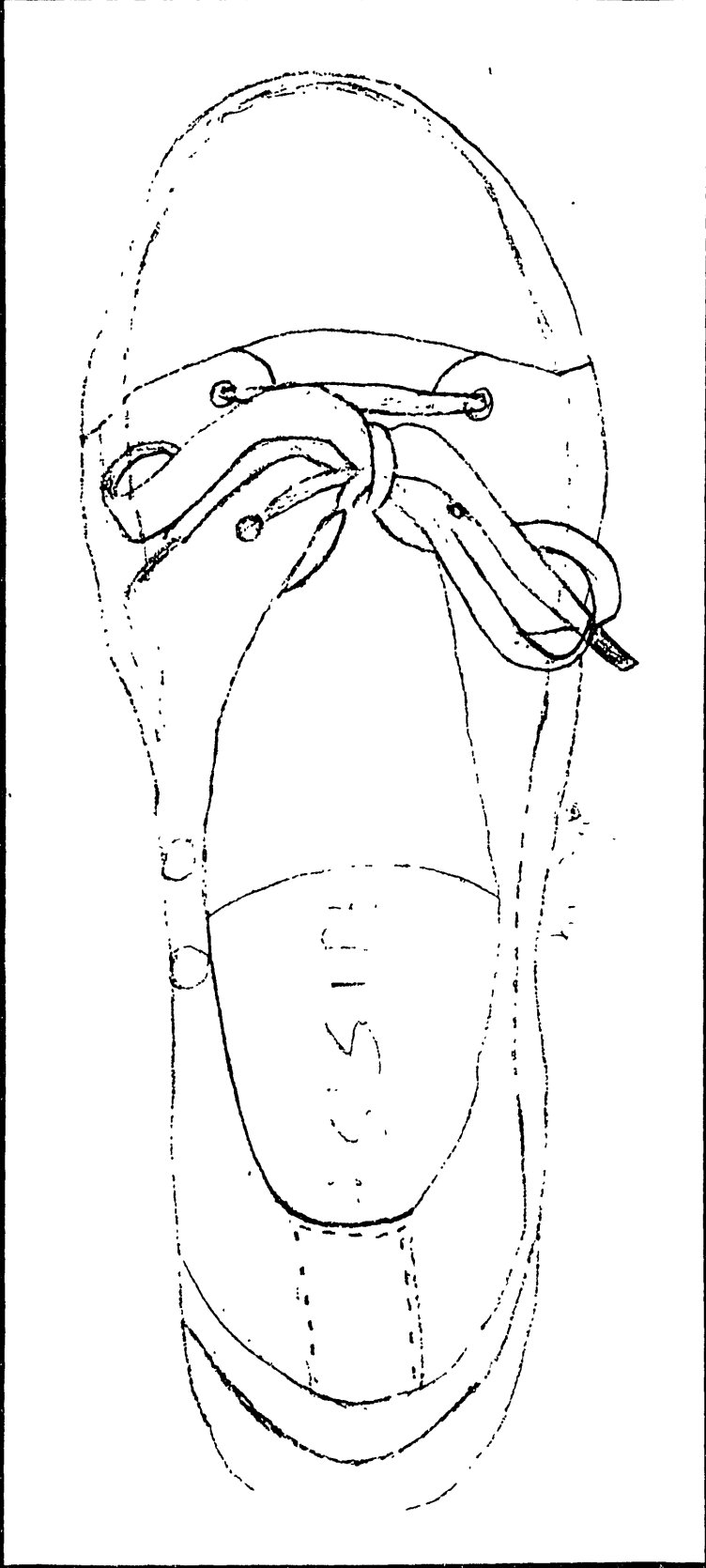
Issued in Austin, Texas, on August 11, 1995.

TRD-9509966 Lucia Dodson
 Executive Assistant
 Texas Ethics Commission

Filed: August 9, 1995

◆ ◆ ◆

Name: Kandy Spinler
Grade: 12
School: Waskom High School, Waskom ISD



Kandy

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 40. SOCIAL SERVICES AND ASSISTANCE

Part III. Texas Commission on Alcohol and Drug Abuse

Chapter 141. General Provisions

- 40 TAC §§141.1-141.7, 141.21-141.24, 141.31-141.34, 141.41, 141. 51, 141.61, 141.62, 141.71, 141.81

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§141.1-141.7, 141.21-141.24, 141.31-141.34, 141.41, 141. 51, 141.61, 141.62, 141.71, and 141.81, concerning composition, make-up and powers of the commission. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§141.1. *Origin of the Commission.*

§141.2. *Composition of Commission.*

§141.3. *Purpose.*

§141.4. *Legal Basis.*

§141.5. *Organization for Chemical Dependency Services.*

§141.6. *Relation to Other Agencies.*

§141.7. *Committees of the Commission.*

§141.21. *Commission Meetings.*

§141.22. *Public Comment and Requests.*

§141.23. *Minutes and Recordings.*

§141.24. *Officers.*

§141.31. *Funding and Fees.*

§141.32. *Amendment of Rules.*

§141.33. *Policies of the Commission.*

§141.34. *Commission Records.*

§141.41. *Definitions.*

§141.51. *Nondiscrimination in Employment and Funding.*

§141.61. *General Authority To Accept Donations.*

§141.62. *Standards of Conduct between Employees and Officers and Private Donors.*

§141.71. *Resolution of Complaints.*

§141.81. *Continuity of Care of Inmates with a History of Drug or Alcohol Abuse.*

Issued in Austin, Texas, on August 10, 1995.

TRD-9510038

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General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720

- 40 TAC §§141.1-141.14, 141.31, 141.33, 141.34, 141.41, 141. 51, 141.61, 141.62

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§141.1-141.14, 141.31, 141.33, 141.34, 141.41, 141 51, 141.61, and 141.62, concerning the composition, make-up and powers of the commission. The new sections are being adopted to conform with recent legislation and to describe the powers vested in the commission; the structure and meetings of the board; meetings, minutes, and public comments; the advisory council; commissioner travel; signature authority; basic policies of the commission; and standards of conduct between employees and officers and private donors.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§141.1. *Origin of the Commission.* The Texas Commission on Alcohol and Drug Abuse was created through the Texas Alcohol and Drug Services Act, Texas Civil Statutes, Article 5561c-2, Acts of the 69th Legislature, Chapter 632, 1985, which continued, renamed, and expanded the duties of the former Texas Commission on Alcoholism, originally created in 1953. The commission exists in response to the need to provide services for compulsive gambling and for chemical dependency prevention, intervention, treatment, and rehabilitation, and to educate all citizens about the problems of alcohol and drug abuse and compulsive gambling. The current enabling act for the commission is found at Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461.

§141.2. Commission Composition and Officers.

(a) Officers. The governing board of the Texas Commission on Alcohol and Drug Abuse is composed of six members appointed by the governor with the advice and consent of the Senate. In addition to a chairperson, to be appointed by the governor, commission officers shall be a vice-chairperson and a secretary.

(b) Election of officers. The vice-chair and secretary shall be elected annually. A quorum of four members must be present for the election to be held. Elections to fill the posts of vice-chair and secretary will be held prior to September of each year, and the term of the office of the vice-chair and secretary shall expire on September 1 of each year.

(c) Vacancies in offices. In the event of the resignation, death or incapacity of a commissioner serving as vice-chair or secretary, whose term has not expired, an election to fill that office will be held at the next meeting following the vacancy.

(d) Dual offices. A commissioner may not hold two offices concurrently, except as an officer-elect for a brief interim to allow for an orderly transfer of office.

(e) Holdover service. Each officer of the commission shall continue to serve until a successor is duly qualified and assumes the post. Upon the expiration of the term of appointment, a commissioner should continue to actively perform assigned duties until such time as or public notification has been made of the appointment of a replacement. The vice-chair shall assume the duties of the chair in the event of the resignation, death, or incapacity of the chair until such time as the governor shall appoint a new chair.

§141.3. Purpose of the Commission. The commission is the principal authority in the state on matters relating to compulsive gambling and chemical dependency prevention, intervention, treatment, and rehabilitation. The commission is the designated agency to receive and administer federal funds for chemical dependency services in Texas. The commission may provide services directly or through grants and contracts, subject to the availability of state and federal funds. The commission licenses chemical dependency counselors and chemical dependency treatment facilities. The commission works cooperatively with interested and affected federal, state, and local agencies and organizations to plan, develop, coordinate, evaluate, and implement programs relating to chemical dependency services in Texas.

§141.4. Authority to Accept Funds. The state constitutional authority for the accep-

tance by the commission of money from private or federal sources is the Texas Constitution, Article 16, §3. The state statutory authority for supervision of substance abuse programs by the commission is found in Texas Health and Safety Code (1995), Title 6, Subtitle B, §461.012, as amended from time to time. In accordance with Texas Health and Safety Code (1995), Title 6, Subtitle B, §461.012(2), the commission cooperates with the federal government in carrying out its charge to provide for the needs of chemically dependent persons through the administration of federal funds under state and federal law, adopting such methods of administration as are found to be necessary and not contrary to existing federal or state laws. The commission shall comply with necessary requirements to receive federal funds in the maximum amount and most advantageous proportion authorized.

§141.5. Organization for Chemical Dependency Services. Under operational policies established by the commission, the executive director is responsible for the administration, supervision, planning, licensing, funding preparation, and all other activities of the commission. The commission shall maintain an organizational chart which will illustrate its functional organization.

§141.6. Relation to Other Agencies and Endorsements.

(a) Many state and federal agencies provide services that benefit the commission and those persons receiving benefits or privileges from the commission or its funded programs. The commission shall work cooperatively with these agencies to plan, develop, coordinate, implement, and evaluate programs for chemical dependency prevention, intervention, treatment, and rehabilitation. In addition, the commission shall work cooperatively with local governments, nonprofit and proprietary service providers, state planning regions, the criminal justice system, school districts, health organizations, and other groups and individuals. It provides technical assistance, funds, and consultation services for the development, enhancement, and coordination of community services.

(b) It is the policy of the commission that any such cooperation or sponsorship with other agencies or groups, public or private, shall not be interpreted as an endorsement of its program(s) by the commission.

§141.7. Committees of the Commission.

(a) Appointment of committees. The chair shall, from time to time as needed, appoint committees or task forces of a standing or temporary nature to per-

form specific functions with regard to policy in conjunction with the duties and purposes of the commission.

(b) Committee powers. The chair may appoint members of the commission, in numbers less than a quorum, to serve on such bodies, and to travel and attend meetings on behalf of the commission. Such committees may not take final action, but shall study issues, make recommendations, and report conclusions and actions to the full commission for consideration and final action. The commission shall not delegate its rule or policy-making powers to its committees or to individual members, except as delegated to the executive committee by these rules.

(c) Standing committees. The standing committees of the agency shall be the executive committee, the awards committee, and the compliance committee.

(d) Executive committee. An executive committee, composed of the chair, vice-chair, and secretary shall be presided over by the chair. The executive committee shall be empowered to make emergency decisions when the commission is not meeting. An emergency, under this policy, is defined as an unforeseen combination of circumstances that call for immediate action without time for deliberation by the full commission. The executive committee shall be empowered to exercise all powers and duties of the commission as set forth in Texas Health and Safety Code, Title 6, Subtitle B, §461.012. Decisions of the executive committee shall be submitted to the commission for ratification at the next meeting, regular or called. The executive committee shall meet as necessary upon the call of the chair, and shall publish notice of its agenda as required by law.

§141.8. Advisory Council.

(a) Council established. The commission shall establish a committee known as the Texas Commission On Alcohol and Drug Abuse Council (advisory council). The advisory council shall consist of 39 voting members. The voting members shall be appointed by the commission for a term of three years and shall be composed of a representative from each of the 24 state planning regions and 15 members at-large. Ex-officio members having non-voting status may be appointed to the advisory council by the commission.

(b) Council meetings and quorum. The advisory council shall meet twice a year on a date and at a place and time determined by the council, and, if needed, as requested by the chair of the council, the commission's liaison to the council, and the executive director of the commission. A quorum shall constitute one-half of the appointed membership plus one, and the busi-

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ness of the council shall only be conducted when a quorum is present Proxy voting shall not be permitted.

(c) Council expenses. Members of the advisory council, with the exception of at-large and ex-officio members, may be reimbursed for travel and actual expenses incurred for attendance at semiannual meetings in accordance with the guidelines set out for all representatives of the state as stated in the most current appropriations act and State Employees Travel Allowance Guide published by the Comptroller of Public Accounts. Any reimbursement for travel and/or actual expenses in addition to those incurred by attendance at the semiannual council meetings must have prior authorization by the executive director, based upon the recommendation of the chair of the advisory council and the commission's liaison to the council.

(d) Duties and functions. The duties and functions of the advisory council shall be to consult with and make recommendations to the commission regarding its policies, programs and activities to:

(1) promote the development of a continuum of services that will effect a fundamental change in the behavior of Texas citizens about the use of alcohol and other drugs and compulsive gambling;

(2) reduce the risk of Texas citizens abusing alcohol and other drugs or becoming chemically dependent and to reduce the risk of compulsive gambling;

(3) ensure accessibility to treatment for every person in Texas in need of such treatment services; and

(4) through the chair, report its findings, recommendations and activities to the commission at the meeting of the commission that follows after the semiannual advisory council meeting.

(e) Rules of procedure. The advisory council shall adopt bylaws and procedures appropriate to the accomplishment of its functions consistent with the statutes, rules, and policies of the commission.

§141.9. Commission Meetings. The commission shall meet at least quarterly. Commission meetings may be held anywhere within the State of Texas. Prior to each meeting the chair, with the assistance of the executive director, shall prepare and submit to each member of the commission the agenda, listing items to be considered. Materials supplementing the agenda may be included. All meetings shall be held pursuant to public notice as required by law. The chair, or three or more members by written request, may call special meetings on dates and at such places and times as are determined by the executive director and the chair.

§141.10. Public Comment and Requests. At its meetings, the commission shall receive public comment from any person on any issue which is not otherwise provided for by rule or procedure. The commission may limit public comment to five minutes per person, unless the individual previously submitted a written request to appear as an item on the commission's agenda, and such request was received prior to submitting the agenda to the *Texas Register* for publication. The commission shall maintain a list of visitors attending meetings.

§141.11. Minutes and Recordings. At all open meetings written minutes shall be taken and the meeting recorded electronically. In addition, any person in attendance may make visual or auditory electronic recordings of open meetings, subject to the availability of space and technical limitations, by prearrangement with the executive director at least 24 hours in advance of the meeting. The chair shall certify the agenda of each executive session or direct that such session be recorded electronically as required by law.

§141.12. Commissioner Travel and Expense Reimbursement.

(a) Official business. Commissioners may travel and incur expenses only when conducting official business. Meals and lodging, public and private transportation, fees, and other allowable expenses and compensatory per diem shall be in accordance with the guidelines as stated in the most current Appropriations Act and the Travel Allowance Guide published by the Comptroller of Public Accounts.

(b) Commissioner duties. A commissioner may travel to perform official duties. A commissioner's duties may include but not be limited to speaking on behalf of the commission to groups with a direct interest in substance abuse related issues; receiving endowments, awards or commendations on behalf of the commission; giving presentations or testimony to the legislature or other official body; and visiting contractors or grantees, licensed facilities or other facilities and individuals regulated by the commission, including potential facility locations and/or persons directly associated with a facility. A commissioner shall be accompanied by a commission staff person when making site visits, as practical and appropriate.

§141.13. Signature Authority. The commission shall employ an executive director and the executive director shall hire other necessary employees. Duly authorized employees shall have the authority to bind the

agency by making contracts and signing vouchers; provided that no contracts for consulting services may be entered into without prior approval by the commission. The executive director, the director of the Funding and Program Management Division, the director of the Program Compliance Division, the director of the Research and Development Division, the director of the Administrative Services Division, and any other person approved upon a duly adopted motion of the commission shall have authority to enter into contracts or approve vouchers for payment from funds appropriated to the commission.

§141.14. Historically Underutilized Business Programs (HUB).

(a) Historically Underutilized Business policy. The commission is committed to providing procurement and contracting opportunities for minority and women-owned businesses. It is the policy of the commission to create an environment that will enhance Historically Underutilized Business (HUB) participation in state procurements, purchases and contracts.

(b) Historically Underutilized Business definition. A Historically Underutilized Business is defined as a corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who have been historically underutilized (socially disadvantaged) because of their identification as members of the following groups: African American, Hispanic American, Asian Pacific American, Native American, and Women. These individuals must have a proportionate interest and demonstrate active participation in the control, operation, and management of the business.

(c) Historically Underutilized Business procedure. In accordance with Texas Civil Statutes, Article 601b, the commission will ensure that:

(1) it makes a good faith effort to award at least 30% of the total value of all applicable procurements, purchases and contracts, to certified Historically Underutilized Businesses;

(2) it requires prime contractors and subgrantees to make good faith efforts to award at least 30% of the total value of all applicable procurements, purchases and contracts, to certified Historically Underutilized Businesses;

(3) it identifies minority and women-owned businesses and provides them an equal opportunity to submit bids or proposals on applicable commission procurement projects, that is, materials, supplies, equipment, and services;

(4) it undertakes special outreach efforts to identify non-certified Historically Underutilized Business vendors currently used by the commission because assisting them in obtaining Historically Underutilized Business certification will benefit the commission as well as other agencies utilizing the same Historically Underutilized Business in the future;

(5) the executive director establishes written agency procedures to implement and monitor compliance with this policy, and, compile and prepare such necessary reports as required by law.

§141.31. Approval of Budgets and Receipt of Funds. The commission shall approve budget requests to be submitted to the legislature and the receipt of grant funds as recommended by the executive director, and shall approve the agency's budget of appropriated funds and funds from other sources. In addition, the commission shall approve the acceptance of donations, set fees for licensure programs, for technical or administrative assistance, consultant services, and specialized services provided by the commission.

§141.33. Policies of the Commission. Policies of general applicability of the commission are those formal written policies approved by the commission and adopted as administrative rules or as announced in a decision resulting from a contested case. An individual commission member's opinion does not necessarily represent the opinion or policy of the commission.

§141.34. Commission Records. The executive director of the commission is the custodian of all public records of the commission. These records shall be available upon reasonable notice and compliance with commission procedures to any person who makes a written request to examine or duplicate public records, unless the records are made confidential by law. The commission may charge a reasonable fee for the costs of providing records, which shall be in accordance with rules established by the Texas General Services Commission or other applicable law.

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

Appellant—A person who has a statutory or commission policy right to appeal a decision of the commission and who requests such appeal to the commissioners following commission rules and procedures.

Board—The members of the governing body of the commission.

Chemical Dependency—Abuse of, psychological, or physical dependence on, or addiction to alcohol or a controlled substance.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Controlled substance—A toxic inhalant, or a substance designated as a controlled substance by Texas Controlled Substances Act, Chapter 481.

Intervention—Constructive methods or programs designed to reduce an individual's risk of abusing or becoming addicted to alcohol or other drugs.

Prevention—Constructive methods or programs designed to reduce an individual's risk of abusing or becoming addicted to alcohol or other drugs.

Rehabilitation—A planned and organized program designed to reestablish the social and vocational life of a person after treatment.

Substance—Alcohol, a controlled substance, or other chemical substance which has the potential for addiction or harm from abuse or misuse.

Toxic inhalant—A gaseous substance that is inhaled by a person to produce a desired physical or psychological effect and that may cause personal injury or illness to the inhaler.

Treatment—A planned and organized program of services designed to initiate and maintain a person's chemical-free status or the maintenance of a person free of illegal drugs.

§141.51. Nondiscrimination in Employment and Funding. The commission fully supports the goal of achieving equal employment opportunities for persons of every race, color, sex, religion, creed, age, national origin, political affiliation, and disability (as defined by other law). The commission recruits, hires, and promotes for all job classifications without regard to such characteristics. Decisions on employment are based upon an individual's qualifications for the position being filled. The commission has a grievance procedure for current employees in the event any employee believes that he or she has been subject to discrimination.

§141.61. General Authority to Accept Donations. The authority to accept donations for the commission is vested in its governing board. Employees of the commission may accept donations within the policies set by the board. The commission does not accept donations of real estate without the express permission and authorization of the legislature, but the commission solicits and accepts other donations from organizations and individuals in any amount and for restricted or unrestricted lawful purposes. The executive director expends unrestricted donations under the direction of the board.

§141.62. Standards of Conduct between Employees and Officers and Private Donors. Commission officers and employees shall not:

(1) accept or solicit any gift, favor, or service from a private donor that might reasonably tend to influence his or her officio conduct;

(2) accept employment or engage in any business or professional activity with a private donor which the officer or employee might reasonably expect would require or induce disclosures of confidential information acquired by reason of the official position;

(3) accept other employment or compensation from a private donor which could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the duties of the official position;

(4) make personal investments in association with a private donor which could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the interest of the commission;

(5) solicit, accept, or agree to accept any benefit for having exercised official powers on behalf of a private donor or performed official duties in favor of a private donor;

(6) vote on or otherwise participate in any measure, proposal, or decision pending before the private donor (if serving as an officer, or director of the donor) if the commission might reasonably be expected to have an interest in such measure, proposal, or decision; or

(7) authorize a private donor to use property of the commission unless the property is used in accordance with a contract between the commission and the private donor, or the commission is otherwise compensated for the use of the property.

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Alcohol and Drug
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For further information, please call: (512) 867-8720

Chapter 142. Investigations and Hearings

• 40 TAC §§142.11, 142.21, 142.22, 142.31-142.33

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§142.11, 142.21, 142.22, and 142.31-142.33, concerning investigations and hearings. The new sections are being adopted to provide rules for general investigations and child abuse investigations, and to describe hearing procedures for licensure sanctions appeals, administrative penalty appeals, and all other appeals.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

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

Administrative hearing—An appeals hearing conducted by an administrative law judge on behalf of the board.

ALJ—An administrative law judge employed by the State Office of Administrative Hearings.

Adverse action—An order, ruling, or decision which:

(A) revokes, suspends, denies, or refuses to issue or renew a license;

(B) places a licensee on probation;

(C) imposes administrative penalties;

(D) terminates or suspends an award before the expiration date;

(E) terminates, suspends, or reduces payments to a provider;

(F) denies payment, in whole or in part, for a properly filed claim;

(G) requires a refund; or

(H) debars a provider.

Board—The commissioners of the Texas Commission on Alcohol and Drug Abuse.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Days—Calendar days, unless otherwise specified.

Executive director—The person acting as the chief administrative officer of the commission.

Hearings officer—A person designated by the executive director to conduct an informal conference.

Informal conference—A meeting presided over by a hearings officer.

Notice of intent—A document in writing that expresses contemplated adverse action.

Person—An individual, partnership, corporation, association, governmental subdivision or public or private organization that is not a state agency.

Respondent—A person against whom adverse action is sought.

SOAH—The State Office of Administrative Hearings.

§142.21. Complaints and Investigations.

(a) A person alleging that a provider, licensee, or intern has violated commission rules shall file a written complaint with the commission.

(b) The commission may also initiate an investigation or disciplinary action against a provider, licensee, or intern if it receives information that a violation has or may have occurred.

(c) The commission will document, evaluate and prioritize complaints based on the seriousness of the alleged violation and the level of client risk. Categories used by the commission are:

(1) **Category I:** Alleged violations that pose an immediate threat to the health or safety of clients receiving prevention, intervention, or treatment services from persons licensed or funded by the commission.

(2) **Category II:** Alleged violations that pose a potential threat to the health or safety of clients receiving prevention, intervention, or treatment services from persons licensed or funded by the commission.

(3) **Category III:** Alleged violations that do not pose a potential threat to the health or safety of clients receiving prevention, intervention, or treatment services from persons licensed or funded by the commission.

(4) **Category IV:** Alleged violations that are not related to commission rules or funding requirements and are not within the jurisdiction of the commission.

(d) All allegations of fraud, abuse, neglect, exploitation, and other violations of client rights will be investigated by the commission.

(e) Complaints outside the commission's jurisdiction will be referred to the appropriate agency for action, as appropriate.

(f) The commission will inform the person of the exact nature of the complaint and may require a facility to conduct its own internal investigation and submit the findings for review.

(g) The person shall provide commission staff access to all documents, evidence, and individuals related to the alleged violation and any internal investigations.

(h) Until the case is resolved, the commission will send quarterly written status reports to all parties.

(i) The commission will document its investigative findings and conclusions and inform the facility and the complainant of the results. If an investigation substantiates the allegation, the commission will require the facility to take corrective action and/or impose sanctions.

§142.22. Child Abuse or Neglect Investigations.

(a) Reports to the commission. The commission will accept oral or written reports concerning acts of child abuse or neglect relating to persons funded or licensed by the commission.

(1) All reports from an identified person alleging child abuse or neglect will be classified as Category I complaints.

(2) Anonymous reports of child abuse or neglect may be classified as Category I or Category II complaints, depending on the perceived level of threat to the child's health or safety.

(b) Response. Category I investigations shall begin within 24 hours, and Category II investigations shall begin within 48 hours, whenever possible.

(1) If an investigation determines the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the commission shall refer the report to a local law enforcement agency for further investigation.

(2) If the complaint was anonymous, the commission shall conduct a preliminary investigation to determine if there is any evidence to substantiate the allegations. If it finds no evidence to substantiate the allegations, the case shall be closed without further action.

(c) Coordination with other agencies. The commission shall coordinate in-

vestigations of child abuse or neglect with appropriate agencies.

(1) When it receives a complaint of child abuse or neglect, the commission shall:

(A) report the incident to other agencies which also license the person;

(B) notify the Texas Department of Protective and Regulatory Services; and

(C) contact local law enforcement agencies.

(2) The notice shall include the investigator's projected on-site arrival, and a request for the name, telephone number, and position of a contact person to coordinate interagency communications.

(3) When the investigation is completed, a full report shall be submitted to all agencies.

(d) Evidence. Commission investigators shall collect sworn statement and documentary evidence only. If the investigator determines a need for the collection and preservation of physical and photographic evidence, the investigator will contact local law enforcement agencies or the Texas Department of Protective and Regulatory Services for assistance.

(e) Reports of the investigation. A written report on child abuse or neglect cases shall be submitted to the Assistant Deputy Director of the Program Compliance Division within five days.

(1) The commission's burden of proof shall be the preponderance evidence.

(2) The commission shall notify all relevant parties of the investigative findings in writing.

(f) Disciplinary action. The commission shall take appropriate disciplinary action, which may include but is not limited to revocation of a license and/or termination of a grant. The disciplinary action shall be based on:

(1) the seriousness of the violation;

(2) history of previous violations;

(3) action necessary to deter future violations;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(g) Complaints. If a person under investigation requests clarification of the status of the case or files a complaint re-

garding the conduct of the Commission investigator or the commission's policy, the commission shall review the complaint.

(1) The investigator's immediate supervisor shall conduct the informal review as soon as possible, but not later than the 14th day after the complaint has been received.

(2) If the person disputes the finding of the informal review, the person may request an administrative review.

(A) The hearings officer shall be an administrative employee who was not involved in and did not directly supervise the investigation.

(B) The review shall substantiate, alter, or reverse the original investigative findings.

(C) The administrative review shall take place as soon as possible, but not later than the 45th day after the date the commission receives the request. If court proceedings are pending, the commission may postpone the review until court proceedings have been completed.

§142.31. Procedure for Facility and Chemical Dependency Counselor Disciplinary Hearings.

(a) The executive director, upon investigation and development of information indicating that grounds may exist to take disciplinary action, may issue a notice of intent notifying the respondent of the proposed action to be taken.

(b) If the respondent fails to request an informal conference within 20 days of the date of the notice of intent, the executive director, on or after the 21st day following the date of the notice of intent, may issue a notice of denial, suspension, revocation or nonrenewal of the license. The executive director's decision is final 30 days after the notice is mailed unless:

(1) the commission obtains an injunction; or

(2) the commission receives a written request for an administrative appeal within 15 days from the date on which the executive director's decision was mailed.

(c) If the commission receives a timely request for an informal conference, the conference will be scheduled before the executive director or the director's designee. At the conference the respondent shall be given the opportunity to show compliance with all requirements of law and why the proposed action should not be taken. Informal rules of evidence shall not be used, but at the discretion of the conference offi-

cer, testimony may be under oath. Following the conference the executive director shall issue an order either withdrawing the notice of intent or modifying or confirming the proposed disciplinary action expressed in the notice of intent. The executive director's decision is final 30 days after the notice is mailed unless:

(1) the commission obtains an injunction; or

(2) the commission receives a written request for an administrative appeal within 15 days from the date on which the executive director's decision was mailed.

(d) If the commission receives a timely request for an administrative appeal, the effective date of the executive director's decision is superseded pending the commission's final action.

(e) The respondent is entitled to at least 15 days' notice of the date, time, and place of the appeals hearing. The appeals hearing shall be conducted by an administrative law judge (ALJ) employed by the State Office of Administrative Hearings (SOAH). The State Office of Administrative Hearings' Rules of Procedure found at 1 TAC, Chapter 155, apply to appeals hearing unless in conflict with these rules.

(f) The parties to the hearing shall be allowed to present evidence, to examine witnesses, to cross examine adverse witnesses, to make argument, and to submit legal authority. Following the hearing, the administrative law judge shall issue a proposal for decision containing a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.

(g) Exceptions to the proposal for decision, if filed, must be filed with the administrative law judge within 20 days after the date of mailing the proposal for decision. Replies to the exceptions, if any, must be filed with the administrative law judge within 30 days after the date of mailing the proposal for decision.

(h) The board will consider the proposal for decision at a public meeting, at which the board shall issue a final decision or order. An order is effective 31 days after the respondent receives notice of the decision or order.

(i) A motion for rehearing, if filed, must be filed within 20 days after the date the respondent or the respondent's attorney is notified of the final decision or order. The board shall act on the motion within 45 days after the notification date of the final decision or order. If the board fails to act, the motion for rehearing is overruled by operation of law 45 days after the notification date of the final decision or order.

(j) An order granting a rehearing vacates the preceding final order. When the board renders a new final decision, a motion for rehearing directed to the new order is a prerequisite for appeal.

(k) In the absence of a timely motion for rehearing, a decision is final 31 days after the respondent receives notice of the decision. A decision is final and appealable on the date of rendition of an order overruling a motion for rehearing or on the date the motion is overruled by operation of law. If the board finds an imminent peril to the public health, safety or welfare requires immediate effect of a final decision or order, it shall recite that finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered, and no motion for rehearing is required as a prerequisite for appeal.

(l) The respondent appealing the board's order shall pay to the commission the cost of preparing the original or a certified copy of the record that is to be transmitted to the reviewing court at rates approved by the State Purchasing and General Services commission.

§142.32. Administrative Penalties.

(a) The commission may impose an administrative penalty against a person licensed or regulated by Texas Health and Safety Code, Title 6, Subchapter B, Chapter 464.

(b) Each day a violation continues is a separate violation.

(c) The amount of the penalty may not exceed \$25,000 per violation and will be based on:

(1) the seriousness of the violation;

(2) enforcement costs relating to the violation;

(3) history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) The executive director, following the opportunity for an informal conference and upon determining that a violation has occurred, may report the findings and recommendations to the commissioners, including a recommended penalty.

(e) The executive director shall give written notice to the person adversely affected within 14 days of the date the

report is issued. The notice may be by certified mail. The notice shall include:

(1) a brief summary of the alleged violations;

(2) a statement of the amount of the recommended penalty;

(3) a notification that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(f) The person shall accept the determination and recommended penalty or request a hearing in writing within 20 days of receipt of the notice. If the person accepts the determination and recommended penalty, the board shall issue an order approving both.

(g) If the person requests a hearing or fails to respond within 20 days, the executive director or the director's designee shall set a hearing before the State Office of Administrative Hearings.

(h) Section 142.31(d)-(l) of this title (relating to Procedure for Facility and Chemical Dependency Counselor Disciplinary Hearings) apply to notice of the hearing, the hearing, hearings procedures, the proposal for decision, exceptions, replies to exceptions, the commission's decision, and motions for rehearing. The board's order is final, however, 20 days after the person receives notice of the adverse decision if no motion for rehearing is filed.

§142.33. Procedure for All Other Appeals.

(a) This section applies to all other proceedings in which the commission seeks adverse action against respondents, including grantees.

(b) The respondent must file a written notice of protest to the notice of intent or adverse action with the executive director within 30 days of the date of the commission's notice.

(c) The executive director shall schedule an informal conference before the director or the director's designee. At the conference the respondent shall be given the opportunity to show compliance with all requirements of law and why the proposed action should not be taken. Formal rules of evidence shall not be used, but at the discretion of the conference officer, testimony may be under oath. Following the conference, the executive director shall issue an order either withdrawing the notice of intent or adverse action, or modifying or confirming the proposed action expressed in the notice of intent or the adverse action. The executive director's decision is final 15 days after the notice is mailed, unless the respondent files a timely notice of administrative appeal.

(d) The written notice of administrative appeal, if filed, must be filed within

ten days of the date of the executive director's decision. The respondent is entitled to at least ten days' notice of the date, time, nature and place of the appeals hearing. The notice shall also include:

(1) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a reference to the particular section of the statutes and rules involved; and

(3) a short, plain statement of the matters asserted.

(e) The appeals hearing shall be conducted by an administrative law judge employed by State Office of Administrative Hearings. State Office of Administrative Hearings' Rules of Procedure found at the 1 TAC, Chapter 155, apply to appeals hearings unless in conflict with these rules.

(f) The parties to the hearing shall be allowed to present evidence, to examine witnesses, to cross examine adverse witnesses, to make argument, and to submit legal authority. Following the hearing, the administrative law judge shall issue a proposal for decision containing a statement of the reasons for the proposed decisions and of each finding of fact and conclusion of law necessary to the proposed decision.

(g) Exceptions to the proposal for decision, if filed, must be filed with the administrative law judge within 20 days after the date of mailing the proposal for decision. Replies to the exceptions, if any, must be filed with the administrative law judge within 30 days after the date of mailing the proposal for decision.

(h) The board will consider the proposal for decision at a public meeting, at which the commission shall issue a final decision or order. An order is effective 20 days after the respondent receives notice of the decision or order.

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For further information, please call: (512) 867-8720

Chapter 143. Introduction

• 40 TAC §§143.11-143.19,
143.31-143.36

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§143.11-143.19 and §§143.31-143.36, concerning appeals hearings. These

rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing functions of the commission, including rules that prescribe policies and procedures followed by the commission in administering any commission programs.

§143.11. Appeals to the Board.

§143.12. Hearing Examiners.

§143.13. Requirement for Appeal Requests.

§143.14. Notice of Hearing.

§143.15. Location of Hearings.

§143.16. Nature of Hearings.

§143.17. Restrictions on Communications During Appeals.

§143.18. Representation by Agent.

§143.19. Adjournment, Continuances, and Postponements of Hearings.

§143.31. Evidence.

§143.32. Abstention from Voting.

§143.33. Decision of the Board.

§143.34. Continuing Jurisdiction.

§143.35. Exhaustion of Remedies.

§143.36. Record on Appeal.

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Chapter 143. Awards

Subchapter A. Funding Mechanisms

• 40 TAC §§143.11-143.16

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§143.11-143.16, concerning awards funding mechanisms. The new sections are being adopted to describe the methods used by the commission to award funds to applicants.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§143.11. *Methods of Purchase.* The commission awards funds through four primary methods:

(1) solicitation of competitive applications through the request for proposal (RFP) process;

(2) application process for non-competitive renewal funding;

(3) consideration of unsolicited requests for funding; and

(4) noncompetitive negotiation of awards.

§143.12. *Competitive Negotiation.* The commission may solicit proposals from a number of sources by publishing a request for proposals (RFP) in the *Texas Register*. After the evaluation process, the commission negotiates with one or more applicants who meet the specified requirements.

§143.13. *Noncompetitive Negotiation.*

(a) The commission may solicit a proposal from only one source if it is not feasible to use competitive procedures.

(b) In addition, one of the following must apply:

(1) A competitive process failed to elicit acceptable bids.

(2) The agency awarding or appropriating the funds to the commission either authorized the noncompetitive negotiation or approved the entity to receive funds.

(3) An emergency necessitates proceeding without formal advertising because of the delay it causes.

(4) The material or service to be purchased is available from only one source.

(c) The following procedures shall be used:

(1) A notice that funds are available for the service shall be published in the *Texas Register* for at least 15 days.

(2) The commission will conduct a cost analysis or budget review which includes verification of the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit (if applicable and authorized).

(3) The commission will evaluate the organization and the proposed program in relation to federal and state requirements and criteria set by the agency.

(4) The commission will obtain consent from federal funding sources as required by Office of Management and Budget Circular (OMB) A-102, if applicable.

(5) Applicable state regulations, such as the Historically Underutilized Business (HUB) Program, will also be followed.

(d) After a noncompetitive award is made, the commission reserves the right to use a competitive process in subsequent years.

§143.14. *Unsolicited Proposals.*

(a) Unsolicited proposals will be considered only when sufficient and proper funds are available.

(b) Unsolicited proposals do not include late or advance proposals for known commission requirements that can be obtained through competition.

(c) A valid unsolicited proposal shall be innovative or unique, meet a specific need of an underserved population, or meet any other unmet need.

(d) On-going programs are not eligible for awards through this process.

(e) The project shall be completed within a 12-month period, and the award shall not be renewed.

(f) Total cost shall not exceed \$25,000.

(g) An unsolicited proposal shall be developed by the applicant without commission supervision.

(h) Staff will evaluate unsolicited proposals if funds are available.

(i) If the proposal meets all requirements and appears to be worthwhile, an award recommendation may be submitted to the commission's governing board or designee for approval.

(j) If applicable, the commission will submit the proposal for federal approval as required by Office of Management and Budget Circular A-102.

(k) The commission will also follow applicable state regulations, such as the Historically Underutilized Business Program.

§143.15. Noncompetitive Renewal.

(a) The commission may renew a competitive award annually for up to four years without further competition.

(b) The commission may renew a noncompetitive award annually for an indefinite period, provided that a periodic review documents that competition is not possible.

(c) A grant shall not be renewed unless:

(1) the commission finds a continuing regional need for the services; and

(2) the provider continues to meet eligibility requirements.

(d) Renewal of an award is not automatic. The commission may renew an award when renewal is authorized and beneficial.

§143.16. *Categorical Awards.* When funds are available from the Center for Substance Abuse Treatment (CSAT), the commission may:

(1) mail a notice to interested applicants;

(2) participate in the initial review of applications; and

(3) prepare and submit a consolidated state application to the Center for Substance Abuse Treatment, when applicable.

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◆ ◆ ◆ Subchapter B. Eligibility

◆ ◆ ◆ • 40 TAC §§143.21-143.25

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§143.21-143.25, concerning eligibility for commission awards. The new sections are being adopted to establish minimum criteria for persons who wish to apply for funding from the commission.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§143.21. Eligibility Criteria.

(a) An application shall not be considered unless the provider meets the following criteria:

(1) The provider shall be a legally established public, private nonprofit, or for-profit organization. For-profit entities are only eligible to provide treatment services and shall be funded through a unit cost competitive procurement.

(2) Providers seeking funding for treatment services shall have been licensed at the level proposed for 180 days unless funds are being sought for developmental purposes.

(3) All of the provider's counselor interns and licensed chemical dependency counselors shall be in good standing with the commission.

(4) A provider shall not employ a chemical dependency peer intern except within the Texas Criminal Justice Chemical Dependency Treatment Initiative.

(5) The provider and all counselors shall be in compliance with any commission agreed order.

(6) Providers who have previously been funded by the commission shall be in compliance with the following requirements:

(A) If the applicant has been suspended or terminated by the commission at any time in the past all issues shall be satisfactorily resolved.

(B) If the applicant owes a refund to the commission it shall be on schedule with the terms of the repayment agreement.

(C) The applicant shall have submitted an annual audit as required by the grant agreement or contract.

(D) The applicant shall have corrected all deficiencies noted in previous audits or submitted an acceptable corrective action plan.

(E) The applicant shall have returned all requested refunds, as required.

(b) Requests for proposals (RFPs) and noncompetitive negotiations may establish additional eligibility standards.

(c) Providers shall continue to meet eligibility standards after funds are awarded or be subject to sanctions.

§143.22. *Abstinence as a Treatment Goal.* Providers shall require all clients receiving services funded by the commission to establish treatment goals which include abstinence from the consumption of alcohol, illicit drugs, and inhalant abusable products.

§143.23. Application Information.

(a) An applicant who does not provide all requested information is not eligible to receive funds from the commission.

(b) All applicants shall supply the following information, if requested:

(1) identifying information;

(2) documentation of legal basis for operation;

(3) ownership or control information;

(4) information on business transactions and relationships;

(5) information on financial status; and

(6) information on persons convicted of crimes.

(c) The commission may deny funding to an applicant if any person who has an ownership or controlling interest in the provider organization, or who is an agent or managing employee of the provider, has been convicted of a criminal offense related to involvement in any program established under Medicare, Medicaid, or the Title XX block grant.

§143.24. Compliance with Other Agencies.

(a) An applicant who is not in good standing with other funding or regulatory agencies is not eligible for funding from the commission.

(b) Applicants shall be in good standing with any state or federal agency that has a contracting relationship with the applicant. An applicant is not eligible if:

(1) a state or federal agency has terminated the applicant's contract within the last 12 months for performance deficiencies;

(2) the applicant has been debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs.

(c) The commission may refuse to fund an applicant who cannot demonstrate that the location where services will be provided is in compliance with all applicable local and state zoning, building, health, fire, and safety standards.

§143.25. Litigation. An applicant shall disclose to the commission in writing any pending or threatened litigation which might prevent the applicant from meeting funding requirements, if funded. This includes:

(1) an action, suit, or proceeding before any court or governmental body, including environmental and civil rights matters; and

(2) employee labor disturbances.

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◆ ◆ ◆
**Subchapter C. Competitive
Funding Process**

• **40 TAC §§143.31-143.46**

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§143.31-143.46, concerning the competitive funding process. The new sections are being adopted to describe the procedures used in the commission's primary funding mechanism, the request for proposal (RFP) process.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§143.31. Award Criteria.

(a) The commission shall develop award criteria for each request for proposal based on state and federal funding mandates which address priorities, restrictions, and prohibitions.

(b) Funds are awarded through a plan based on:

(1) an allocation formula which recognizes need in the Health and Human Services Commission (HHSC) regions;

(2) peer review rankings; and

(3) cost of proposed service.

(c) The commission may consider additional factors in allocating funds, including:

(1) appropriateness for the commission funding;

(2) potential contribution of proposed services; and

(3) past performance and compliance.

(d) Award criteria shall be developed in accordance with policies and procedures established by the board and listed in the request for proposals.

§143.32. Request for Proposals (RFP).

(a) The commission develops requests for proposals based on a clear and accurate description of the services to be purchased.

(b) The request for proposal shall include all requirements that must be met for an application to be considered.

(c) The package contains complete application procedures, forms, and time frames.

(d) The request for proposal also describes the commission's process for evaluating the proposals and making awards.

§143.33. Cancellation or Suspension of Solicitation.

(a) The commission has the right to reject all offers and cancel a solicitation for any of the following reasons.

(1) The specifications given in the request for proposal were inaccurate, inadequate, or ambiguous.

(2) The services are no longer required.

(3) The offers received indicated that the services can be purchased by a less expensive method.

(4) Probable cause is found to believe that the bids/offers are collusive or were submitted in bad faith.

(5) None of the applicants is considered responsive.

(6) The responsible contracting authority determines cancellation is in the commission's best interest.

(b) The commission may suspend a solicitation because of uncertainty in federal regulations, departmental policy, or similar requirements. The process may resume when the issue is resolved, or the solicitation may be canceled.

§143.34. Competition and Collusion.

(a) The commission shall maximize open and free competition. Competitive requests for proposals shall not include unwarranted requirements which eliminate or restrict participation of qualified potential providers.

(b) The award process shall be fair and impartial.

(c) Submitted proposals may only contain employee-developed materials and shall only represent the efforts of the applicant organization.

(d) Lobbying of commission staff or commissioners is prohibited.

§143.35. Advertisement of Solicitation.

(a) The commission shall publish a notice of the intent to purchase services through a competitive process in the *Texas Register*. The notice shall include:

(1) the service to be purchased;

(2) the geographic area to be served;

(3) funding limitations;

(4) method of payment;

(5) contract period;

(6) any limitations on who may submit an offer;

(7) how to obtain a request for proposal; and

(8) the application deadline.

(b) The commission will attempt to reach as many potential applicants as possible, depending on available staff time and funding.

§143.36. Information about the Funding Process.

(a) An applicant may obtain information about the funding process only through the methods described in the application package.

(b) Applicants with questions about a request for proposal shall request information according to these instructions.

(c) No potential contractor shall be given information that may give him a competitive advantage over the other potential providers.

(d) The commission representatives shall not discuss applications with applicants after the submission deadline.

§143.37. Application.

(a) An organization shall apply for funding using forms and procedures specified by the commission.

(b) The application shall be signed by the organization's authorized official.

(c) Providers seeking noncompetitive continuation awards must submit an application each year.

(d) Applications shall be received at the commission by the date and time stated in the request for proposal. The commission shall not consider any material related to an application (except for Texas Review and Comment System comments) that is received after the due date.

(e) Applications shall be submitted by mail or in person. The commission shall not accept applications by facsimile.

§143.38. Texas Review and Comment System (TRACS) Review.

(a) Applicants seeking financial assistance (grants) from the commission shall comply with the Texas Review and Comment System (TRACS) as described in the request for proposal.

(b) A favorable Texas Review and Comment System (TRACS) recommendation is not required for applicants to submit proposals to the commission.

§143.39. Screening. Applications are first screened for eligibility and completeness using minimum requirements stated in the request for proposal. An application shall meet all screening criteria to qualify for further consideration. The commission will notify applicants that are eliminated within 30 days.

§143.40. Internal Review. Staff shall conduct an evaluation of each applicant's performance and compliance history, including current status with the commission. Other funding sources may also be contacted during this process.

§143.41. Peer Review.

(a) The commission shall maintain a peer review process to evaluate competing applications.

(1) Applications are competing when two or more applications are received from the same state planning region for the same service, service level, setting, and target population.

(2) Peer review shall be used for all competitive awards unless the scope of

the award or the number of competing applications received does not justify the cost.

(b) The peer review process shall be designed to promote fairness, objectivity, and impartiality.

(c) The commission shall solicit applications from professionals outside Texas to serve as peer reviewers. Peer reviewers shall demonstrate appropriate training and experience and shall have no personal interest in the outcome.

(d) The peer reviewers shall score each application according to the review criteria stated in the request for proposal. The commission shall provide written procedures and training for all peer reviewers.

§143.42. Funding Decisions.

(a) Funding decisions are:

(1) made by the commission's governing board or designee; and

(2) based on the funding allocations, the award criteria, and the cost of the proposed service.

(b) Adjustments may be made to the funding allocations and award criteria to meet unanticipated changes and needs.

(c) Staff apply the funding allocation formulas and award criteria to determine which applications will be recommended for funding.

(d) The governing board or designee shall review and approve the recommendations.

§143.43. Negotiation.

(a) The commission may negotiate with recommended applicants to determine the terms of the award.

(b) A provider shall not enter into an agreement with the commission if legal action is pending or threatened that might impact the provider's ability to meet the requirements of the award.

§143.44. Acceptance.

(a) The commission will send the applicant written notice within 30 days of the funding decision.

(b) To receive an award, the applicant shall accept any additional or special terms and conditions listed in the letter of award or contract and any changes in the funding application.

(c) An applicant documents acceptance of the award by signing it and returning it to the commission. The award becomes final only after the commission receives a fully executed copy of the contract or letter of award.

~~§143.45. Funding Announcements~~ Applicants shall not make public announcements about the commission funds until they have received written award notification from the commission.

§143.46. Notification of the Unsuccessful Applicant. The commission will notify unsuccessful applicants in writing. Upon written request, the commission will provide written feedback on unsuccessful proposals.

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For further information, please call: (512) 867-8720

◆ ◆ ◆
Chapter 148. Facility Licensure Standards

Subchapter A. Licensure Information

General Provisions

• **40 TAC §§148.1-148.4**

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.1-148.4, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.1. Purpose.

§148.2. License Required.

§148.3. Application of the Rules.

§148.4. Variances.

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Chapter 148. Facility Licensure

Subchapter A. Licensure Information

- 40 TAC §§148.1-148.4, 148.21-148.27, 148.41, 148.42, 148.61

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§148.1-148.4, 148.21-148.27, 148.41, 148.42, and 148.61, concerning chemical dependency facility licensure information. The new sections are being adopted to describe general provisions; procedures for licensure application, renewal, and changes in status; licensure fees; licensure reviews; sanctions and injunctions; and definitions.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.1. Purpose. The purpose of these rules is to protect the public health, safety, and welfare and to ensure that chemically dependent individuals receive adequate and appropriate treatment.

§148.2. License Required.

(a) A facility providing chemical dependency treatment in Texas shall have a license issued by the commission unless it is:

- (1) a facility maintained or operated by the federal government or its agencies;
- (2) a facility directly operated by the State of Texas;
- (3) a general or private psychiatric facility licensed by the Texas Department of Health;
- (4) an educational program for intoxicated drivers;
- (5) an individual who personally provides support services to chemically dependent persons but does not offer or purport to offer a chemical dependency treatment program;
- (6) the office of a private licensed health care practitioner or licensed

chemical dependency counselor who personally renders individual or group services within the scope of the practitioner's license and in the practitioner's individual office; or

- (7) exempt under state law.
- (b) The facility shall have a licensure certificate for each program and site.
- (c) A licensed facility shall have written approval from the commission before accepting court commitments or providing treatment as an alternative to arrest for public intoxication.

§148.3. Application of the Rules.

- (a) The commission's interpretation of these rules shall be binding on all applicants and licensees.
- (b) Information, opinions, and advice provided by commission staff shall not be considered binding on the commissioners if the matter requires action by the commissioners.
- (c) Commission activity does not set precedent. Every situation will be considered on its own merit.

§148.4. Variances.

- (a) The commission's executive director may grant a variance to a facility or group of facilities.
- (b) To be eligible for a variance, a facility shall show:
- (1) an alternative method is used to meet the intent of the rule; and
 - (2) the variance will not jeopardize the health, safety, or welfare of clients.

(c) The commission's executive director or designee will determine if an alternative is equivalent to the written rule and when it will be accepted during licensure reviews.

§148.21. Licensure Application. An applicant for initial licensure, license renewal, or change in status shall submit a complete licensure application with an application fee and follow procedures and time frames set by the commission.

§148.22. Licensure Renewal.

- (a) A license issued by the commission expires at the end of two years and may be renewed.
- (b) The licensee shall file a renewal application and renewal fee at least 90 days before the license expires.
- (c) The facility shall not provide services after the license expiration date unless it has received written notification that the renewal has been approved.

(d) If the commission receives the renewal application one to 90 days after the expiration date, the licensee shall pay a \$500 penalty in addition to the renewal fee.

(e) After 90 days, the license cannot be renewed. The licensee shall submit an application for a new license.

§148.23. Changes in Status.

(a) A facility shall give advance notice of any proposed change in a program's licensure status and submit the appropriate application and fees. Notice of less than 60 days may delay approval.

(b) The facility shall receive written approval from the commission before implementing any of the following changes:

- (1) additional program site;
 - (2) new organization name;
 - (3) additional services;
 - (4) new address;
 - (5) increase in client capacity;
- or
- (6) change in client gender or age group.

§148.24. Change in Ownership.

- (a) The facility shall notify the commission before a change in ownership.
- (b) The new owner shall apply for a new license and is subject to the same procedures and fees as any other applicant.

§148.25. Licensure Fees.

- (a) A single licensure fee is charged and collected for each licensure period.
- (b) Licensure fees are not refundable.
- (c) A facility shall pay the full licensure fee for any licensure period during which it provides chemical dependency treatment. Failure to notify the commission of closure does not excuse a licensee from paying fees.
- (d) Fees shall be paid in full by certified check or money order.

(e) Through December 31, 1995, the schedule for licensure fees is:

- (1) application fee-\$50;
 - (2) base fee-\$1,000;
 - (3) fee per bed-\$30;
 - (4) maximum fee per facility-\$2,000.
- (f) Effective January 1, 1996, the schedule for licensure fees shall be:

- (1) application fee-\$100;
- (2) base fee-\$1,000;
- (3) fee per site-\$100;
- (4) fee per bed-\$30;
- (5) maximum fee per facility-\$4,000.

(g) The certificate replacement fee is \$10.

(h) Fees are also charged for any documentation request:

- (1) list of licensed facilities-\$15;
- (2) facility labels-\$5.00;
- (3) paper copies over 50 pages-\$.10 per page;
- (4) local Fax-\$.10 per page;
- (5) long distance fax, same area code-\$.50 per page;
- (6) long distance fax, different area code-\$1.00 per page.

§148.26. Discontinuing Treatment.

(a) Any facility that voluntarily suspends services for more than 30 days shall notify the commission with a letter of intent justifying why the commission should not retire the license. If granted, inactive status is limited to six months. The licensee is responsible for all licensure fees while on inactive status.

(b) The facility shall notify the commission in writing within 30 days when it closes a chemical dependency treatment program.

(c) A license becomes invalid when a program closes or changes ownership and the document of approval shall be returned to the commission at that time.

(d) Surrender of a license does not interrupt an investigation or sanctions process. Unless the facility is cleared through investigation or hearings, the commission will impose the proposed sanctions and withdraw the facility's license in negative status. The facility is not eligible to regain the license until all outstanding investigations, disciplinary proceedings, or hearings are resolved.

§148.27. Licensure Review.

(a) The commission may conduct a scheduled or unannounced on-site inspection or request additional materials for review.

(b) The applicant shall allow commission staff to access the facility's grounds, buildings, and records and to interview members of the governing body, staff and clients.

(c) The facility shall have evidence of its compliance with each applicable rule.

(d) The applicant shall correct identified deficiencies and pay the licensure fee on time.

(e) The applicant shall not provide chemical dependency treatment services before receiving written notice of licensure approval.

(f) The facility shall display the licensure certificate prominently wherever it provides services.

§148.41. Sanctions.

(a) The commission's executive director may deny, suspend, revoke, or refuse to renew a license if an applicant, licensee, owner, member of the governing body, administrator, or clinical staff member of the facility:

- (1) has a documented history of client abuse or neglect as determined by the commission;
- (2) fails to comply with any provision of the Act or other applicable statute, or with a commission rule.

(b) The commission may impose an administrative penalty against a person regulated under the Act who violates authorizing statutes, or a rule or order adopted under the statutes.

(c) A person practicing without a license is subject to a civil penalty of up to \$200 for each violation of the Act or these rules.

(d) Each day a violation continues or occurs is a separate violation.

(e) All hearings shall be conducted according to the Administrative Procedures Act, Texas Civil Statutes, Government Code, Chapter 2001 and Chapter 142 of this title (relating to Investigations, Appeals, and Hearings).

(f) The executive director or designee may offer the person an opportunity to sign an agreed settlement, consent order, or stipulation.

(1) A proceeding is suspended on the date both parties sign the agreement.

(2) If the applicant fails to comply with any requirement of the agreement, the executive director or designee may nullify the agreement and resume the proceeding.

§148.42. Injunctions. The commission may petition a district court to restrain a person who commits a violation that is causing an immediate threat to the health and safety of individual clients.

§148.61. Definitions. The following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Abuse-Any act or failure to act which is done knowingly, recklessly or intentionally, including incitement to act, which caused or may have caused injury to a client. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement. Client abuse includes:

- (A) any sexual activity between facility personnel and a client;
- (B) corporal punishment;
- (C) nutritional or sleep deprivation,
- (D) efforts to cause fear;
- (E) the use of any form of communication to threaten, curse, shame, or degrade a client;
- (F) restraint that does not conform with these rules;

(G) coercive or restrictive actions taken in response to the patient's request for discharge or refusal of medication or treatment that are illegal or not justified by the patient's condition; and

(H) any other act or omission classified as abuse by the Texas Family Code, §34.012.

Act-Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

Acute alcohol/drug withdrawal-Withdrawal symptoms which threaten the physical safety of the client. Acute withdrawal symptoms may include, but are not limited to: seizures, hypertensive crisis, deliriums tremens, and severe dehydration with metabolic or electrolyte imbalances.

Adequate-Reasonably sufficient; enough to meet the need.

Admission-Formal acceptance of a prospective client to a treatment facility.

Adolescent-An individual 13 through 17 years of age whose disabilities of minority have not been removed by marriage or judicial decree.

Adult-An individual 18 years of age or older, or an individual under the age of 17 whose disabilities of minority have been removed by marriage or judicial decree.

Advanced nurse practitioner-A registered nurse currently licensed in Texas who is prepared for advanced practice and approved by the Texas State Board of Nurse Examiners.

Advertise-To solicit or induce, through print or electronic media, including radio, television, or direct mail, to purchase the services provided by a treatment facility.

Aftercare services—Services provided by a facility to a client who has been discharged and is no longer receiving services from any of that facility's treatment programs.

Applicant—A person who has submitted a complete application to the commission for licensure, relicensure, or change in status, and paid the application fee.

Approval—Written authorization.

Chemical dependency—The abuse of, psychological or physical dependence on, or addiction to alcohol, a toxic inhalant, or any substance designated as a controlled substance in the Texas Controlled Substances Act.

Chemical dependency counselor—A qualified credentialed counselor, as defined in these rules, or an individual designated by the commission as a chemical dependency intern.

Chemical dependency education—A planned, structured presentation of information related to chemical dependency, including but not limited to: physiological and psychological effects, emotional and social deterioration, rehabilitation and relapse, and risk of Human Immunodeficiency Virus.

Chemical dependency treatment—A planned, structured, and organized program designed to initiate and promote a person's chemical-free status or to maintain the person free of illegal drugs. It includes, but is not limited to, the application of planned procedures to identify and change patterns of behavior related to or resulting from chemical dependency that are maladaptive, destructive, or injurious to health, or to restore appropriate levels of physical, psychological, or social functioning lost due to chemical dependency.

Child—An individual under the age of 13.

Client—An individual who is receiving services from a chemical dependency treatment facility licensed by the commission. All licensed chemical dependency counselors and interns providing chemical dependency services at a facility have a client-counselor relationship with any client receiving chemical dependency or related services from the facility which extends for two years beyond the date that services cease.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Commissioners—Members of the commission's governing body.

Confidentiality laws—Federal law (42 United States Code, §290dd-2) and state law (Texas Health and Safety Code, Title 7, Subtitle E, Chapter 611) and regulations adopted pursuant to these statutes.

Consenter—The individual legally responsible for giving informed consent for a

client. This may be the client, parent, guardian, or conservator. Unless otherwise provided by law, a legally competent adult is his or her own consenter. Consenters include adult clients, clients 16 or 17 years of age, and clients 13-16 years of age admitting themselves for chemical dependency treatment under the provisions of the Family Code, §35.03.

Consultant—An individual who is not an employee who provides services to the facility for compensation.

Contract Provider—A legal entity with whom the facility has a written agreement for services.

Counselor—A chemical dependency counselor.

Detoxification Services—Chemical dependency treatment designed to systematically reduce the amount of alcohol and other toxic chemicals in a client's body, manage withdrawal symptoms, and encourage the client to seek on-going treatment for chemical dependency.

Detoxification standing order—An order written by a physician which governs the delivery of detoxification services to specific clients by licensed staff.

Direct care staff—Staff responsible for providing treatment, care, supervision, or other client services that involve a significant amount of face-to-face contact.

Direct supervision (of counselor interns)—Supervision that meets the criteria listed in the commission's Chemical Dependency Counselor Licensure Rules.

Discharge—The time when a client leaves a facility and will no longer be receiving chemical dependency treatment.

Documentation—A written record that includes required content, date, and signature.

Employee—An individual hired directly by the facility to provide services in exchange for money or other compensation.

Ensure—Take all reasonable and necessary steps to achieve results.

Experience—Direct participation in a similar job activity supervised by a qualified individual.

Exploitation—An act or process to use, either directly or indirectly, the labor or resources of a client for monetary or personal benefit, profit, or gain of another individual or organization.

FTE—Full Time Equivalent staff position requiring 40 hours per week.

Facility—A legal entity with a single governing body, a single administration, and a single staff that provides chemical dependency treatment.

Facility director—The individual authorized by the governing body to act on its behalf in the overall administration of the facility.

Family Counseling—Counseling services provided to family members and significant others as part of a client's treatment program. Family counseling is limited to

issues directly related to the client's chemical dependency, and may not address other problems and issues a family member may be experiencing.

Governing body—The individual or individuals legally established to operate a facility. The governing authority has ultimate authority and responsibility for the facility's services and operations.

Group counseling—A face-to-face interaction between two or more clients and a counselor to help clients identify, understand, and resolve issues and problems related to chemical dependency.

HIV—Human Immunodeficiency Virus infection.

ITC—An in-prison therapeutic community that is part of the state's criminal justice initiative.

Immediate supervision—Being physically present while a task is being performed.

Individual counseling—A face-to-face interaction between a client and a counselor to help a client identify, understand, and resolve issues and problems related to chemical dependency.

Individual service day—A day on which a specific client receives services.

Inform—To communicate through mail, by telephone or telecopier, by courier, or in person.

Intake—The administrative process for gathering information about a prospective client and giving a prospective client information about the treatment facility and the facility's treatment and services.

Intervention and assessment service—A service that offers assessment, counseling, evaluation, intervention, or referral services or makes treatment recommendations to an individual with respect to chemical dependency.

License—A grant of authority to a facility to provide chemical dependency treatment in the state of Texas, which is issued by the commission under the Act.

Licensed chemical dependency counselor (LCDC)—A counselor licensed by the Texas Commission on Alcohol and Drug Abuse.

Licensed dietitian—An individual who is currently licensed or provisionally licensed by the Texas State Board of Examiners of Dietitians.

Licensed marriage and family therapist (LMFT)—An individual who is currently licensed as a marriage and family counselor by the Texas State Board of Examiners of Marriage and Family Therapists.

Licensed master social worker (LMSW)—An individual who is licensed as a master social worker by the Texas Department of Human Services.

Licensed medical professional—A physician, physician assistant, registered nurse, or licensed vocational nurse as defined in these rules.

Licensed professional counselor (LPC)—An individual licensed as a professional counselor by the Texas State Board of Examiners of Professional Counselors.

Licensed vocational nurse (LVN)—A nurse licensed by the Texas State Board of Vocational Nurse Examiners.

Mechanical restraint—Use of a physical device to control or restrict a person's physical movement or actions.

Medical emergency—Physical symptoms requiring immediate medical attention, to prevent death or imminent harm.

Medication—Any drug used to treat a condition or relieve symptoms, including prescription drugs and over-the-counter drugs.

Medication error—Medication not given according to the written order. Includes duplicate doses, missed doses, and doses of the wrong amount or drug.

Mental health referral service—A service that does not provide treatment directly but instead refers clients in need of mental health services to qualified providers.

Mental health services—All services concerned with research, prevention, and detection of mental disorders and disabilities, and all services necessary to treat, care for, control, supervise, and rehabilitate persons who have a mental disorder or disability, including persons whose mental disorders or disabilities result from chemical dependency.

Neglect—Actions resulting from inattention, disregard, carelessness, ignoring or omission of reasonable consideration that caused, or might have caused, physical or emotional injury to a client. Examples of neglect include, but are not limited to:

(A) failure to provide adequate nutrition, clothing, or health care;

(B) failure to provide a safe environment free from abuse;

(C) failure to maintain adequate numbers of appropriately trained staff;

(D) failure to establish or carry out an appropriate individualized treatment plan.; and

(E) any other act or omission classified as neglect by the Texas Family Code, §34.012.

Notify—Inform in writing.

Offer—To make available.

On call—Immediately available for telephone consultation.

On duty—Scheduled and present at the site to perform job duties.

Orders (written, verbal, or telephone)—Direct communication between a

physician and licensed program staff in which the physician directs specific treatments.

Person—An individual, firm, partnership, corporation, association, or other business or professional entity.

Personal restraint—Physical contact to control or restrict a person's physical movement or actions.

Personnel—Members of the governing body, employees, contract providers, consultants, agents, representatives, volunteers, and other individuals working on behalf of the facility through a formal or informal agreement.

Physician—An individual licensed by the Texas State Board of Medical Examiners to practice medicine, or an individual employed by any agency of the United States who has a license to practice medicine in any other state of the United States.

Physician assistant—An individual registered as a physician assistant by the Texas State Board of Medical Examiners.

Policy—A statement of direction or guiding principle issued by the governing authority.

Procedure—A set of step-by-step instructions.

Program—A specific level of chemical dependency treatment delivered to a defined client population.

Program Director—The individual who manages a chemical dependency treatment program.

Provide—To perform or deliver.

Psychiatric emergency—Symptoms requiring immediate psychiatric attention.

Psychologist—An individual licensed as a psychologist by the Texas State Board of Examiners of Psychologists.

Qualified credentialed counselor—An individual who is licensed by the state as a chemical dependency counselor (LCDC), professional counselor (LPC), master social worker (LMSW), marriage and family therapist (LMFT), psychologist, or physician, or who is a certified addictions registered nurse (CARN). LPCs, LMSWs, LMFTs, CARNs, psychologists, and physicians shall demonstrate two years of chemical dependency counseling experience.

Qualified mental health referral service—A service that does not provide treatment directly but instead refers clients in need of chemical dependency treatment to qualified providers. A mental health referral service shall meet the statutory requirements of Texas Health and Safety Code, Title 2, Subtitle H, §164.007.

Refer—Identify appropriate services and provide information needed to access them.

Registered nurse (RN)—A professional nurse licensed by the Texas State Board of Nurse Examiners.

Rehabilitation services—Services designed to maximize or restore a person's functional ability.

Residential site—A site owned, leased, or operated by the facility where clients sleep overnight.

Retaliate—Adverse actions taken to punish or discourage a person who reports a violation or cooperates with an investigation, inspection, or proceeding. Such actions include but are not limited to suspension or termination of employment, demotion, discharge, transfer, discipline, restriction of privileges, harassment, and discrimination.

SAFPF—A substance abuse felony punishment facility that is part of the state's criminal justice initiative.

Screening—Determining whether a client meets the program's admission criteria, based on the person's reason for admission, medical and chemical use history, and other needed information.

Seclusion—The placement of a client alone in a room from which exit is prevented.

Service day—A day during which the program provides scheduled services to any client.

Sexual exploitation—A pattern, practice, or scheme of conduct that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. It may include sexual contact, a request for sexual contact, or a representation that sexual contact or exploitation is consistent with or part of treatment.

Site—A single identifiable location owned, leased, or controlled by a facility where any element of chemical dependency treatment is offered or provided.

Small family living environment—A single apartment unit, house, or similar residence designed for an average size family, with no more than four bedrooms.

Solicit—To contact a person for the purpose of inducing them, directly or indirectly, to enter treatment or make a referral.

Special treatment procedures—Personal restraint, mechanical restraint and seclusion.

Staff—Individuals who provide services for the facility in exchange for money or other compensation, including employees, contract providers, and consultants.

STDs—Sexually transmitted diseases.

Stock prescription drugs—Prescription drugs which are packaged in the original manufacturer's container.

Supportive services—Services designed to provide individuals with a stable living environment, such as meals, shelter, and access to peer support groups.

TTC—A transitional treatment center that is part of the state's criminal justice initiative.

Treatment level—The intensity of treatment provided by a program.

Treatment protocol—Instructions for the delivery of treatment services to groups of clients by non-licensed and licensed staff.

Treatment setting—The physical environment in which chemical dependency treatment takes place. Treatment settings may be residential or outpatient.

Unethical conduct—Conduct prohibited by the ethical standards adopted by state or national professional organizations or by rules established by a profession's state licensing agency.

Unit dose packaging—The ordered amount of a drug in a dosage form that is properly labeled and ready for administration to a particular patient by the prescribed route at the prescribed time.

Unprofessional conduct—An act or omission that violates commonly accepted standards of behavior for individuals or organizations

Volunteer—An individual who provides services for the facility without compensation. Students are volunteers.

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TRD-9510191 Thomas Mann, Jr.
General Counsel
Texas Commission on
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Expiration date: December 19, 1995

For further information, please call: (512) 867-8720

Licensure Procedures

• 40 TAC §§148.21-148.27

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.21-148.27, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations

The repeals are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.21. Licensure Application.

§148.22. Licensure Review.

§148.23. Changes in Status.

§148.24. Change in Ownership.

§148.25. Licensure Renewal.

§148.26. Licensure Fees.

§148.27. Discontinuing Treatment.

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Licensure Sanctions

• 40 TAC §§148.41-148.46

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis §§148.41-148.46, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.41. Grounds for Sanctions.

§148.42. Informal Hearing.

§148.43. Appeals Hearing.

§148.44. Administrative Penalties.

§148.45. Informal Disposition.

§148.46. Injunctions.

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Definitions

• 40 TAC §148.61

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §148.61, concerning facility licen-

sure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeal is adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeal is adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.61. Definitions.

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Subchapter B. Facility Management

Administration

• 40 TAC §§148.71-148.74

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.71-148.74, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.71. Governing Body and Facility Director.

§148.72. Policies, Procedures, and Licensure Standards.

§148.73. Standards of Conduct.

§148.74. Required Facility Reports.

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- 40 TAC §§148.71-148.75,
148.91-148.93, 148.111-148.117,
148.131, 148.132

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§148.71-148.75, 148.91-148.93, 148.111-148.117, 148.131, and 148.132, concerning chemical dependency facility management. The new sections are being adopted to establish minimum criteria for organizational structure and procedures, standards of conduct, referral practices, personnel and staff development, and safety.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.71. Governing Body.

(a) The facility's governing body is legally responsible for the management, services, and operations of the program. The governing body shall:

- (1) have legal authority to operate in the State of Texas;
- (2) designate a facility director;
- (3) develop and maintain an organizational chart;
- (4) establish codes of conduct;
- (5) approve the program's description and policies;
- (6) set up and maintain effective systems for planning, budgeting, and managing all resources;
- (7) review and approve an annual budget;
- (8) ensure compliance with all applicable laws, rules, and commission requirements;
- (9) ensure professional and ethical operations;

(10) review operations and services and take appropriate action as needed; and

(11) know the facility's licensure status and ensure that problems are resolved. A member of the governing authority shall participate in the licensure review summary.

(b) The governing body shall hold meetings at least quarterly and keep minutes that include:

- (1) date and time;
- (2) place;
- (3) participants;
- (4) quarterly review of financial statements;
- (5) monthly review of utilization reports;
- (6) summary of discussions; and
- (7) actions taken.

§148.72. Facility Director. The facility director is responsible for the day-to-day operations of the facility and is accountable to the facility's governing body. The facility director shall:

- (1) demonstrate competence in chemical dependency, financial and personnel management, and other areas needed to manage the facility effectively;
- (2) ensure compliance with applicable laws and rules;
- (3) ensure that all staff are competent and trained; and
- (4) maintain adequate financial records according to generally accepted accounting principles. Financial records shall include:

- (A) an annual budget;
- (B) records of income and expenditures; and
- (C) a written fee policy

§148.73. Policies, Procedures, and Licensure Rules.

(a) The facility shall operate according to a written program description and policies and procedures that comply with licensure rules.

(b) The program description shall include:

- (1) program purpose or mission statement;
- (2) services and how they are provided; and

(3) description of the target population.

(c) The governing body shall establish policies that comply with licensure rules, and the facility director shall use the policies to develop and implement all needed procedures.

(d) The policy and procedures manual shall be current, well organized, and easily accessible to all staff at all times.

(e) The facility shall tell staff about any changes to the policy and procedure manual that are relevant to their job duties and provide training as needed.

§148.74. Standards of Conduct

(a) The facility and all of its personnel shall:

- (1) protect the health, safety, rights, and welfare of clients;
- (2) provide adequate services as described in the program description;
- (3) comply with all applicable laws, regulation, policies, and procedures;
- (4) maintain required licenses, permits, and credentials; and
- (5) comply with professional and ethical codes of conduct.

(b) Neither the facility nor any of its personnel shall:

- (1) commit an illegal, unprofessional or unethical act;
- (2) assist or knowingly allow another person to commit an illegal, unprofessional, or unethical act;
- (3) knowingly provide false or misleading information;
- (4) omit significant information from required reports and records or interfere with their preservation;
- (5) retaliate against anyone who reports a violation or cooperates during a review, inspection, investigation, hearing, or other related activity; or
- (6) interfere with commission reviews, inspections, investigations, hearings, or related activities. This includes taking action to discourage or prevent someone else from cooperating with the activity.

(c) Facility personnel shall report violations of laws, rules, and professional and ethical codes of conduct to the commission. The facility director or designee shall:

- (1) make a verbal report within 24 business hours of the time the facility becomes aware of the violation; and
- (2) send a written report if required by the commission.

(d) The facility shall have written policies on staff conduct and reporting procedures that comply with this section.

§148.75. Required Facility Reports.

(a) The facility director shall report these incidents to the commission in writing within 72 hours of discovery:

- (1) fire and other natural disasters;
- (2) substantial disruption of program operation; and
- (3) death of an active client (on or off the program site).

(b) The facility director shall report all incidents of alleged client abuse, neglect, and exploitation to the commission as described in §148.161 of this title (relating to Client Abuse, Neglect, and Exploitation).

(c) The facility shall submit required financial and utilization data as requested by the Texas Department of Health.

§148.91. Compensation Based on Indicators of Client Revenue.

(a) The facility shall not compensate or evaluate personnel based on indicators of client revenue.

(b) The facility shall not accept, permit, or provide compensation for referrals or other indicators of client revenue.

(c) Compensation includes:

- (1) initial or continued employment;
- (2) promotion, advancement, or privileges;
- (3) pay;
- (4) anything of value; and
- (5) any other form of benefit or consideration.

(d) Indicators of client revenue include:

- (1) referrals;
- (2) admissions;
- (3) contacts made to solicit clients; and
- (4) determinations made regarding length of stay.

§148.92. Advertising and Billing.

(a) A facility shall not advertise or purport to offer any level of chemical dependency treatment unless it holds the required license.

(b) A facility shall not engage in false, misleading, or deceptive advertising. This includes making unsubstantiated

claims, promises of cure, or guarantees of treatment results.

(c) The facility shall not advertise intervention and assessment services unless the services are available and provided by qualified chemical dependency counselors.

(d) The facility shall not represent that a referral service is qualified unless it complies with all the standards found in the Texas Health and Safety Code, Title 2, Subtitle H, Chapter 164 (relating to Qualified Referral Services).

(e) The facility shall not charge for undelivered services unless:

- (1) the facility offers a scheduled service described in the client's treatment plan;
- (2) the client doesn't show up or refuses to participate; and
- (3) the facility has documentation that the client was informed of this billing policy in writing at the time of admission.

§148.93. Solicitation and Referral. (This section does not apply to Community Mental Health Centers established under the Texas Health and Safety Code, Title 7, Subtitle A, Chapter 534.)

(1) The facility shall comply with all statutes and regulations governing solicitation and referral, including those found in the Texas Health and Safety Code, Title 2, Subtitle H, Chapter 164.

(2) The facility shall not illegally or unfairly solicit or refer clients and shall not allow others to do so on its behalf.

(3) The facility shall not solicit referrals without proper disclosure and consent.

(4) The facility shall not own, operate, manage, control, or enter into a relationship with an intervention and assessment service that makes referrals to a treatment facility for inpatient treatment of mental illness or chemical dependency unless the intervention and assessment service meets all requirements listed in the Texas Health and Safety Code, Title 2, Subtitle H, Chapter 164.

(5) The facility shall have a written policy and procedures that prohibit illegal or unfair solicitation and referral.

§148.111. Organizational Structure.

(a) The facility shall have a current organizational chart and document the current number of FTE's for each position.

(b) Each staff and volunteer position shall have a written job description which describes in specific terms:

(1) duties and responsibilities; and

(2) minimum qualifications, including the level of education, training, or related work experience required.

(c) The facility shall have written agreements with persons who provide chemical dependency services to the facility on a regular basis. This includes all persons who provide services that are required by the licensure rules.

§148.112. Hiring Practices.

(a) The facility shall hire applicants who meet the minimum qualifications listed in the job description.

(b) The application or resume shall document required education, training, and related work experience.

(c) Facility staff shall verify the current status of all required credentials with the credentialing authority by phone or letter.

(d) The facility shall develop and implement screening procedures for all personnel with access to clients. Screening shall be appropriate for each person's level of access and shall adequately protect clients.

(e) The facility shall comply with all applicable laws, including the Texas Civil Practice and Remedies Code, Title 4, Chapter 8, §81.003, which relates to employment screening.

§148.113. Initial Training.

(a) All employees shall complete initial training before working without immediate supervision.

(b) The initial training shall include discussion of licensure rules relating to:

- (1) client rights;
- (2) client grievance procedures;
- (3) confidentiality of client-identifying information;
- (4) client abuse, neglect, and exploitation;
- (5) requirements for reporting abuse, neglect, and other serious incidents;
- (6) standards of conduct;
- (7) emergency and evacuation procedures; and
- (8) the individual's specific job duties.

(c) All other staff shall receive orientation on these topics appropriate to their qualifications and responsibilities.

§148.114. Special Training Requirements.

(a) The facility shall ensure that staff are adequately trained and competent to perform job duties.

(b) Staff shall have all required training before performing job duties independently.

(c) The facility shall annually provide at least eight hours of approved training in abuse, neglect, exploitation, illegal, unprofessional, and unethical conduct. This training shall comply with the interagency agreement on abuse training.

(d) All staff and volunteers shall complete HIV training based on the AIDS/HIV Model Workplace Guidelines for direct service providers established by the Texas Department of Health.

(e) All employees shall complete training on tuberculosis and sexually transmitted diseases that includes information on:

- (1) high-risk populations,
- (2) symptoms;
- (3) containment;
- (4) standard testing and treatment procedures;
- (5) available resources; and
- (6) appropriate referral.

(f) All direct care staff shall have current certification in first aid and CPR.

(1) Personnel in licensed medical facilities are exempt if emergency resuscitation equipment and trained response teams are available 24 hours a day.

(2) Licensed medical physicians, registered nurses, licensed vocational nurses, physician assistants, and advanced nurse practitioners are also exempt.

(g) All direct care staff shall have training and competency in nonviolent crisis intervention.

(1) The instructor shall have successfully completed a course for crisis intervention instructors or have equivalent training and experience.

(2) The training shall teach staff how to use verbal and other non-physical methods for prevention, early intervention, and crisis management.

(h) All direct care employees working in programs that use special treatment procedures shall have training and competency in the safe methods of the specific procedures used.

(i) The program shall implement procedures to ensure that all staff providing chemical dependency education consistently deliver the required information.

(j) All staff providing chemical dependency counseling shall demonstrate competency in the facility's treatment modalities before working without immediate supervision.

(k) All staff who conduct intakes or screenings shall complete eight hours of training in the program's intake and screening procedures annually. Staff may not conduct screening or intake unless training is complete and current.

(l) All direct care staff working in detoxification programs shall complete detoxification training which shall:

(1) be provided by a physician, physician assistant, advanced nurse practitioner, or registered nurse with at least one year of documented experience in detoxification;

(2) include:

- (A) signs of withdrawal;
- (B) observation and monitoring procedures;
- (C) appropriate intervention; and
- (D) complications requiring transfer.

(m) All staff responsible for supervising clients in self-administration of medication who are not credentialed to administer medication shall complete documented training from a physician, pharmacist, physician assistant, or registered nurse before performing this task. The training shall include:

- (1) prescription labels;
- (2) medical abbreviations;
- (3) routes of administration;
- (4) use of drug reference materials;
- (5) storage, maintenance, handling, and destruction of medication;
- (6) documentation requirements; and
- (7) procedures for medication errors, adverse reactions, and side effects.

(n) Counselor interns shall have at least 30 hours of continuing education each year.

§148.115. Volunteers and Students.

(a) The facility shall ensure that volunteers comply with standards of performance and conduct.

(b) Each volunteer shall have a job description or written agreement.

(c) Volunteers shall be appropriate and qualified to perform assigned duties.

(d) Volunteers shall receive orientation and training appropriate to their qualifications and responsibilities.

(e) Volunteers shall be appropriately supervised by staff. Direct care volunteers who do not have certification in CPR and first aid shall have immediate supervision from certified staff.

§148.116. Personnel Files and Training Records.

(a) The facility shall ensure that staff are adequately qualified, trained, and supervised to perform assigned duties.

(b) The facility shall maintain a current personnel file on each employee that includes, as applicable:

- (1) job description;
- (2) application or resume;
- (3) verification of current credentials;
- (4) documentation of appropriate screening;
- (5) signed documentation of required training;
- (6) written supervisory approval to provide treatment services independently;
- (7) records of direct supervision for all counselor interns;
- (8) annual performance evaluations; and
- (9) records of any disciplinary actions.

(c) Documentation for in-service training shall include:

- (1) date;
- (2) number of hours;
- (3) content;
- (4) instructor's name and qualifications;
- (5) signature of the instructor (or equivalent verification); and
- (6) signature of the person completing the training.

(d) Personnel files shall be kept for at least two years after the individual stops working at the facility.

§148.117. Basic Staffing Requirements.

(a) The facility shall provide enough qualified staff to comply with licensure rules, provide the services described in the program description, and protect the health, safety, and welfare of clients.

(b) Individuals responsible for planning, directing implementation of, or supervising the facility's treatment services shall be qualified credentialed counselors.

(c) Chemical dependency education shall be taught by chemical dependency counselors or people who have the education and experience needed to teach the material, including knowledge of chemical dependency and its relationship to the topic.

(d) Chemical dependency counseling shall be provided by chemical dependency counselors.

(e) All chemical dependency counselor interns shall work under the direct supervision of a qualified credential counselor.

(1) The qualified credential counselor may not supervise more than five interns.

(2) The facility shall adjust the supervisor's direct treatment responsibilities to allow enough time for supervision.

(f) Counselors providing group or individual counseling focused on trauma, abuse, or sexual issues shall have specialized education and training which is defined in writing by the program.

(g) One or more direct care staff trained in first aid, CPR, and non-violent crisis intervention shall be on duty at all times that the program is in operation.

(h) Staff included in staff-to-client ratios shall not have job duties that interfere with effective client supervision.

(i) The facility shall not allow its clients to serve as staff.

(j) The facility shall ensure that personnel do not endanger the health, safety or well-being of clients and do not use mood-altering substances which interfere with their job performance.

§148.131. General Environment.

(a) The facility shall provide a safe, secure, and well-maintained environment.

(b) The environment shall enhance client dignity and confidentiality.

(c) The facility shall have adequate space, furniture, and supplies for the services described in the program description.

(d) The facility shall have private counseling space. Staff shall not office in space needed for other activities. The facility shall prevent sales and use of tobacco products on its site.

§148.132. Emergency Evacuation. The facility shall respond effectively during a fire or other emergency. Every program shall:

(1) have emergency evacuation procedures that include provisions for the handicapped;

(2) hold fire drills on each shift at least quarterly and correct identified problems promptly;

(3) be able to clear the building safely and promptly at all times;

(4) post exit diagrams conspicuously throughout the program site;

(5) post emergency numbers by all phones;

(6) have adequate first aid supplies which are visible or well labeled and easy to access at all times; and

(7) prohibit firearms and double-edged, fixed-blade knives on the property and immediately remove any that are found.

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Referral

• 40 TAC §§148.91-148.93

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.91-148.93, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.91. Compensation Based on Indicators of Client Revenue.

§148.92. Advertising and Billing.

§148.93. Solicitation and Referral.

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Personnel and Staff Development

• 40 TAC §§148.111-148.117

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.111-148.117, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.111. Organizational Structure.

§148.112. Hiring Practices.

§148.113. Initial Training.

§148.114. Special Training Requirements.

§148.115. Volunteers and Students.

§148.116. Personnel Files and Training Records.

§148.117. Basic Staffing Requirements.

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Safety

• 40 TAC §§148.131, §148.132

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §148.131 and §148.132, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.131. General Environment.

§148.132. Emergency Evacuation.

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Subchapter C. Client Management

Client Rights

• 40 TAC §§148.141-148.146

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.141-148.146, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.141. Required Postings.

§148.142. Client Bill of Rights.

§148.143. Bill of Rights for Involuntary Clients.

§148.144. Client Grievance Procedure.

§148.145. Responding to Client Grievances.

§148.146. Court Commitment During Voluntary Treatment.

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Abuse, Neglect, and Exploitation

• 40 TAC §§148.161-148.163, 148.165

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.161-148.163 and 148.165, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.161. Client Abuse, Neglect, and Exploitation.

§148.162. Behavior Management.

§148.163. Client Labor.

§148.165. Investigations.

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Client Information

• 40 TAC §§148.171-148.173

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.171-148.173, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.171. Client Record Security.

§148.172. General Documentation Requirements.

§148.173. Release of Confidential Information.

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Crisis Management

• 40 TAC §§148.181-148.185

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.181-148.185, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.181. Significant Incident Reports.

§148.182. Responding to Emergencies.

§148.183. Special Treatment Procedures.

§148.184. Documenting Special Treatment Procedures.

§148.185. Adolescents Absent Without Permission.

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**Subchapter D. Program Ser-
vices**

**General Program Services Pro-
visions**

• 40 TAC §148.201, §148.202

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §148.201 and §148.202, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.201. *General Information.*

§148.202. *Services Required In All Programs.*

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◆ ◆ ◆
Treatment Levels TAC

• 40 TAC §§148.211-148.214

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.211-148.214, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make

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The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.211. *Level I Treatment.*

§148.212. *Level II Treatment.*

§148.213. *Level III Treatment.*

§148.214. *Level IV Treatment.*

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Special Provisions

• 40 TAC §§148.231-148.235

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.231-148.235, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.231. *Adolescents.*

§148.232. *Parents and Their Dependent Children.*

§148.233. *Children's Services.*

§148.234. *Correctional Facilities.*

§148.235. *Pharmacotherapy Programs.*

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Food and Nutrition

• 40 TAC §§148.251-148.254

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.251-148.254, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.251. *Meals in Outpatient Programs.*

§148.252. *Meals in Residential Programs.*

§148.253. *Meals Prepared by Clients.*

§148.254. *Meals Provided by a Food Service.*

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Medication

• 40 TAC §§148.261-148.268

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.261-148.268, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

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conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.261. General Provisions for Medication.

§148.262. Medication Storage.

§148.263. Medication Inventory.

§149.264. Disposing of Medication.

§148.265. Staff Qualifications and Training.

§148.266. Authorization for Medication.

§148.267. Administration of Prescription Medication.

§148.268. Self-Administration of Medication.

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Subchapter E. Treatment Process

Admission

• 40 TAC §§148.281-148.284

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.281-148.284, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.281. Admission.

§148.282. Screening.

§148.283. Intake and Consent to Treatment.

§148.284. Client Orientation.

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Stabilization Process (Level I)

• 40 TAC §§148.291-148.293

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.291-148.293, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.291. Stabilization History.

§148.292. Stabilization Plan.

§148.293. Stabilization Notes.

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Primary and Transitional Treatment Process (Level II, III, and IV)

• 40 TAC §§148.301-148.304

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the

repeal of §§148.301-148.304, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.301. Psychosocial History.

§148.302. Treatment Plan.

§148.303. Progress Notes.

§148.304. Treatment Plan Reviews.

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Discharge

• 40 TAC §§148.321-148.325

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.321-148.325, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.321. Discharge Criteria.

§148.322. Discharge Plan.

§148.323. Discharge Summary.

§148.324. Discharge Follow-Up.

§148.325. Request for Discharge.

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Subchapter F. Physical Plant
General Physical Plant Provi-
sions

• **40 TAC §148.341**

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §148.341, concerning facility licensure standards. This rule is being repealed to allow emergency adoption of a revised version.

The repeal is adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeal is adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.341. General Physical Plant Provisions.

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◆ ◆ ◆
Subchapter F. Physical Plant

• **40 TAC §§148.341,**

148.351-148.359, 148.371, 148.372

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§148.341, 148.351-148.359, 148.371, and 148.372, concerning physical plant requirements for licensed chemical dependency facilities. The new sections are being adopted to describe requirements for the physical plants of residential treatment facilities, including inspections, space; exits; fire systems; furniture and supplies; lighting;

plumbing; sanitation; ventilation, small family living environments, and additional requirements for facilities housing children.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.341. General Physical Plant Provisions.

(a) All programs shall comply with the following rules.

(1) The entire facility, including grounds, buildings, furniture, appliances, and equipment, shall be structurally sound, in good repair, clean, and free from health and safety hazards.

(2) Each program site shall pass an annual fire marshal inspection and comply with all applicable laws, codes, and ordinances.

(3) Mobile homes shall not be used for client sleeping areas.

(b) The commission's executive director may waive routine physical plant inspections for programs located in facilities licensed by another state agency, provided the commission has determined that the license requires an equivalent level of safety. The commission reserves the right to monitor compliance and require corrective action.

(c) An outpatient program which offers optional housing to clients shall comply with all rules in §148.371 of this title (relating to Small Family Living Environments).

(1) The facility is responsible for the selection, inspection, approval, and monitoring of these units regarding building safety, maintenance, repair, fire safety, and sanitation, including all required inspections and approvals.

(2) These units shall not be individually licensed by the commission, but shall be subject to inspection and corrective action.

(3) The commission reserves the right to prohibit use of a small family living environment if it determines the housing arrangement jeopardizes the health, safety, and welfare of clients.

§148.351. Required Inspections.

(a) The facility shall pass all required inspections and keep a current file of reports and other documentation needed to

demonstrate compliance with applicable laws and regulations. The following inspections are required:

(1) annual fire marshal inspection;

(2) annual inspection of the alarm system by the fire marshal or an inspector authorized to install and inspect such systems;

(3) quarterly fire alarm system test by facility staff;

(4) annual kitchen inspection as specified in the Texas Health and Safety Code, Title 6, Subtitle A, Chapter 431;

(5) gas pipe pressure test once every three years by the local gas company or a licensed plumber;

(6) annual inspection and maintenance of fire extinguishers by personnel licensed or certified to perform those duties; and

(7) regular inspections of elevators as required by the Safety Code for Elevators and Escalators.

(b) The program shall keep the following information on file:

(1) certificate of occupancy as required by local authorities;

(2) documentation that the water supply is from a system approved by the Department of Health or a system regulated by the local authority;

(3) documentation that the sewage system is connected to a system approved by the Department of Health or a system regulated by the local authority;

(4) documentation that the program site complies with national or local electrical codes;

(5) a fire alarm installation certificate; and

(6) documentation that the liquefied petroleum supply has been inspected and approved by the Texas Railroad Commission, if applicable.

§148.352. Space Requirements.

(a) The facility shall have areas for leisure and dining with adequate space for the number of residents.

(b) Sleeping areas shall have at least:

(1) 80 usable square feet per person in single-occupancy rooms; and

(2) 60 usable square feet per person in multiple-occupancy rooms (or 50 square feet per person if bunk beds are used). Bunk beds shall not be used in Level I programs.

(c) Sleeping areas shall have doors for privacy.

(d) The facility shall provide adequate personal storage space for each client, including space for hanging clothes.

(e) The program shall make at least one phone available to clients.

§148.353. Exits.

(a) Exit doors and routes shall be well lit and free from obstruction at all times.

(b) There shall be an illuminated "EXIT" sign over each exit. Where the exit is not visible, there shall be an illuminated "EXIT" sign with an arrow pointing the way.

(c) Rooms for 50 or more people shall have exit doors that swing out.

(d) No door may require a key for emergency exit. Locked facilities shall have emergency exit door releases as described in the Life Safety Code and approved by the fire marshal.

(e) Every building shall have at least two exits that are well separated.

(f) Every multiple-story building shall have at least two fire escapes (not ladders) on each story that are well separated. Fire escapes shall:

(1) be made of non-combustible material;

(2) have sturdy handrails or walls on both sides; and

(3) provide a safe path to the ground.

(g) Stairs and ramps shall be permanent and have non-slip surfaces.

(h) Exit routes higher than 30 inches (such as stairs, ramps, balconies, landings, and porches) shall have full-length side guards.

§148.354. Fire Systems.

(a) A fire detection, alarm, and communication system required for life safety shall be installed, tested, and maintained in accordance with the facility's occupancy and capacity classifications.

(b) Electrical fire alarm systems shall be installed by agents registered with the State Fire Marshal's office.

(c) Alarms shall be loud enough to be heard above normal noise levels.

(d) Fire extinguishers shall be mounted throughout the facility as required by code and approved by the fire marshal.

(1) Each laundry and walk-in mechanical room shall have at least one

portable A:B:C extinguisher, and each kitchen shall have at least one B:C fire extinguisher.

(2) Each extinguisher shall have the required maintenance service tag attached.

(e) Staff shall conduct quarterly inspections of fire extinguishers for proper location, obvious physical damage, and a full charge on the gauge.

§148.355. Furniture and Supplies.

(a) Each client shall have a separate bed of solid construction with a mattress.

(b) Each bed shall have a pillow and clean linens, including two sheets, a pillowcase, and a blanket, or bedspread. Additional blankets shall be available in cold weather.

(c) The facility shall provide an adequate supply of basic items for grooming and personal hygiene, including clean towels.

(d) Personal appliances shall be in good working order and inspected for safety hazards.

(e) All clients shall have access to laundry facilities or services.

(f) Trash containers shall be made of metal or United Laboratories-approved plastic. Trash containers in kitchens and dining areas shall be covered.

§148.356. Lighting.

(a) The facility shall have adequate lighting to provide a safe environment and meet user needs.

(b) Lighting shall be provided outside the building and in parking lots.

(c) Bedrooms shall have windows with appropriate coverings for privacy.

(d) Light bulbs shall have wire guards or other shields.

§148.357. Plumbing.

(a) There shall be at least one sink, one tub or shower, and one toilet for every eight residents.

(b) The facility shall provide an adequate supply of hot water for the number of residents and the program schedule.

(c) Showers and tubs shall have non-slip surfaces and curtains or other safe enclosures.

(d) Clean drinking water shall be readily available to all residents.

§148.358. Sanitation.

(a) Food and waste shall be stored, handled, and removed in a way that will not spread disease, cause odors, or provide a breeding place for pests.

(b) If there is evidence of pests, the facility shall contract for pest control.

(c) Poisonous, toxic, and flammable materials shall be labeled, stored, and used safely.

(d) Domestic animals shall be:

(1) properly vaccinated; and

(2) managed in a way consistent with the goals of the program and the needs of the clients, including those with allergies.

§148.359. Ventilation.

(a) The facility shall not use floor furnaces, unvented space heaters, or portable heating units.

(b) Occupied parts of the building shall be kept between 65 degrees and 85 degrees Fahrenheit, including kitchens and laundry areas.

(c) The entire facility shall be adequately ventilated with fresh air. Windows used regularly for ventilation shall be screened.

§148.371. Small Family Living Environments.

(a) A small family living environment is a single apartment unit, house, or similar residence (housing no more than six people) which is available to adult clients participating in an outpatient program. Small family living environments shall be permitted only under the circumstances as follows.

(1) Housing arrangements are offered as an option to outpatient clients needing temporary living arrangements in order to access services.

(2) Clients using the housing are adults.

(3) Use of the housing is completely voluntary; it is neither required nor implied as a condition of participation.

(4) Clients using the housing are not discriminated against or given preference over other clients, either in admissions or services.

(5) Housing is used by no more than 25% of the clients in a program.

(b) A facility shall meet all residential physical plant rules in §§148.351-148.359 of this title (relating to Required Inspections, Space Requirements, Exits,

Fire Systems, Furniture and Supplies, Lighting, Plumbing, Sanitation, and Ventilation) if:

(1) clients are required to live in the housing as a condition of receiving treatment services, or

(2) more than 25% of the clients in an outpatient program live in the optional housing.

(c) Each client who lives in a small family living environment shall sign a consent before admission that includes the following provisions.

(1) Housing is offered as an option and is not required as a condition for participation in the program.

(2) Use of the housing is completely voluntary.

(3) Clients using the housing are not discriminated against or given preference over other program participants, either in admissions or services.

(4) The housing units are not licensed facilities and do not meet the health and safety standards required in residential facilities.

(5) The facility is responsible for the selection, inspection, approval, and monitoring of these units regarding building safety, maintenance, repair, fire safety, and sanitation, including all required inspections and approvals.

(6) Clients may leave the housing at any time without affecting their treatment services.

(d) If the unit is owned or operated by another entity, the facility shall have a written agreement that defines responsibilities and addresses:

- (1) finances;
- (2) maintenance; and
- (3) client confidentiality.

(e) Each unit shall meet applicable state laws and local codes and ordinances.

(f) Buildings shall be inspected and approved annually by the fire marshal as required.

(g) Each unit shall have at least one working, portable A:B:C fire extinguisher for the living area and one B:C fire extinguisher for the kitchen. Fire extinguishers shall be approved by the Underwriter Laboratories or the fire marshal.

(h) Each unit shall have at least one working smoke detector approved by the Underwriter Laboratories or the fire marshal.

(i) Doors shall not require a key for exit from the inside.

(j) Buildings and grounds shall be structurally sound, in good repair, and clean.

(k) The residence shall be maintained in a sanitary condition.

(l) All plumbing, equipment, and appliances shall be maintained in good working condition.

(m) Clients shall be able to keep the temperature between 65 degrees and 85 degrees Fahrenheit.

(n) There shall be at least 40 square feet per client in multiple-occupant bedrooms and at least 80 square feet per client in single-occupant bedrooms.

(o) In multiple-occupant residences, bedrooms shall have doors for privacy.

(p) The residence shall have a bathroom with a sink, a toilet, and a tub or shower with an adequate supply of hot water.

(q) The residence shall have cooking facilities that include a sink with hot water, a stove, and a refrigerator.

(r) Lighting shall be sufficient to meet the needs of clients.

(s) The residence shall be appropriately furnished and have an atmosphere that preserves client dignity and confidentiality.

(t) Each client shall have a separate bed with a solid frame and mattress.

(u) The residence shall have adequate closet and drawer space for each client to store clothes and personal property.

(v) Clients shall have access to private or public laundry facilities.

(w) The facility shall inspect the residence at least quarterly to monitor compliance with these rules and correct identified problems.

§148.372. Additional Physical Plant Requirements for Children.

(a) The building shall provide a safe and sanitary environment appropriate for children.

(b) Rooms and buildings shall have at least 30 usable square feet of indoor activity space per child when occupied by children.

(c) Where children share sleeping space with parents, bedrooms shall have at least 30 usable square feet per infant (in cribs) and 40 usable square feet per child.

(d) Nurseries shall have 35 usable square feet per crib.

(e) Heating equipment shall be cool enough to touch safely.

(f) Heavy furniture and equipment shall be securely installed to prevent tipping or collapsing.

(g) Electrical outlets accessible to children shall have child-proof covers or safety devices.

(h) Air conditioners, fans, and heating units shall be mounted out of children's reach or have safety guards.

(i) Grounds shall be kept free of standing water and sharp objects.

(j) Tap water shall be no hotter than 110 degrees Fahrenheit.

(k) Items potentially dangerous for children shall be stored safely.

(l) Areas that are more than two feet above ground level (such as stairs, porches, and platforms) shall have railings that children can reach.

(m) Tanks, ditches, sewer pipes, dangerous machinery, and other hazards shall be fenced.

(n) The program site shall have adequate outdoor play space with a safe route of access.

(o) Outdoor play areas shall be enclosed by a fence at least 4 feet high if:

(1) the play area is located close to a road, pool, deep ditch, or other hazard; or

(2) there are more than six children in the group.

(p) Outdoor play equipment shall be in a safe location and securely anchored (unless portable by design).

(q) Buildings, furniture, and equipment shall not have openings or angles that could trap or injure a child's head.

(r) Swing seats shall be durable, lightweight, and relatively pliable.

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Thomas Mann, Jr.
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Alcohol and Drug
Abuse

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Expiration date: December 19, 1995

For further information, please call: (512) 867-8720

Residential Physical Plant Requirements

• 40 TAC §§148.351-148.359

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§148.351-148.359, concerning facility licensure standards. These rules are

being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.351. *Required Inspections.*

§148.352. *Space Requirements.*

§148.353. *Exits.*

§148.354. *Fire Systems.*

§148.355. *Furniture and Supplies.*

§148.356. *Lighting.*

§148.357. *Plumbing.*

§148.358. *Sanitation.*

§148.359. *Ventilation.*

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Special Physical Plant Requirements

• 40 TAC §148.371, §148.372

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal §148.371 and §148.372, concerning facility licensure standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug

Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

§148.371. *Small Family-Living Environment.*

§148.372. *Additional Physical Plant Requirements for Children.*

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Chapter 149. Court Commitments and Related Procedures

Subchapter A. Court Commitments

• 40 TAC §§149.11-149.16, 149.21, 149.22, 149.31-149.33, 149.54

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§149.11-149.16, 149.21, 149.22, 149.31-149.33, and 149.54, concerning chemical dependency court commitments. The new sections are being adopted to establish minimum requirements for facilities accepting court commitments, including staff training, documentation; procedures for client admission under emergency detention and orders of protective custody; and special rights for clients under emergency detention and orders of protective custody.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461 and 462, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for approval of chemical dependency treatment facilities to accept court commitments.

§149.11. *Authority.* Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, gives the commission authority to establish rules and criteria for facilities accepting chemical dependency clients under emergency detention or order of protective custody.

§149.12. *Approval.* Before accepting chemical dependency clients under emergency detention or order of protective custody, a facility shall obtain written approval from the Texas Commission on Alcohol and Drug Abuse (TCADA). To receive approval, the facility shall:

- (1) submit a written application;
- (2) pay a \$100 application fee;
- (3) demonstrate compliance with the rules in this subchapter.

§149.13. *Licensure.*

(a) The facility shall be licensed to provide chemical dependency treatment by:

- (1) the Texas Commission on Alcohol and Drug Abuse; or
- (2) the Texas Department of Health.

(b) Facilities licensed by the commission shall be licensed to provide the appropriate level of service:

- (1) emergency detention: Level I or Level II residential services;
- (2) adult inpatient involuntary civil or criminal commitments: Level II or Level III residential services for adults;
- (3) adult outpatient involuntary civil or criminal commitments: Level II or Level III outpatient services;
- (4) juvenile inpatient commitments: Level II residential services for adolescents;
- (5) juvenile outpatient commitments: Level II or Level III outpatient services for adolescents;

(c) Facilities licensed by the Texas Department of Health shall provide services equivalent to those specified in subsection (b) of this section, as determined by the commission.

§149.14. *Training.*

(a) The program shall provide training for at least two designated staff to ensure they understand and comply with court commitment status (CCS) statutes, regulations, and procedures.

(b) All court commitment status staff and volunteers providing direct client services shall receive training in Prevention and Management of Aggressive Behavior (PMAB). This training shall be documented in personnel files.

§149.15. *General Procedures.*

(a) The program shall implement procedures for compliance with Federal and

State Statutory and Administrative Code provisions that relate to the care and custody of court committed clients. These provisions include:

(1) Code of Federal Regulations, Title 42, Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records; and

(2) Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462.

(b) The facility shall have a procedure for reporting unauthorized departures to the referring courts. Verbal report shall be made immediately, with written confirmation within 24 hours.

§149.16. Documentation.

(a) In addition to the documentation requirements set out in the Texas Commission on Alcohol and Drug Abuse Licensure Standards, the provider shall document as a part of the client's record the conditions and/or behaviors that caused the client's entry into the civil court commitment process.

(b) The client record shall also contain copies of the following documents:

(1) order of detention (if applicable);

(2) application for court ordered treatment;

(3) two certificates of medical exam;

(4) order of protective custody;

(5) notification of probable cause hearing;

(6) waiver of attendance at hearing (if applicable);

(7) finding of probable cause hearing;

(8) order of commitment or writ of commitment, and

(9) transfer order (if applicable).

(c) Services shall be provided according to provisions in the current version of the commission's Provider Manual.

§149.21. Admissions: Chemical Dependency Emergency Detention.

(a) Detention without warrant. A person who is brought to a treatment facility after being apprehended without a warrant by a peace officer under Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462 shall be given a preliminary examination by a physician as soon as possible within 24 hours of the time of apprehension.

(1) If the examining physician determines that emergency detention is necessary, the physician shall prepare a written opinion which states:

(A) the person is chemically dependent;

(B) the person evidences a substantial risk of serious harm to self or others;

(C) the risk of harm is imminent unless the person is immediately restrained; and

(D) necessary restraint cannot be accomplished without emergency detention.

(2) If the examining physician determines there is no reason for emergency detention, the person shall be released. If the person is not arrested and does not object, arrangements shall be made for immediate transportation, at the expense of the county in which the person was apprehended, to:

(A) the location in which the person was apprehended;

(B) the person's place of residence in Texas; or

(C) another suitable location.

(b) Detention with warrant. A person who is brought under a magistrate order for emergency apprehension and detention to a treatment facility under Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, shall be given a preliminary examination by a physician as soon as possible within 24 hours of the time of apprehension. Copies of the application for warrant and the warrant itself shall be transmitted to the treatment facility.

(1) If the examining physician determines that emergency detention is necessary, the physician or designee shall prepare a written opinion which states:

(A) the person is chemically dependent;

(B) the person evidences a substantial risk of serious harm to self or others;

(C) the risk of harm is imminent unless the person is immediately restrained; and

(D) necessary restraint cannot be accomplished without emergency detention.

(2) If the examining physician determines there is no reason for emergency detention, the person shall be released. If the person is not arrested and does not object, arrangements shall be made for reasonable prompt return to the location at which the person was apprehended, the person's place of residence, if in Texas, or another suitable location.

(3) If the 24-hour period following presentation at the treatment facility of a person apprehended under Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, ends on a Saturday or Sunday, or a legal holiday, the period of detention shall end at 4:00 p.m. on the first succeeding business day. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend by an additional 24 hours the period during which the person may be detained. The written order shall declare an emergency exists because of the weather or the occurrence of a disaster.

(c) Release from emergency detention. If the head of a facility or designee determines at any time during the emergency detention that the criteria in of the Texas Health and Safety Code, Title 6, Subtitle B, §462. 043(b) no longer apply, the person shall be released. Arrangements shall be made for the person's return to the location of the apprehension, the person's place of residence or other suitable place, unless the person is arrested or objects to the return.

(d) Rights of a person admitted for emergency detention. A person admitted for emergency detention shall be advised within 24 hours of admission, orally and in writing, in simple, non-technical terms, of the following rights as referenced in §149.22 of this title (relating to Rights of Persons Apprehended for Emergency Detention for Inpatient Chemical Dependency Services) .

(1) to be advised of the location of detention, the reasons for detention, and the fact that detention could result in a longer period of involuntary commitment;

(2) to contact an attorney of the person's own choosing with a reasonable opportunity to contact that attorney;

(3) to be transported back to the location of the apprehension, the person's place of residence or other suitable place, if not admitted for emergency detention, unless the person is arrested or objects to the return;

(4) to be released if the head of the facility determines that any of the four criteria for emergency detention set out in

the Texas Health and Safety Code, Title 6, Subtitle B, §462.043(b) no longer apply; and

(5) to be advised that the person's communications with a treatment professional may be used in proceedings for further detention.

(e) Information about rights to be supplied upon admission. A person admitted for treatment under subsection (a) or (b) of this section shall be advised immediately, orally and in writing, in simple, non-technical terms, of the following information.

(1) The person may be detained for treatment for not more than 24 hours after the hour of the initial detention unless an order for further detention is obtained.

(2) If the head of the facility finds that the criteria for emergency detention as described in of the Texas Health and Safety Code, Title 6, Subtitle B, §462.043, no longer apply, the person will be released.

(3) No later than the 24th hour after the hour of initial detention, the head of the facility may file a petition to have the person committed for court-ordered treatment under of the Texas Health and Safety Code, Title 6, Subtitle B, §462.062.

(4) If a petition for court-ordered treatment is filed, the person is entitled to a probable cause hearing not later than the 72nd hour after the hour on which detention begins under an order of protective custody to determine whether the person should remain in the facility.

(5) If an application for court-ordered services is filed, the person has a right to have counsel if the person does not have an attorney.

(6) The person has the right to communicate with counsel at any reasonable time and to have assistance in contacting the counsel.

(7) Anything the person says to personnel of the treatment facility may be used in making a determination relating to detention, may result in the filing of a petition for court-ordered treatment, and may be used at a court hearing.

(8) The person is entitled to present evidence and to cross-examine witnesses who testify on behalf of the petitioner at a hearing.

(9) The person may refuse medication unless there is an imminent likelihood of serious physical injury to the person or others if the medication is refused.

(10) Beginning on the 24th hour before a hearing for court-ordered treatment, the person may refuse to take medica-

tion unless the medication is necessary to save the person's life.

(11) The person is entitled to request that a hearing be held in the county of which the person is a resident, if within the state.

(f) Emergency detention. If the head of the facility determines during the period of emergency detention that the person requires further treatment, an application for court-ordered treatment shall be filed and an order of protective custody obtained under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, as described in §149.31 of this title (relating to Admissions: Persons Court Ordered to Inpatient Chemical Dependency Services). The application shall be in writing and shall state:

(1) the name and address of the person, including county of residence, if known;

(2) that the person is chemically dependent:

(A) that the person is likely to cause serious harm to self or others; or

(B) will continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in ability to function independently if not treated, and is unable to make a rational and informed choice as to whether or not to submit to treatment; and

(3) that the person is not charged with a criminal act, attempt, or threat of serious bodily injury to another person (not including a juvenile alleged to be a child engaged in delinquent conduct or conduct indicating a need for supervision as defined in the Family Code, §51.03).

§149.22. Rights of Persons Apprehended for Emergency Detention.

(a) The rights of each person apprehended for emergency detention for inpatient chemical dependency services at a treatment facility are granted under the relevant sections of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462. The client shall be advised immediately of these rights orally, in writing, and in simple non-technical terms. Each person apprehended or detained, but not yet admitted, for emergency detention shall be advised of the following rights:

(1) You have the right to be told:

(A) where you are;

(B) why you are being kept at the facility; and

(C) that your detention may result in a longer period of involuntary care.

(2) You have the right to be told that anything you do or say may be used to determine whether you should be allowed to leave and whether you need court-ordered treatment. It may also be used in court.

(3) You have the right to call an attorney at any reasonable time. The facility shall help you call an attorney if you ask.

(4) You have the right to have a preliminary examination by a physician conducted immediately upon arrival at the treatment facility, following apprehension, to determine whether your condition meets the criteria for admission under emergency detention.

(5) You have the right to be seen by a doctor. You will not be allowed to leave if the doctor believes that

(A) you may seriously harm yourself or others;

(B) the risk of this happening is likely unless you are restrained; and

(C) emergency detention is the least restrictive means of restraint. If the doctor decides you do not meet all of these criteria, you shall be allowed to leave. A decision concerning whether you shall stay shall be made within 24 hours, except weekends and legal holidays, the decision may be delayed until 4:00 p.m. on the first regular work day. The decision may also be delayed in the event of an extreme weather emergency. If the court is asked to order you to stay longer, you shall be told that you have a right to a hearing within 72 hours

(6) If the physician finds you do not need to be here, you have the right to be released and will be taken back to where you were picked up or to another suitable place.

(b) If the person is accepted for treatment on an emergency detention, the personnel of the treatment facility shall immediately advise the person of the following rights.

(1) You have the right not to be detained for more than 24 hours after the hour of initial detention unless an order for further detention is obtained, except that if the 24-hour period ends on a Saturday, Sunday or legal holiday or before 4:00 p.m. on the first business day succeeding the Saturday, Sunday or legal holiday, the period of detention shall end no later than 4:00 p.m. of the first succeeding business day

(2) You have the right to be released if the head of the facility determines that the criteria for emergency detention, as outlined in the Texas Health and Safety Code, Title 6, Subtitle B, §462.043(b), no longer applies.

(3) You have the right to be transferred back to the location of apprehension, or other suitable place, if released from emergency detention, unless you are arrested or object to the return.

(4) You have the right to be informed that no later than the 24th hour after the hour of initial detention, the head of the treatment may file a petition for court-ordered treatment.

(5) You have the right to be informed that if a petition for court-ordered treatment is filed, you are entitled to a judicial probable cause hearing no later than the 72nd hour on which detention begins under an order of protective custody to determine whether you should remain in the treatment facility

(6) You have the right to have an attorney appointed if you do not have an attorney, when application for court-ordered services is filed.

(7) You have the right to communicate with your attorney at any reasonable time and to have assistance in contacting the attorney.

(8) You have the right to be informed that anything you say to the personnel of the treatment facility may be used in making a determination relating to detention, may result in the filing of a petition for court-ordered treatment, and may be used at a court hearing.

(9) You have the right to present evidence and to cross-examine witnesses who testify on behalf of the petitioner at a hearing.

(10) You have the right to refuse medication unless there is an imminent likelihood of serious physical injury to you or others if the medication is refused.

(11) You have the right to be informed that beginning on the 24th hour before a hearing for court-ordered treatment, you may refuse to take medication unless the medication is necessary to save your life.

(12) You have the right to request that a hearing be held in the county of which you are a resident, if within the state.

§149.31. Admissions: Persons Court-Ordered to Inpatient Chemical Dependency Services.

(a) Court-ordered treatment.

(1) Before a hearing on court-ordered treatment may be held, there shall be on file with the court two certificates of

medical examination (CME) for chemical dependency completed by physicians who have examined the person within 30 days preceding the date on which the final hearing is held. The court may appoint the necessary physicians to examine the person and to file the certificate of medical examination with the court if they are not filed with the application.

(2) A certificate of medical examination shall be dated and signed by the examining physician and shall include the following information:

(A) name and address of the examining physician;

(B) name and address of the person;

(C) date and place of the examination;

(D) the period, if any, during which the person was under the examining physician's care;

(E) accurate description of the treatment, if any, given by or administered under the direction of the examining physician; and

(F) the examining physician's opinion and the detailed basis for that opinion concerning whether the person

(i) is chemically dependent;

(ii) is likely to cause serious harm to self and/or others;

(iii) will continue to suffer abnormal mental, emotional, or physical distress and to deteriorate in ability to function independently if not treated; and

(iv) is unable to make a rational and informed choice as to whether or not to submit to treatment.

(b) Order of protective custody. An order of protective custody may be filed only in the court in which an application for court-ordered treatment is pending and shall be accompanied by a certificate of medical examination for chemical dependency as described in Texas Health and Safety Code, Title 6, Subtitle B, §462.064, prepared by a physician who has examined the proposed patient within five days of the filing of the motion. A person charged with a criminal offense may be detained under an order of protective custody if the person meets the requirements of the Texas Health and Safety Code, Title 6, Subtitle B, §462.065, and the head of the facility agrees to the detention.

(c) Probable cause hearing.

(1) A person admitted by a treatment facility under an order of protective custody shall be provided a probable cause hearing within 72 hours of the signing of the order for protective custody unless the person waives the right to a hearing.

(A) If that 72-hour period ends on a Saturday, Sunday or legal holiday, the probable cause hearing shall be held on the first succeeding business day. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions or on the occurrence of a disaster that threatens the safety of the proposed patient or another essential party to the hearing.

(B) At the hearing, the person and the person's attorney are entitled to appear and present evidence on any allegation or statement in the certificates of medical examination for chemical dependency.

(2) A person ordered during a probable cause hearing to be returned to the treatment facility to await a hearing on court-ordered treatment should be accompanied by:

(A) a copy of the certificate of medical examination for chemical dependency;

(B) any affidavits or other material submitted as evidence in the hearing; and

(C) a notification of probable cause hearing.

(3) A person returned to the treatment facility following a probable cause hearing shall be detained until the hearing on court ordered treatment or until the head of the facility determines that the person no longer meets the criteria for detention as described in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462.

(d) Application for court-ordered treatment approved. If the application for court-ordered treatment is approved, the person shall be admitted to the treatment facility for a period not to exceed 90 days. The judge may, on request of the person, allow participation in licensed outpatient treatment in lieu of inpatient treatment, if the judge believes it is in the best interest of the patient.

(e) Application for court-ordered treatment not approved. If the application for court-ordered treatment is not approved,

the person shall be discharged by the facility.

(f) Renewal of order for court-ordered treatment.

(1) If the head of the facility determines during the period of court-ordered treatment that the person admitted under subsection (d) of this section requires further treatment for chemical dependency and is likely to cause serious physical harm to self or others, an application for renewal of the original order may be filed. The application shall be filed not later than the 14th day before the date on which the previous order will expire.

(2) The application shall be accompanied by two new certificates of medical examinations for chemical dependency which comply with the requirements as described in subsection (a)(2) of this section.

(3) An application for renewal is treated as an original application for court-ordered treatment. The rights of the person and the information to be supplied upon admission, as described in §149.21 of this title (relating to Admissions: Chemical Dependency Emergency Detention), and the provisions for an order of protective custody as described in subsection (b) of this section and a probable cause hearing as described in subsection (c) of this section apply to the application for renewal.

(4) If the application is approved, the person shall be admitted for an additional period of treatment not to exceed 90 days.

(5) If the application is not approved, the person shall be discharged by the facility.

(g) Modification of order for inpatient treatment. The head of a facility may request a modification of order for inpatient treatment to require the person to participate in outpatient care or services.

(1) The request shall be made of the court that entered the commitment order and shall explain in detail the reasons for the request.

(2) The request shall be accompanied by a certificate of medical examination for chemical dependency signed by a physician who examined the person during the preceding seven days.

(3) The person shall be given notice of the request.

(4) The court will designate an individual to be responsible for the person's outpatient care or services. That individual shall submit a general program of treatment for outpatient care or services to the court within two weeks after the modified order has been entered.

(5) The modified order may not extend beyond the term of the original order.

§149.32. *Order of Protective Custody-Special Rights.* Clients apprehended, detained, admitted or held under an order of protective custody shall be advised of the following rights.

(1) You have the right to call a lawyer or to have a lawyer appointed to represent you in a hearing to determine whether you shall remain in custody until a hearing on court-ordered chemical dependency treatment is held.

(2) Before a probable cause hearing is held, you have the right to be told in writing:

(A) that you have been placed under an order of protective custody;

(B) why the order was issued, and

(C) the time and place of a hearing to determine whether you shall remain in custody until a hearing on court-ordered chemical dependency treatment. This notice shall also be given to your attorney.

(3) You have the right to a hearing within 72 hours of your detention, except that on weekends or legal holidays, the hearing may be delayed until 4:00 p.m. on the first regular workday, or in the event of an extreme weather emergency.

(4) You have the right to be released from custody if:

(A) 72 hours has passed and a hearing has not taken place (except weather emergencies and extensions for weekends and legal holidays);

(B) an order for court-ordered chemical dependency treatment has not been issued within 14 days of the filing of an application (30 days if a delay was granted); or

(C) your doctor finds that you no longer need court-ordered chemical dependency treatment.

§149.33. *Passes and Furloughs.* Inpatient facilities shall have a procedure on passes and furloughs. If furloughs (absences over 72 hours) are permitted, the procedure shall include the following provisions.

(1) The facility director shall designate one or more administrative hearing officers to conduct administrative hearings concerning revocation of furloughs. The hearing officer may be a mental health or chemical dependency professional who is

not directly involved in the client's treatment.

(2) The facility director shall notify the court that issued the commitment order when a client is furloughed.

(3) The facility director may secure the client's detention and return to the facility if:

(A) the client is absent from the facility without permission;

(B) the client has violated the terms of a furlough; or

(C) the client's condition has deteriorated to the extent that his continued absence is inappropriate.

(4) The process may be initiated by:

(A) signing a certificate authorizing the client's detention and return; or

(B) filing the certificate with a magistrate and requesting the magistrate to order the client's detention and return.

(5) The reason for the return from furlough shall be documented in the client's record.

(6) An administrative hearing shall be held within 72 hours of a client's return to the facility. The hearing shall be informal with both the facility staff and the client given the opportunity to present information and arguments. If the client desires, a member of the staff may serve as the client's advocate.

(7) The hearing officer shall determine within 24 hours of the hearing's conclusion whether the revocation is justified.

(8) The hearing officer shall document the decision in the client's record, including a written explanation of the reasons for the decision and the information on which the hearing officer relied.

(9) If the hearing officer decides that the furlough should not be revoked, the client shall be permitted to leave the facility under the terms of the furlough.

§149.54. *Admissions: Persons Court-Ordered to Outpatient Chemical Dependency Services.*

(a) Court-ordered treatment. At the request of the person, the court may enter an order for the person to participate in licensed outpatient treatment, in lieu of inpatient treatment, if the judge believes it is in the person's best interest.

(b) Motion for modification of order for outpatient treatment. A motion may be filed with the court that ordered outpatient treatment to modify the order to specifically require inpatient treatment. This section applies only to a change in the general program incorporated in the court's order.

(c) Order for temporary detention. The individual responsible for the court-ordered outpatient care or treatment or the head of the facility providing the outpatient care or treatment shall file for an order of temporary detention before the modification hearing.

(1) The application shall state that:

(A) The person served meets the criteria for court-ordered treatment as described in §149.31 of this title (relating to Admissions: Persons Court-ordered to Inpatient Chemical Dependency Services) and:

(i) has not complied with the court's order; or

(ii) has deteriorated to the extent that outpatient care or services are no longer appropriate; and

(B) detention in an approved inpatient treatment facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(2) The person may be detained for not more than 72 hours. If that 72 hour period ends on a Saturday, Sunday, or legal holiday, the modification hearing shall be held on the first succeeding business day. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions or on the occurrence of a disaster that threatens the safety of the person of another essential party to the hearing.

(3) The head of the facility shall release the person held under an order of temporary detention if notice is not received within the 72-hour period described in paragraph (2) of this subsection.

(4) A person released from temporary detention under this paragraph continues to be subject to the terms of the order committing the person to an approved outpatient treatment program if the order has not expired.

(d) Order of modification of order for outpatient services. The court order to modify previously ordered outpatient treatment and specifically require inpatient treatment shall be supported by at least one certificate of medical examination for

chemical dependency signed by a physician who examined the person not later than the seventh day before the hearing. A modified court order may not extend beyond the period prescribed for the original order.

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TRD-9510203 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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Expiration date: December 19, 1995

For further information, please call: (512) 867-8720

Chapter 149. Project Funding

Funding Overview

• 40 TAC §149.26

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §149.26, concerning uniform grant and contract management standards. These rules are being repealed to allow emergency adoption of a revised version.

The repeal is adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeal is adopted on an emergency basis under the Texas Health and Safety Code, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

§149.26. Uniform Administrative Requirements.

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General Counsel
Texas Commission on
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For further information, please call: (512) 867-8720

Subchapter B. Treatment as an Alternative to Arrest

• 40 TAC §§149.81-149.83

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§149.81-149.83, concerning chemical dependency treatment as an alternative to arrest. The new sections are being adopted to

establish minimum criteria for facilities providing chemical dependency treatment as an alternative to arrest for public intoxication.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Penal Code, §42.08, and the Texas Health and Safety Code, Title 6, Subtitle B, §141.12(15) which provide the Texas Commission on Alcohol and Drug Abuse with the authority to approve facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances.

§149.81. Authority. Authority was granted to the Texas Commission on Alcohol and Drug Abuse under the Texas Penal Code, §42.08 to approve facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substance.

§149.82. Application. Before providing treatment for individuals appearing in a public place under the influence of alcohol or any other substance, a facility shall obtain written approval from the Texas Commission on Alcohol and Drug Abuse. To receive approval, the facility shall submit a written application and pay a \$100 application fee.

§149.83. Minimum Criteria.

(a) The facility shall be licensed by:

(1) the Texas Commission on Alcohol and Drug Abuse; or

(2) the Texas Department of Health.

(b) The program shall be authorized to provide treatment to individuals in need of detoxification (detoxification or Level I residential services).

(c) The facility shall have written agreements with local law enforcement agencies that specify:

(1) effective period of the agreement;

(2) referral and transportation procedures;

(3) admission hours; and

(4) eligibility criteria for individuals referred by law enforcement officers.

(d) All court commitment status staff and volunteers providing direct client services shall receive training in Prevention and Management of Aggressive Behavior (PMAB). This training shall be documented in personnel files.

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Thomas Mann, Jr.
General Counsel
Texas Commission on
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For further information, please call: (512)
867-8720

◆ ◆ ◆
**Chapter 150. Licensure of
Chemical Dependency
Counselors**

• **40 TAC §§150.1-150.18, 150.20,
150.22**

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§150.1-150.18, 150.20, and 150.22, concerning licensure requirements for chemical dependency counselors. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Texas Civil Statutes, Article 4512o, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency counselors. The commission prescribes the rules and procedures by which a person who provides chemical dependency counseling must obtain a license issued under this Act.

§150.1. *Definitions.*

§150.2. *License Required.*

§150.3. *Exemptions.*

§150.4. *Discrimination Prohibited.*

§150.5. *Commission Powers and Duties.*

§150.6. *Consumer Information.*

§150.7. *Advertising.*

§150.8. *Official Roster.*

§150.9. *Fees.*

§150.10. *Licensure: Application, License Requirements, Issuance of License.*

§150.11. *Examination.*

§150.12. *Use of Title.*

§150.13. *License Expiration, Renewal.*

§150.14. *Reciprocity.*

§150.15. *Continuing Education.*

§150.16. *Disciplinary Action, Grounds.*

§150.17. *Disciplinary Action, Procedure.*

§150.18. *Civil Penalty Enforcement.*

§150.20. *Transition.*

§150.22. *Ethical Standards.*

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For further information, please call: (512)
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◆ ◆ ◆
Chapter 151. Peer Assistance

• **40 TAC §§151.21-151.28**

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis new §§151.21-151.28, concerning peer assistance programs. The new sections are being adopted to establish minimum requirements for peer assistance programs, including definitions, general requirements, policies and procedures, peer intervenors, and referrals.

The new sections are adopted on an emergency basis because the agency has been placed under conservatorship and is mandated to make immediate changes to its rules and operations.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, §461.12(14) and §467.001, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish criteria for approved peer assistance programs.

§151.21. *Authority.* Authority is granted to the Texas Commission on Alcohol and Drug Abuse under Texas Health and Safety Code, Title 6, Subtitle B, §461.012 and §467.001, to establish minimum criteria for peer assistance programs.

§151.22. *Program Purpose.* Peer assistance programs identify, assist, and monitor professional colleagues with job-impairing mental health, alcohol, or drug problems so that they may return to competent practice. Peer assistance programs offer support and assistance and have a rehabilitative emphasis rather than an adversarial or punitive emphasis.

§151.23. *Application.* These sections apply to any profession which may incorporate under the Texas Professional Corporation Act, and to other professions under Texas Civil Statutes, Article 5561c-3. These sections do not apply to peer assistance programs established for licensed physicians or pharmacists or for any other profession that is authorized by law to establish a peer assistance program.

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

Act-Texas Health and Safety Code, Title 6, Subtitle B, Chapter 467.

Approved peer assistance program-A program designed to help an impaired professional which is established or approved by a licensing or disciplinary authority, and meets the criteria established by the Texas Commission on Alcohol and Drug Abuse and any additional criteria established by the licensing or disciplinary authority.

Chemical dependency-Abuse of, psychological dependence on, or addiction to alcohol or a controlled substance.

Commission-The Texas Commission on Alcohol and Drug Abuse.

Impaired professional-An individual whose ability to perform professional services is impaired by chemical dependency or by mental illness.

Licensing/disciplinary authority-A state agency or board that license or has disciplinary authority over professionals.

Mental health professional-An individual who is a licensed by the state as a physician, professional counselor (LPC), chemical dependency counselor (LCDC), psychologist, marriage and family therapist (LMFT), or master social worker (LMSW).

Professional-An individual who may incorporate under the Texas Professional Corporation Act (Texas Civil Statutes, Article 1528e), or who is licensed, registered, certified, or otherwise authorized by the state to practice as a licensed professional.

Professional association-A national or statewide association of professionals, a committee of a professional association, or any nonprofit organization controlled by or operated in support of a professional association.

Qualified mental health referral service—A service that refers clients in need of treatment to qualified providers; and meets the statutory requirements of the Texas Health and Safety Code, Title 2, Subtitle H, §164.007.

Qualified service organization agreement—A written agreement between the peer assistance program and the licensing or disciplinary authority which meets the requirements of 42 Code Federal Regulations, Part 2, §2.11 (on the Confidentiality of Alcohol and Drug Abuse Patients).

§151.25. *General Requirements.* The peer assistance program shall:

(1) be administered by a committee of professionals who have no potential for direct financial gain from these activities. Members shall be geographically representative of Texas, and shall include at least one professional who is recovering from chemical dependency or mental illness;

(2) be state-wide and made available to all members of the profession;

(3) be available seven days a week, 24 hours a day. This may be accomplished through a toll-free telephone number with a recording device for after-hour calls;

(4) be strictly confidential within the requirements of the Act. Record keeping should be kept to a minimum and wherever possible, case numbers should be used in place of names. Where applicable, the peer assistance program shall enter into a qualified service organization agreement to protect confidentiality of patient records;

(5) implement a written plan for:

(A) ongoing program evaluation; and

(B) promotion and publicity to encourage use of the program.

§151.26. *Policies and Procedures.* The program shall have written policies and procedures, including a workbook for peer intervenors, which state philosophy and methods for program operation. These shall include:

(1) a statement of purpose;

(2) a charge or statement of responsibility to the profession;

(3) a brief explanation of the rehabilitative nature of the program;

(4) a summary of the licensing or disciplinary body's role in the process;

(5) information on confidentiality, including the requirements of 42 Code

Federal Regulations, Part 2, §2.11 (on the Confidentiality of Alcohol and Drug Abuse Patients);

(6) documentation requirements;

(7) procedures for early identification and intervention;

(8) instructions for handling medical emergencies and other crises, including resources and phone numbers;

(9) resources and procedures for assisting the professional to access treatment;

(10) provisions for follow-up;

(11) information on relapse;

(12) provision of continued monitoring and support after treatment; and

(13) information about reentry to the profession and ways in which after-care, if appropriate, will be encouraged.

§151.27. *Peer Intervenors.* The peer assistance program shall:

(1) develop and implement a written plan to recruit volunteers from among its professional to become intervenors;

(2) require and provide at least eight hours of training to volunteers before they become peer intervenors. Training shall be conducted by a credentialed mental health professional and shall include information on:

(A) chemical dependency and mental illness, including appropriate treatment;

(B) guidelines for identification;

(C) intervention skills; and

(D) policies and procedures used by the program;

(3) implement a continuing education program for peer intervenors, including annual training events;

(4) establish at least periodic opportunities for peer intervenors to access a credentialed professional for consultation.

§151.28. *Referrals.*

(a) The peer assistance program shall maintain a current list of:

(1) the state councils on alcohol and drug abuse; and

(2) licensed chemical dependency treatment facilities.

(b) Peer intervenors shall not refer impaired professionals directly to specific programs or professionals. The peer intervenor may refer the individual to:

(1) the local council on alcohol and drug abuse; or

(2) a qualified mental health referral service.

(c) Peer intervenors may also provide an individual with a list of all licensed chemical dependency treatment facilities in the county of residence and help the individual locate additional qualified mental health professionals and services in the phone book.

(d) Neither the peer assistance program nor any individual associated with it (including peer intervenors and committee members) shall accept compensation for referrals. Compensation includes:

(1) pay;

(2) anything of value; and

(3) any other form of benefit or consideration.

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For further information, please call: (512) 867-8720

Chapter 151. Licensure

Court Commitments

• 40 TAC §151.601, §151.602

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §151.601 and §151.602, concerning general approval of chemical dependency treatment facilities for involuntary court commitments by civil and criminal state courts having proper jurisdiction. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to approve treatment facilities to accept involuntary court commitments referred by civil and criminal state courts having proper jurisdiction.

§151.601. Approval for Court Commitments.

§151.602. Minimum Criteria.

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Chapter 155. Community Services

- 40 TAC §§155.21-155.27, 155.31-155.34, 155.41-155.45

The Texas Commission on Alcohol and Drug Abuse adopts on an emergency basis the repeal of §§155.21-155.27, 155.31-155.34, and 155.41-155.45, concerning the approval of facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances. These rules are being repealed to allow emergency adoption of a revised version.

The repeals are adopted on an emergency basis due to the agency being placed under conservatorship, and is mandated to make immediate changes to its rules and operations.

The repeals are adopted on an emergency basis under the Penal Code §42.08, and the Texas Health and Safety Code, Title 6, §§461.012, 461.014 and 461.015 which provides the Texas Commission on Alcohol and Drug Abuse with the authority to set minimum criteria for approved peer assistance programs and to approve facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances.

§155.21. Authority.

§155.22. Objective.

§155.23. Program Purpose.

§155.24. Application.

§155.25. Definitions.

§155.26. Minimum Criteria.

§155.27. Other Recommendations.

§155.31. Authority.

§155.32. Scope.

§155.33. Application.

§155.34. Minimum Criteria.

§155.41. Authority.

§155.42. Objective.

§155.43. Application.

§155.44. Minimum Guidelines.

§155.45. Recommendation.

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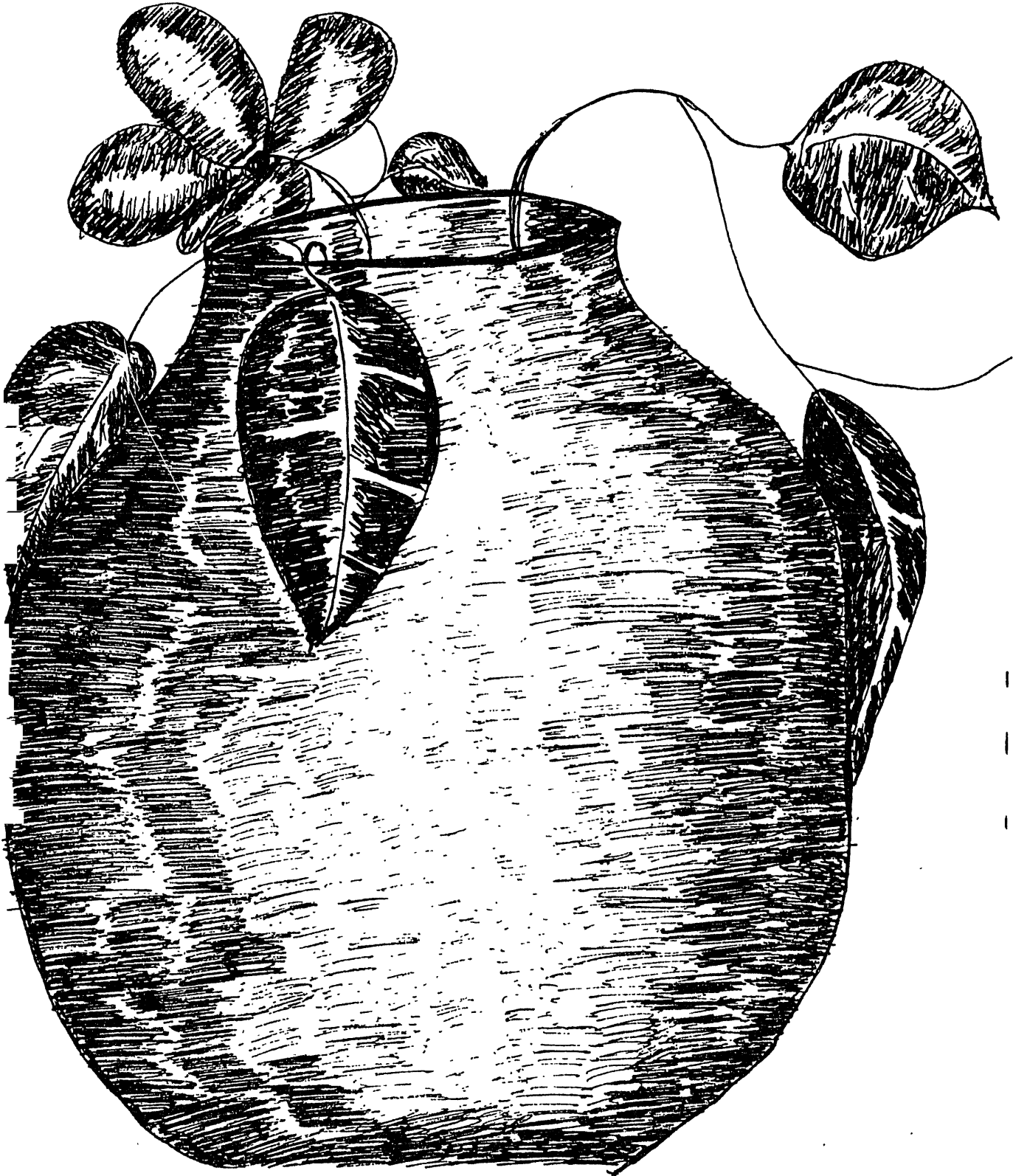
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PROPOSED RULES

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 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 80. Unincorporated Business Entities

• 1 TAC §§80.21-80.29

The Office of the Secretary of State proposes new §§80.21-80.29, concerning unincorporated nonprofit associations. The new sections clarify filing requirements, establish filing procedures and establish filing fees for a statement appointing an agent authorized to receive service of process for an unincorporated nonprofit association and establishes filing requirements, procedures and fees for other document filings relating to the statement appointing an agent. The new sections are necessary in order to implement the authorized agent document filing provisions of House Bill 1661, Chapter 919, Acts, 74th Legislature, Regular Session, (1995), enacting the Texas Uniform Unincorporated Nonprofit Association Act.

Carmen Flores, Legal Counsel, Statutory Filings Division, has determined that there will be no significant fiscal implications as a result of the new rules. Ms. Flores has determined that the effect on state government for the first five-year period will be an anticipated nominal increase in revenue resulting from the filing fees established under the rules for the document filings authorized under House Bill 1661. As the filings are discretionary, it is impossible to determine the number of nonprofit associations that will choose to file a statement appointing an agent. Therefore, the amount of increase cannot be ascertained. Any increase will be offset by the cost of implementation as reflected in the fiscal note to House Bill 1661. It is anticipated that the overall fiscal impact on state government will be neutral. There will be no fiscal impact on local government as a result of enforcing or administering the new sections.

Ms. Flores 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 unincorporated nonprofit associations will be apprised of the filing requirements, filing procedures, and filing fees relating to the appointment of an agent authorized to receive

service of process on the nonprofit association and the other document filings relating to the appointment. There will be no effect on small businesses. As the statement appointing an authorized agent for service of process and related filings are discretionary filings, there is no class of persons required to comply with the new sections as proposed. Nonprofit associations seeking to appoint an authorized agent for service of process will be subject to the nominal filing fees established under the new sections: \$25 fee for filing the statement appointing an agent; \$5.00 fee for filing an amendment to the statement, and a \$5.00 fee for filing a cancellation of the statement. Persons seeking to resign as the authorized agent of a nonprofit association are not subject to a fee for filing the notice of resignation.

Comments on the proposed sections may be submitted to Carmen Flores, Legal Counsel, Statutory Filings Division, Office of the Secretary of State, P.O. Box 13697, Austin, Texas 78701-3697, (512) 463-5586.

The new sections are proposed under House Bill 1661, Chapter 919, Acts, 74th Legislature, Regular Session (1995), which authorizes the Office of the Secretary of State to promulgate forms and to adopt rules on filing documents pursuant to §12.

House Bill 1661, Chapter 919, Acts, 74th Legislature, Regular Session, (1995) is affected by the new sections.

§80.21. *Statement Appointing an Agent for Service of Process.*

(a) Initial appointment. An unincorporated nonprofit association may file a statement appointing an agent authorized to receive service of process. The secretary of state has promulgated a form for this purpose; however, use of such form is not mandatory. The statement appointing an agent must contain the following information:

- (1) the name of the nonprofit association;
- (2) the federal tax identification number of the nonprofit association, if applicable;
- (3) the address in this state, including the street address, if any, of the

nonprofit association, or its address outside this state, as applicable;

(4) the name of the person in this state authorized to receive service of process and the person's address, including street address, in this state; and

(5) a statement that the person appointed as agent for the nonprofit association accepts the appointment, as evidenced by the person's execution of the statement to be filed.

(b) Execution. The statement appointing an agent submitted for filing with the secretary of state must be executed by a person authorized to manage the affairs of the nonprofit association, or, if the person is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity. The statement appointing an agent also must be signed by the person appointed agent, or, if the person appointed agent is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity. The execution of the statement appointing an agent by the person appointed as agent constitutes an acceptance of the appointment.

(c) Fee. The fee for filing a statement appointing an agent is \$25.

(d) Filing. The statement appointing an agent, accompanied by the filing fee, shall be delivered to the secretary of state. The secretary of state will endorse on the statement the word "filed," and the month, day, and year of the filing, and place the statement on record. A letter of acknowledgement shall be delivered to the nonprofit association, its designated representative or to its appointed agent. A duplicate "file stamped" copy of the statement appointing an agent will accompany the letter of acknowledgement, provided that a duplicate copy of the document is delivered by the nonprofit association for such purpose.

§80.22. *Amendment To Statement Appointing An Agent.*

(a) Amendment. A statement appointing an agent may be amended by filing an amendment to the statement appointing an agent with the secretary of state. The secretary of state has promulgated a form for this purpose; however, use of such form is not mandatory. An amendment to the statement appointing an agent must contain the following information:

- (1) the name of the nonprofit association;
- (2) the tax identification number of the nonprofit association, if applicable;
- (3) the part of the statement appointing an agent being amended;
- (4) the amendment; and
- (5) if the amendment changes the name or address of the agent authorized to receive service of process, a statement that the address provided as the address of the appointed agent is accurately shown and that the person appointed as the agent for the nonprofit association accepts the appointment as evidenced by the person's execution of the amendment.

(b) Execution. The amendment to the statement appointing an agent submitted for filing with the secretary of state must be executed by a person authorized to manage the affairs of the nonprofit association, or, if the person is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity. An amendment to change the name or address of the agent authorized to receive service of process for the nonprofit association also must be executed by the person appointed as agent, or, if the person appointed agent is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity. An amendment changing the appointed agent need not be executed by the withdrawing agent. The execution of an amendment changing the appointed agent for the nonprofit association by the person appointed as a successor agent constitutes an acceptance of the appointment.

(c) Fee. The fee for filing an amendment to the statement appointing an agent is \$5.00.

(d) Filing. The amendment to the statement appointing an agent, accompanied by the filing fee, shall be delivered to the secretary of state. The secretary of state will endorse on the amendment the word "filed," and the month, day, and year of the filing, and place the document on record. A letter of acknowledgement shall be delivered to the nonprofit association, its designated representative or to its appointed agent. A duplicate "file stamped" copy of the

amendment will accompany the letter of acknowledgement, provided that a duplicate copy of the document is delivered by the nonprofit association for such purpose.

§80.23. Cancellation of Statement Appointing An Agent.

(a) Notice of Cancellation. A statement appointing an agent may be canceled by filing with the secretary of state a written notice of cancellation. The secretary of state has promulgated a form for this purpose; however, use of such form is not mandatory. A notice of cancellation must include the following information:

- (1) the name of the nonprofit association;
- (2) the federal tax identification number of the nonprofit association, if applicable;
- (3) the date of filing of its statement appointing an agent;
- (4) the statement that the nonprofit association cancels its statement appointing an agent; and
- (5) the current street address of the nonprofit association, or its address outside this state, if applicable.

(b) Execution. The notice of cancellation submitted for filing with the secretary of state must be executed by a person authorized to manage the affairs of the nonprofit association, or, if the person is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity. The notice of cancellation also must be signed by the appointed agent, or, if the person appointed agent is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity.

(c) Fee. The fee for filing a notice of cancellation is \$5.00.

(d) Filing. The notice of cancellation, accompanied by the filing fee, shall be delivered to the secretary of state. The secretary of state will endorse on the notice of cancellation the word "filed," and the month, day, and year of the filing, and place the document on record. A letter of acknowledgement shall be delivered to the nonprofit association, its designated representative or to its appointed agent. A duplicate "file stamped" copy of the notice of cancellation will accompany the letter of acknowledgement, provided that a duplicate copy of the document is delivered by the nonprofit association for such purpose.

§80.24. Resignation of Person Appointed as Agent.

(a) Notice of Resignation. A person appointed by a nonprofit association as its agent authorized to receive service of process may resign as its appointed agent by filing a written notice of resignation with the secretary of state. The secretary of state has promulgated a form for this purpose; however, use of such form is not mandatory. The notice of resignation must include the following information:

- (1) The name of the nonprofit association which appointed the person as its authorized agent for service of process;
- (2) The federal tax identification number of the nonprofit association, if applicable;
- (3) A statement that written notice of the resignation was given to the nonprofit association; and
- (4) The last known address of the nonprofit association, and the address to which the resigning agent sent written notice to the nonprofit association, as applicable.

(b) Execution. A notice of resignation must be executed by the person resigning as the authorized agent for the nonprofit association, or, if the resigning agent is a corporation or other legal or commercial entity, by an officer or other duly authorized representative of the corporation or other legal or commercial entity.

(c) Fee. There is no fee for filing a notice of resignation.

(d) Filing. A notice of resignation shall be delivered to the secretary of state. The secretary of state will endorse on the notice of resignation the word "filed," and the month, day, and year of the filing, and place the document on record. A letter of acknowledgement shall be delivered to the person resigning as the nonprofit association's appointed agent. A duplicate "file stamped" copy of the notice of resignation will accompany the letter of acknowledgement, provided that a duplicate copy of the document is delivered by the resigning agent for such purpose.

§80.25. Authorized Agent. An unincorporated nonprofit association may appoint an individual resident of this state, a domestic or foreign corporation, whether for profit or not for profit, a business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity which maintains an address in this state. A nonprofit association may not serve as its own authorized agent. Only one person may be named as the authorized agent in the statement appointing an agent for service of process. The secretary of state may not be named as the nonprofit association's authorized agent for service of process in a statement appointing

an agent for service of process or any amendment to such statement.

§80.26. Nonprofit Association Name. The name of the nonprofit association in a statement appointing an agent should be the name under which the association regularly conducts its activities in this state. The name of the nonprofit association in the statement appointing an agent should be the name as it appears in the nonprofit association's governing documents (the association's constitution, bylaws or regulations) or, if applicable, the name of the association as shown in its assumed name certificate filed pursuant to Business and Commerce Code, Chapter 36. The nonprofit association may not use the term "corporation" or "incorporated" or an abbreviation of either of those terms in its name. The secretary of state does not review the name of the nonprofit association, or a change of name, to determine whether the name conforms with the entity name availability rules of §§79.30-79.54 of this title (relating to Corporations).

§80.27. Address of Appointed Agent. The address of the appointed agent must include a street or building address for purposes of providing the public with notice of the physical location at which process may be served on the appointed agent. A post office box alone is not a sufficient address for the appointed agent. If the registered office is in a city with a population of less than 5,000, the secretary of state will accept an address other than a street address for the registered office.

§80.28. Date of Filing. The date of filing of any document specified in these sections which conforms to law and for which the filing fee has been paid will be the same date as the date of receipt by the secretary of state. If a document does not conform to law, it will be returned to the sender. When the document is corrected and resubmitted, the date of filing of the document will be the same date as the date of receipt by the secretary of state of such corrected and resubmitted document. The date of filing may not be a date prior to the date on which the document is found to conform to law.

§80.29. Revocation of Statement of Appointment, Amendment, or Cancellation. The secretary of state may revoke the filing of a document if the fee for the document was paid by an instrument that was dishonored when presented by the state for payment and the nonprofit association fails to pay the fee within 30 days after the secretary of state mails notice of the dishonor of the instrument to the nonprofit association at its address in this state or outside this state, as applicable. A revocation is effective as of

the date of the filing of the document. Failure to give or receive notice does not invalidate the revocation.

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 4, 1995.

TRD-9510036

Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 463-5586

Chapter 105. Solicitations

Subchapter C. Telephone Solicitations

• 1 TAC §§105.201, 105.204-105.207

The Office of the Secretary of State proposes an amendment to §105.201 and §105.204 and proposes new §§105.205-105.207, concerning filing procedures, methods for the releasing of security and methods for payment of claims filed under the Telephone Solicitation Act, Texas Civil Statutes, Articles 5069-18.01 et seq (Vernon Supplement 1995). The rules provide for a more efficient filing system by clearly indicating dates when files must be complete. The proposed rules also establish guidelines with regard to the releasing of security once a telemarketing registrant ceases business activities. In addition, these rules set out guidelines for the payment of claims filed against a telemarketing company's bond, where the amount of claims exceed the amount of the bond.

Clark Kent Ervin, Assistant Secretary of State, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Ervin also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing them will be a more efficient filing procedure and clearer guidelines for the releasing of security or payment of claims. There will be no effect on small businesses. The proposed rules will not impose any economic cost on individuals.

Comments on these proposed rules may be submitted to the Office of the Secretary of State, Mark McHargue, Staff Attorney, P.O. Box 12887, Austin, Texas 78711-2887.

The amendments and new rules are proposed under the Telephone Solicitation Act, Texas Civil Statutes, Articles 5069-18.01 et seq (Vernon Supplement 1995), which requires the Secretary of State to accept registrations filed under the Act.

Texas Civil Statutes, Articles 5069-18.07, 5069-18.08, 5069-18.09, 5069-18.10, and 5069-18.23, is affected by the proposed amendments and new rules.

§105.201. Registration.

(a)-(e) (No change.)

(f) If an initial or renewal registration statement is not complete before the 45th day after it is received incomplete, the file will be closed and the registration fee forfeited.

(g) If a renewal filing is not received before the 30th day after the registration has lapsed, the file will be closed.

§105.204. Updates.

(a)-(c) (No change.)

(d) If an update is not filed before the 60th day after it is required to have been filed, the file will be closed and the registration fee forfeited.

(e) If an update is not completed before the 45th day after it is received incomplete, the file will be closed and the update fee and registration fee forfeited.

§105.205. Valid Security Required.

(a) A registrant must maintain the required security during the time the registrant conducts telephone solicitations as defined by the Telephone Solicitation Act, Texas Civil Statutes, Articles 5069-18.01(10) (Vernon Supplement 1995).

(b) The registration status of the registrant will be placed in suspense if the security instrument filed by the registrant lapses at any time during the registration period. If valid security has not been properly filed by the 45th day after the security becomes ineffective, the file will be closed and the registration fee forfeited.

§105.206. Release of Security.

(a) Upon the cessation of telephone solicitation business activities, a registrant may request in writing the release of the registrant's security.

(b) Except as provided by subsection (c) of this section, the secretary of state shall release a registrant's security no later than the 90th day after the release request is received in the statutory documents division of the office of the secretary of state.

(c) A registrant's security may not be released where the secretary of state has received by mail actual notice that an action has been filed to recover against the security, unless:

(1) a court order directs the security to be released to the registrant by the secretary of state;

(2) documents are filed with the office of the secretary of state indicating that a settlement has been approved by a court directing that the security be released to the registrant, or

(3) the registrant files in the office of the secretary of state a court order indicating that the action against the registrant has been dismissed

§105 207 Bond Payout Procedures If the total claims of actual financial loss exceed the amount of the security, the secretary of state shall pay the claims on a pro rata basis by dividing the amount of the security by the total amount of the claims, in order to determine a percentage to be applied to each claim

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 8, 1995

TRD-9510007

Clark Kent Ervin
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption September 18, 1995

For further information, please call (512) 463-5586

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 473. Fees

• 22 TAC §473.5

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.5, concerning Miscellaneous Fees. The amendment is being proposed in order to remove a portion of the existing rule for incorporation into a new separate rule

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

Ms Forkner 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 to better inform the public of open records request costs. There will be no effect on small businesses. There will be no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

The proposed amendment does not affect other statutes, articles, or codes.

§473.5 Miscellaneous Fees (Not Refundable)

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

[(g) Written Certification/Licensure Verification Basic Form-\$5.00,

[(h) Written State-to-State Verification-\$25],

[(g) [(i)] Application packets-\$5.00;

[(j) Open Records-Copies:

(1) Under 50 pages-cost per page-\$. 12;

(2) Over 50 pages:

(A) first page-\$1 00;

(B) each additional page-\$.18;

(3) Research Fee-per hour-\$7.30].

[(h) [(k)] Cost of destroyed, lost or stolen annual renewal permits-\$10;

[(i) [(l)] Cost of replacement renewal notice-\$10

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 11, 1995

TRD-9510150

Rebecca E Forker
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 835-2036

TITLE 28. INSURANCE Part I. Texas Department of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter N. Residential Property Insurance Market Assistance Program

Executive Committee Member- ship and Operation

• 28 TAC §5.10000

The Texas Department of Insurance proposes new 28 TAC §5.10000, concerning the Residential Property Insurance Market Assistance Program Executive Committee, which is appointed pursuant to the Insurance Code, Article 21.49-12 §3, to propose a plan of operation for the Residential Property Insurance Market Assistance Program (MAP) and to advise and consult with the Commissioner on the administration of the program. Proposed pursuant to Texas Civil Statutes, Article 6252-33, which govern State Agency Advisory Committees, the new section is necessary to specify the purpose, task, reporting requirements, membership composition, and duration of the MAP Executive Committee. Article 6252-33 requires a state agency that is advised by an advisory committee to adopt rules stating the committee's purpose and tasks, the manner in which the committee will report to the agency, and the duration of the committee. Article 6252-33, §1 defines "advisory committee" to mean a committee, council, commission, task force, or other entity in the executive branch of state government that is not a state agency, is created by or under state law, and has as its primary function the advising of a state agency. Article 21.49-12 of the Insurance Code (Acts 1995, 74th Legislature Regular Session House Bill 1367, §5, effective August 28, 1995) was enacted by the 74th Texas Legislature in House Bill 1367 to require the Commissioner to establish a voluntary market assistance program to assist insureds in Texas in obtaining residential property insurance coverage in underserved areas which are to be determined and designated by the Commissioner by rule. Pursuant to Article 21.49-12, §2, an executive committee shall develop and submit the MAP plan of operation to the Commissioner for adoption by rule and shall be available to advise and consult with the Commissioner with regard to the administration of the program. Pursuant to Article 21.49-12, §3, the executive committee shall be composed of 11 members appointed by the Commissioner.

Lyndon Anderson, associate commissioner, property and casualty program, has determined that for each year of the first five years that the proposed section will be in effect any fiscal implications to state government are the result of the legislative enactment of the Insurance Code, Article 21.49-12 and are not as a result of the adoption and implementation of this section. Article 21.49-12, §6(b) provides that the MAP program shall be terminated

only upon approval of the Commissioner of Insurance, but in no event earlier than 48 months following the commencement date of the initial plan of operation Mr. Anderson also has determined that there will be no fiscal implications to local government nor to small business as a result of enforcing or administering the section, and there will be no effect on local employment or local economy

Mr Anderson also has determined that for each year for the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section is the development and submission of a MAP plan of operation to the Commissioner for consideration of adoption by rule, the adoption of the plan of operation will allow the implementation of a market assistance program to assist insureds in this state who reside in underserved areas, as designated by the Commissioner, with residential property insurance availability and affordability problems With implementation of this program, insureds who reside in underserved areas will have an alternative insurance market available for the purchase of basic residential property insurance to protect their property from the risk of a major loss There will be no economic costs to any persons required to comply with the proposed section

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to the Office of the Chief Clerk, Texas Department of Insurance, P O. Box 149104, MC #113-2A, Austin, Texas, 78714-9104 An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P O. Box 149104, MC #103-1A, Austin, Texas, 78714-9104 Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk

The new section is proposed pursuant to Texas Civil Statutes, Article 6252-33, the Insurance Code, Articles 21.49-12 and 1.03A, and the Government Code §§2001.004-2001.038 Texas Civil Statutes, Article 6252-33, §5 require a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the committee, and the manner in which the committee will report to the agency The Insurance Code, Article 21.49-12, §2 and §3, authorizes the Commissioner to appoint an 11-member executive committee to develop and submit a Residential Property Insurance Market Assistance Program plan of operation to the Commissioner for adoption by rule and to advise and consult with the Commissioner with regard to the administration of the program The Insurance Code, Article 1.03A, provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute The Government Code, §§2001.004-2001.038 (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice stating the nature and requirements of available formal and informal procedures and prescribe the procedures for adoption of rules by a state agency

The following statutes are affected by this rule. Insurance Code, Article 21.49-12., Texas Civil Statutes, Article 6252-33

§5.10000 Residential Property Insurance Market Assistance Program Executive Committee

(a) Purpose and Scope of this Section Adopted pursuant to Texas Civil Statutes, Article 6252-33, which governs State Agency Advisory Committees, the purpose of this section is to specify the purpose, task, reporting requirements, membership composition, and duration of the Residential Property Insurance Market Assistance Program Executive Committee (the Executive Committee), which operates pursuant to the Insurance Code, Article 21.49-12.

(b) Purpose of the Executive Committee The purpose of the Executive Committee is to assist the Commissioner in the administration of the Residential Property Insurance Market Assistance Program (MAP) as authorized by the Insurance Code, Article 21.49.12

(c) Tasks The tasks of the Executive Committee are specified in the Insurance Code, Article 21.49-12 and include those tasks specified in the following paragraphs (1) (7)

(1) The Executive Committee shall develop and submit a MAP plan of operation to the Commissioner for consideration of adoption by rule

(2) The Executive Committee shall advise and consult with the Commissioner in the administration of the MAP

(3) The Executive Committee shall review the demand for and performance of the MAP six months following the approval of the plan of operation, and at least annually thereafter as necessary, and report to the Commissioner as to the necessity for continued operation of a voluntary MAP, need for establishment of a mandatory MAP, or the need for establishment of a FAIR Plan pursuant to the Insurance Code, Article 21.49A or make other recommendations to the Commissioner that the Executive Committee deems appropriate.

(4) The Executive Committee may advise the Commissioner on the need for subcommittees to carry out MAP functions

(5) The Executive Committee shall advise the Commissioner on what information is needed for the Executive Committee's periodic review of the MAP.

(6) The Executive Committee may advise the Commissioner on any other rules in addition to the plan of operation that are needed to implement the MAP.

(7) The Executive Committee shall perform other tasks as requested by

the Commissioner pursuant to the Insurance Code, Article 21.49-12.

(d) Reporting Requirements. The reporting requirements of the Executive Committee are specified in the Insurance Code, Article 21.49-12 and include those requirements outlined in the following paragraphs (1)-(3).

(1) The Executive Committee shall, within 180 days following the August 28, 1995 effective date of Article 21.49-12, develop and submit the MAP plan of operation to the Commissioner for consideration for adoption by rule.

(2) The Executive Committee shall review the demand for and performance of the program six months following the approval of the plan of operation, and at least annually thereafter as necessary, and report to the Commissioner as to the necessity for continued operation of a voluntary MAP, need for establishment of a mandatory MAP, or the need for establishment of a FAIR Plan pursuant to the Insurance Code, Article 21.49A or make other recommendations to the Commissioner that the Executive Committee deems appropriate

(3) The Executive Committee shall provide, at the time as requested by the Commissioner, any other reports or information requested by the Commissioner and necessary to the Commissioner for the implementation of the Insurance Code, Article 21.49-12.

(e) Membership.

(1) Appointed by the Commissioner pursuant to the Insurance Code, Article 21.49-12 §3, the Executive Committee is composed of 11 members: five members who represent the interests of insurers, four public members, and two members who are licensed local recording agents.

(2) The Commissioner or the Commissioner's designated representative shall be an ex officio member of the Executive Committee and must be present in every meeting of the Executive Committee.

(3) Any appointee resigning from the Executive Committee shall be replaced by the Commissioner with another appointee representing the same constituency as the resigning appointee.

(f) Duration. Pursuant to the Insurance Code, Article 21.49-12, §6(b), the MAP program shall be terminated only upon approval of the Commissioner of Insurance, but in no event earlier than 48 months following the commencement date of the initial plan of operation. Termination of the MAP shall constitute termination of the membership and operation of the Executive Committee.

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 11, 1995.

TRD-9510220

Alicia M Fachtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: September 18, 1995

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

Chapter 7. Corporate and Financial Regulation

Subchapter N. Services of Process

• 28 TAC §7.1404

The Texas Department of Insurance proposes the amendment of §7.1404, concerning service of process, the Commissioner's issuance of certificates of service, and fees. Amendments are necessary to provide greater uniformity with the Insurance Code, Article 1.36, §3(f), of as newly amended by the 74th Legislature in House Bill 2952. Article 1.36, §3(f) previously provided for the Commissioner's issuance of a certificate of service only upon request and provided for a \$10.00 fee for such a certificate of service. House Bill 2952 now provides that certificates of service will be automatically issued by the Commissioner to plaintiffs and court clerks. Certificates of service will be issued to other parties upon request. The current version of §7.1404(b) provides for a fee of \$25 for processing a service of citation. Article 1.36, §3(b) authorizes the Department to charge up to \$50. The Department proposes that §7.1404(b) be amended to raise the fee to \$50 and that §7.1404(g) be amended to reflect the automatic issuance of certificates of service to plaintiffs and court clerks.

Mary Keller, Senior Associate Commissioner, Legal and Compliance, has determined that for the first five-year period the section is in effect the fiscal implications of raising processing fees will be negligible. In those rare cases where a plaintiff would not have requested a certificate of service, but will now receive one automatically, the fee will increase from \$25 to \$50. In the usual case where a plaintiff would have requested one certificate of service, the fee will increase from \$35 to \$50. In instances where a plaintiff would have requested an additional certificate for a court clerk, the fee will increase from \$45 to \$50.

Ms. Keller also has determined that for each year of the first five years the amendment is in effect, the public will benefit from the uniformity of §7.1404(b) and (g) and Article 1.36, §3(b) and (f). There will be less confusion about the amount of the fee charged, i.e. a flat fee of \$50. There will be more certainty about whether and when service was achieved, as a certificate of service will now be provided as a matter of course. There will

be less confusion about the Department's handling of citations, as at least two certificates of service will always be generated. Depending on whether a plaintiff would have requested 0, 1, or 2 certificates of service under the existing procedures, the cost to plaintiffs will increase by either \$5.00, \$15 or \$25. The public will also benefit from streamlined administration within the Department

Comments on the proposed amendment must be submitted within 30 days after publication of the proposed sections in the *Texas Register*, to the Chief Clerk, P O Box 149104, Mail Code 113-1C, Austin, Texas 78714-9104. An additional copy of the comment must be submitted to Robert R. Carter, Jr., Staff Attorney, Legal and Compliance, Mail Code 110-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104. Any requests for a public hearing should be submitted separately to the Office of the Chief Clerk

The amendment is proposed under the Insurance Code, Articles 1.36, §13 and 1.03A. Article 1.36, §13, provides that the Department may promulgate rules as may be determined by it to be essential for the effective implementation of Article 1.36. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance as authorized by statute.

The following articles are affected by this proposal, §7.1404(b), Insurance Code, Article 1.36, §3(b) and §7.1404(g), Insurance Code, Article 1.36, §3(f).

§7.1404. Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers

(a) (No change.)

(b) Required fee. A fee of \$50 [\$25], payable by check or money order to the Texas Department of Insurance [State Board of Insurance], must be provided for each legal process, notice, or demand served on the commissioner, and the fee must accompany each service of legal process, notice, or demand filed with the commissioner.

(c)-(f) (No change.)

(g) Certificate of service and fee therefor. Upon receiving the return receipt, the commissioner shall mail a certificate of service and proof of delivery by a return receipt for certified or registered mail to the plaintiff and clerk of the court or agency where the case is pending, at the address provided by the plaintiff. The commissioner shall provide on request additional [a] certificates [certificate] issued by the commissioner showing the service

and proof of delivery by a return receipt for certified or registered mail. The commissioner will charge a fee of \$10 for each such additional [this] certificate

(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 11, 1995

TRD-9510219

Alicia M Fachtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: September 18, 1995

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

Chapter 19. Agent's Licensing

Subchapter C. Written Examination for Applicants for License to Write Insurance Upon Any One Life in Excess of \$7,500 [\$5,000] Under the Insurance Code, Article 21.07, §4A

• 28 TAC §19.201

The Texas Department of Insurance proposes an amendment to §19.201, concerning establishing parameters for those written examinations required for the licensure of individuals who desire to write life insurance upon any one life in excess of \$5,000 under the provisions of the Insurance Code, Article 21.07, §4A. Section 19.201 is amended to increase the amount of life insurance written on any one life from \$5,000 to \$7,500. This change is necessary because of changes to Article 21.07 which occurred in the 73rd legislative session.

Beverly McVey, deputy commissioner, licensing group, has determined that for the first five-year period the proposed section will be in effect, there will be no fiscal implications for local or state government, or small businesses as a result of enforcing or administering the section. There will be no effect on local employment or the local economy.

Ms. McVey, also has determined that for the first five year period the proposed section is in effect, the public benefit anticipated as a result of the proposed amendment will be the achievement of greater uniformity with the legislative directives in the Insurance Code, Article 21.07. There are no anticipated economic costs to persons who are required to comply with this amendment.

To be considered by the Commissioner of Insurance, comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register*, to the Office of the Chief

Clerk, Texas Department of Insurance, P. O. Box 149104, Mail Code 113-2A, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Beverly McVey, Director, Licensing Group, Texas Department of Insurance, P.O. Box 149104, Mail Code 107-1A, Austin, Texas 78714-9104. A request for public hearing on the proposed sections should be submitted separately to the Office of the Chief Clerk.

The amendment is proposed under the Insurance Code, Articles 21.07 and 1.03A, and the Government Code, §§2001.004 et seq (Administrative Procedure Act). Article 21.07, §4A, requires written examination of applicants who desire to write life insurance in excess of \$7,500 upon any one life, and authorizes the department to establish reasonable rules with regard to the written examination. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and prescribe the procedures for adoption of rules by a state administrative agency.

The Insurance Code, Chapter 21.07, is affected by this proposed section.

§19.201. Purpose. These sections are designed to establish the parameters, including the administration, scope, type, and conduct of written examinations and the times and places within this state when such examinations shall be held, concerning those written examinations required for the licensure of those individuals who desire to write life insurance upon any one life in excess of \$7,500 [\$5,000] under the provisions of the Insurance Code, Article 21.07, §4A. The sections also establish the parameters under which any insurance carrier may conduct written examinations for its own agents.

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 11, 1995.

TRD-9510217 Alicia M. Fecthel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: September 18, 1995

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

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Chapter 25. Insurance Premium Finance

Subchapter A. General Provisions

• **28 TAC §25.9**

The Texas Department of Insurance proposes an amendment to §25.9, which re-

quires insurance premium finance companies to disclose to consumers the payment plan available through the Texas Automobile Insurance Plan Association (TAIPA). The amendment will make the premium financing information required to be disclosed by §25.9 available in Spanish as well as English. Proposal of amended §25.9 includes the adoption by reference of an amended Premium Finance Comparison Disclosure Form (disclosure form) for use by all insurance premium finance companies subject to this chapter and the Insurance Code, Chapter 24. The amended disclosure form contains premium financing information in English, followed by the same information translated into Spanish. In addition, the amended disclosure form deletes language stating that consumers are not eligible for the TAIPA installment payment plan if their policy has been canceled for nonpayment of premiums during the last two years. The amended disclosure form states that if a consumer has defaulted in payment of premiums to an insurer assigned through TAIPA within the last 12 months, the insurer may deduct from the deposit premium any unpaid premium owed by the consumer. This new language is necessary because of proposed amendments to TAIPA's Plan of Operation which provide for such a payment plan. Additionally, the disclosure form has been amended to include a sentence which briefly explains premium financing. The Texas Department of Insurance has filed a copy of the amended disclosure form with the *Texas Register*. Persons desiring copies of the form may obtain them from the Premium Finance Licensing Unit, Mail Code 107-5A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas, 78714-9104.

Edna Ramon Butts, senior associate commissioner, regulation and safety, has determined that for each year of the first five years the proposed section will be in effect, there will be no fiscal implications for state or local government, or small businesses as a result of enforcing or administering the section. There will be no effect on the local economy or local employment.

Ms. Butts also has determined that for each year of the first five years the proposed section is in effect, the anticipated public benefit of enforcing the section is the disclosure of premium financing information to more insurance consumers, those speaking either English or Spanish. This will enable a greater number of consumers to make more informed decisions when financing insurance premiums. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Alicia M. Fecthel, General Counsel and Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC 113-1C, Austin, Texas 78714-9104. An additional copy of the comment must be submitted to Edna Ramon Butts, Senior Associate Commissioner, Regulation and Safety, Texas Department of In-

surance, MC 107-2A, P.O. Box 149104, Austin, Texas 78714-9104. Any requests for public hearing on this proposal should be submitted separately to the Office of the Chief Clerk

The amendment is proposed pursuant to the Insurance Code, Articles 24.09 and 1.03A, and the Government Code, §§2001.004 et seq (Administrative Procedure Act). Article 24.09 authorizes the Commissioner of Insurance to adopt and enforce rules necessary to carry out the provisions of Chapter 24 (regulating insurance premium finance companies). Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by a statute. The Government Code, §§2001.004 et seq authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and to prescribe the procedures for adoption of rules by a state agency.

The following is affected by this proposal: Insurance Code, Chapter 24

§25.9. Texas Automobile Insurance Plan Association Financing Disclosure and Premium Finance Comparison Disclosure Form.

(a) (No change.)

(b) This disclosure shall be made using the Premium Finance Comparison Disclosure Form (Disclosure Form), which the Department adopts and incorporates by reference. The Disclosure Form shall be provided to the consumer in both English and Spanish. The effective date of the Disclosure Form is October 15, 1995. This form is published by the Department and may be obtained from the Premium Finance Licensing Unit, Mail Code 107-5A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas, 78714-9104. Reproduction of this form is allowed.

(c) The insurance premium finance company shall maintain copies of the Disclosure Forms as evidence to an examiner that disclosure of the TAIPA payment plan was made to the insured.

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 11, 1995.

TRD-9510221 Alicia M. Fecthel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Earliest possible date of adoption: September 18, 1995

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

Part II. Texas Workers' Compensation Commission

Chapter 102. Practice and Procedures

The Texas Workers' Compensation Commission proposes new §102.6, and the simultaneous repeal of existing §102.6, concerning the election of chairman and vice-chairman of the commission. New §102.6 is proposed to provide a procedure for selection of vice-chairman of the commission. Recent legislation (House Bill 1089, 74th Legislature, 1995) amended the Texas Labor Code, §402.008 to provide that the Governor designate a member of the commission to serve as chairman. It additionally requires that the Governor alternate the chairmanship between members who are employers and members who are wage earners. Prior to this legislative amendment, the chairman of the commission was selected by the commission members. New §102.6 is proposed to provide a procedure for selection of a vice-chairman which conforms with amended Texas Labor Code, §402.008.

New §102.6 provides that the commissioners shall elect a vice-chairman for a term concurrent with the chairman's term. When the chairman is a wage earner, the vice-chairman shall be an employer, and when the chairman is an employer, the vice-chairman shall be a wage earner. The vice-chairman serves as chair in the chairman's absence.

Janet Chamness, Chief of Budget, 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. Chamness 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, of the two officers of the commission, one will always be a wage earner and one will be an employer. This will maintain the balance intended by the legislature to maintain stability in the system and in system costs. The designation of the vice-chairman to serve in the absence of the chair will permit the business of the commission to continue despite the chairman's absence, preventing waste of resources and delay in decision making. 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 or requests for a public hearing must be received by 5:00 p.m. on Tuesday, September 19, 1995, and should be submitted to Elaine Crease, Office of the General Counsel, Mailstop #4-D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

• 28 TAC §102.6

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Workers' Compensation Commission or in

the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act; and the Texas Labor Code, §402.008, which provides that the Governor designate the chairman of the commission.

The proposed repeal affects the following statutes: Texas Labor Code, §402.061 and §402.008.

§102.6. Election of Chairman and Vice-Chairman

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 11, 1995.

TRD-9510173 Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700

The new rule is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act; and the Texas Labor Code, §402.008 which provides that the Governor designate the chairman of the commission.

The new rule affects the following statutes: Texas Labor Code, §402.061 and §402.008.

§102.6. Election of Vice-Chairman.

(a) Upon the governor's appointment of the chairman of the commission, the commissioners shall elect a vice-chairman to serve a term concurrent with the chairman.

(b) The vice-chairman shall represent the wage earners when the chairman is an employer of labor and shall represent employers of labor when the chairman is a wage earner.

(c) During the absence of the chairman, the vice-chairman shall assume the duties and authority of the chairman.

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 11, 1995.

TRD-9510172 Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700

Chapter 110. Required Notices of Coverage

Subchapter B. Employer Notice

• 28 TAC §110.110

The Texas Workers' Compensation Commission proposes an amendment to §110.110, concerning reporting requirements for building or construction projects for governmental entities. The amendment is proposed to add provisions contained in recently enacted House Bill 1089, and Senate Bill 3, 74th Legislature, 1995. House Bill 1089 added Texas Labor Code, §406.097(c), which provides that a sole proprietor or partner of a business entity covered by workers' compensation insurance or a corporate officer with an equity ownership in a covered business entity of at least 25% may be excluded from required workers' compensation coverage under the Texas Labor Code, §406.096. Senate Bill 3 added to Texas Civil Statutes, Article 6675c, Title 116, Chapter 1, entitled Motor Carrier Registration, §4(j), which provides that a motor carrier required to register under this article must obtain either workers' compensation insurance coverage protecting its employees or accidental insurance coverage in an amount fixed by the Texas Department of Transportation. The proposed amendment to §110.110 adds subsections (h) and (i) which incorporate these exemptions to mandatory workers' compensation insurance coverage for government building or construction projects. An amendment to the definition of "Persons providing services on the project" is proposed, to reference the exemptions in (h) and (i). An amendment to subsection (g) is proposed to clarify that, with the exceptions already discussed, the statute and the rule apply to all public works construction contracts, including those which are not required to be advertised for bid. This has been an area of some confusion for public entities.

Janet Chamness, Chief of Budget, has determined that for the first five-year period the proposed rule as amended is in effect there will be fiscal implications for state or local governments as a result of enforcing or administering the rule as amended. Although some entities will no longer have to have workers' compensation insurance coverage to secure a public works contract, the public entity will still have to determine that the entity meets the requirements to be exempt. The time involved in doing this will offset the time saved by not having to verify coverage. The exemption for some entities and the right of some motor carriers to provide insurance alternative to workers' compensation insurance may result in lower bids for public works contracts. Governmental entities will be authorized to accept these bids and may thus achieve cost savings.

Ms. Chamness also has determined that for each year of the first five years the amended rule as proposed is in effect the public benefit

anticipated as a result of enforcing the amended rule will be a greater number of contractors eligible to bid on government building or construction projects, resulting in more competitive bidding and possible cost savings to the public.

There will be no anticipated economic costs to individuals who are required to comply with the amended rule as proposed. There may be a savings in the costs of compliance for small businesses as compared to large businesses, as some small businesses may qualify for the exemptions and not have to obtain workers' compensation insurance coverage to secure public contracts

Comments on the proposal or requests for a public hearing must be received by 5:00 p.m. on Tuesday, September 19, 1995, and should be submitted to Elaine Crease, Office of the General Counsel, Mailstop #4-D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendment is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act; the Texas Labor Code §406.096, which requires a contractor which enters into a building or construction contract with a governmental entity to provide workers' compensation insurance coverage for its employees; the Texas Labor Code, §406.097 added by the 74th Legislature, 1995, which allows executive employees of certain businesses to exclude themselves from workers' compensation coverage and to remain in compliance with the requirements of Texas Labor Code, §406.096; and Texas Civil Statutes, Article 6675c, which authorizes the purchase of an alternative to workers' compensation insurance coverage by some motor carriers.

The proposed amendment to §110.110 affects the following statutes: the Texas Labor Code, §402.061; the Texas Labor Code §406.097; and Texas Civil Statutes, Article 6675c.

§110.110. Reporting Requirements for Building or Construction Projects for Governmental Entities.

(a) The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this rule shall have the meaning defined in the Texas Labor Code, if so defined.

(1) Certificate of coverage ("certificate")—A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a workers' compensation coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees (including those subject to a coverage agreement) providing services on a project, for the duration of the project.

(2)-(6) (No change.)

(7) Persons providing services on the project ("subcontractor" in §406.096 of the Act)—With the exception of persons excluded under subsections (h) and (i), includes [Includes] all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes but is not limited to providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

(8) (No change.)

(b)-(f) (No change)

(g) This rule is applicable for building or construction contracts advertised for bid by a governmental entity on or after September 1, 1994. This rule is also applicable for those building or construction contracts entered into on or after September 1, 1994 which are not required by law to be advertised for bid.

(h) The coverage requirement in this rule does not apply to motor carriers who are required pursuant to Texas Civil Statutes, Article 6675c to register with the Texas Department of Transportation and who provide accidental insurance coverage pursuant to Texas Civil Statutes, Article 6675c, §4(j).

(i) The coverage requirement in this rule does not apply to sole proprietors, partners, and corporate officers who meet the requirements of the Act, §406.097(c) and who are explicitly excluded from coverage in accordance with the Act, §406.097(a).

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 11, 1995.

TRD-9510174

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700



Chapter 114. Self-Insurance

• 28 TAC §114.2

The Texas Workers' Compensation Commission proposes an amendment to §114.2, concerning definitions and terms used in Chapter 114, entitled Self Insurance. The amendment is proposed to add a provision contained in recently enacted House Bill 1089, 74th Legislature, 1995. House Bill 1089 added §406.097 to the Texas Labor Code. The new section provides that a sole proprietor, partner, or corporate executive officer of a business entity which elects to provide workers' compensation coverage, is entitled to benefits under that coverage as an employee unless the sole proprietor, partner, or corporate executive officer is specifically excluded from coverage through an endorsement to the policy or certificate of authority to self-insure. The amendment to §114.2 clarifies that this change is applicable to a certificate of authority to self-insure.

Janet Chamness, Chief of Budget, has determined that for the first five-year period the proposed rule as amended is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule as amended.

Ms. Chamness also has determined that for each year of the first five years the amended rule as proposed is in effect the public benefit anticipated is clarification of whether certain corporate executive employees are covered under a workers' compensation policy or certificate of authority to self-insure. This has been an area of some confusion under the 1989 law. Clarity in this area will avoid the costs associated with dispute resolution regarding coverage.

There will be no impact on maintenance taxes for self-insureds because of the 1995 statutory change regarding calculation of the maintenance tax for self-insureds.

There will be no difference in the costs of compliance for small businesses as compared with large businesses. An entity must meet certain minimum premium requirements to apply for a certificate of authority to self-insure.

Comments on the proposal or requests for a public hearing must be received by 5:00 p.m. on Tuesday, September 19, 1995, and should be submitted to Elaine Crease, Office of the General Counsel, Mailstop #4-D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The proposed amendment affects the following statutes: Texas Labor Code, §402.061, and the Texas Labor Code, §406.097, as added by House Bill 1089, 74th Legislature, 1995.

The amendment is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act, and the Texas Labor Code, §406.097, as added by House Bill 1089, 74th Legislature, 1995, which provides for workers' compensation coverage for executive employees of certain business entities.

§114.2. Definitions.

(a) The following words and terms are defined in the Texas Labor Code, §407.001 [Texas Civil Statutes, Article 8308-3.51] and are so used in this chapter

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

(4) Incurred liabilities [liability] for compensation, and

(5) (No change.)

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise

(1) Certificate—A Certificate of authority to self-insure issued by the Commissioners under the Texas Labor Code, §407.042 [Texas Civil Statutes, Article 8308-3.51(d)] which entitles an employer to be a self-insurer and is valid only for the persons, firms, or corporations named on the certificate. Certain individuals may be specifically excluded from coverage pursuant to the Texas Labor Code, §406.097.

(2)-(7) (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 11, 1995

TRD-9510175

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700

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Chapter 120. Employers

• 28 TAC §120.2, §120.3

The Texas Workers' Compensation Commission proposes amendments to §120.2, concerning the employer's report of injury and to §120.3, concerning the employer's supplemental report of injury

Recent legislation (House Bill 1089, 74th Legislature, 1995) amended Texas Labor Code, §409.005 to require that employers report injuries to insurance carriers and that carriers then report the injury to the commission electronically. Prior to this statutory amendment, employers were required to report injuries directly to the commission and the carrier. The amendment to the Texas Labor Code, §409.005 also requires the employer to deliver a copy of the report of injury to the injured employee and that the report include a plain language summary of the employee's rights and responsibilities. The commission is authorized to adopt rules relating to the information to be contained in the report and relating to the development and implementation of an electronic filing system. The amendments to §120.2 and §120.3 are proposed to bring

the rules into compliance with, and to implement, the new statutory requirements

Deletion of the statutory requirement that the employer file a first report of injury with the commission was necessary to implement a system of electronic filing. Requiring electronic submission of claims data is aligned with goals and improvements of the workers' compensation system at the national level. TWCC has participated with the International Association of Industrial Accident Boards and Commissions (IAIABC) over the past year to develop national standards for reporting workers' compensation data in conjunction with the IAIABC, several states, carriers, third party administrators, and servicing agents attend monthly technical development meetings to develop and resolve issues at the national level

As proposed, the amendment to §120.2 requires that an employer report injuries, deaths and occupational diseases within the statutory eight days to the employer's insurance carrier on a form prescribed by the commission. The report may be submitted to the carrier by mail, personal delivery, teleclaims, or electronically. The employer is also required to deliver a copy of the report to the injured employee together with a summary of the employee's rights and responsibilities. The language for this summary is specifically set out in the rule. Penalties for failure of the employer to file or provide the report as required are included in the rule. The employer is required to maintain a record of the date the report of injury is filed with the carrier and of the date the report and summary are provided to the employee.

As proposed, the amendment to §120.3 provides the procedures for an employer to file supplemental reports of injury with the insurance carrier and the injured employee when the employee returns to work or experiences additional days of disability as a result of the injury. The supplemental report may be submitted to the carrier by mail, personal delivery, teleclaims, or electronically, and may be submitted to the employee by mail or personal delivery. The employer is also required to maintain a record of the date the supplemental report of injury is filed with the carrier and of the date the supplemental report is provided to the employee

Janet Chamness, Chief of Budget, has determined that for the first five-year period the proposed amendments are in effect there will be fiscal implications for state or local governments as a result of enforcing or administering the amended rules. Any increased costs would be associated with the commission's development and implementation of an electronic filing system for claims, and the commission has already developed this system. The commission will experience cost savings of the type described in the following paragraphs of this preamble for those who must comply with the amended rules. The cost implications for a state or local government required as a carrier or an employer to comply with the rule will be the same as for other employers and carriers, discussed in the following paragraphs of this preamble

Ms Chamness also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules will be

implementation of the Texas Workers' Compensation Act, as amended by the 74th Legislature in 1995 and faster and more efficient claims filing.

There are several cost savings and public benefits to be realized through electronic data interchange (EDI) of workers' compensation data that is currently being submitted manually by paper. They are as follows: a reduction in costs and more efficient service to insurance carriers, employers, and workers of Texas by electronic submission of claim related information using national reporting standards—studies have shown system savings to all participants as a result of early reporting of injuries; improved accuracy and integrity of the data through reduction in the number of times data is handled and key-entered, and through system edits by the sender and by the commission; increased timeliness of data reporting; increased efficiency in overall processing of a claim; improved tracking and reporting for research and analysis; fewer compliance violations; and enhanced customer service to the injured employee and other trading partners by freeing up commission staff resources.

There may be economic costs to individuals who are required to comply with the amended rules as proposed in the form of equipment purchases by insurance carriers to allow for electronic filing with the commission; however, the amended rule does provide a mechanism for waiver of this requirement by the commission.

There will also be associated cost savings, and the economic costs for carriers to develop or procure systems to comply with EDI are anticipated to be offset by the savings realized in costs of processing paper forms. The savings are as follows: reduction in overall costs associated with processing paper; reduction in postage costs associated with processing paper; reduction in mail processing costs of paper; reduction in data entry costs associated with processing paper; reduction in filing and storage costs associated with paper; and increased dollar savings and benefits, not only to Texas, but the system as a whole.

Employers will experience the following cost savings as well as sharing in the overall system savings resulting from early reporting of injuries: reduction in overall costs associated with processing paper; reduction in postage costs associated with processing paper; and reduction in mail processing costs of paper.

An increase in cost associated with mailing a summary of rights and responsibilities to the employee is possible, but will be offset because dispute resolution will be reduced from early knowledge of rights and responsibilities.

There will be no differences in costs of compliance for small businesses as compared to large businesses

Comments on the proposal or requests for a public hearing must be submitted by 5:00 p.m. on Tuesday, September 19, 1995 to Elaine Crease, Office of the General Counsel, Mail Stop 4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendments are proposed under the Texas Labor Code, §402.042(b)(11), which allows the executive director to prescribe the form, manner, and procedure for transmission of information to the commission, Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act, and the Texas Labor Code, §409.005, as amended by House Bill 1089, 74th Legislature, 1995, which provides the procedure for filing a report of injury and the format to be used.

The proposed amendments affect the following statutes: Texas Labor Code, §402.042(b)(11); Texas Labor Code, §402.061; and Texas Labor Code, §409.005, as amended by House Bill 1089, 74th Legislature, 1995.

§120.2. Employer's Report of Injury.

(a) The employer shall [file a written report for] report to the employer's insurance carrier each death, each occupational disease of which the employer has knowledge, and each injury that results in more than one day's absence from work for the injured employee. As used in this section, "knowledge" means receipt of written or verbal information regarding diagnosis of an occupational disease, or the diagnosis of an occupational disease through direct examination or testing by a doctor employed by the employer.

(b) The report shall be filed as the [Employer's] First Report of Injury [Form TWCC 1] in the form, format, and manner prescribed by the commission. The report may be filed in writing, by electronic data interchange, facsimile (fax), or telephone/tele-claims reporting.

(c) The report shall be filed [with the commission and the carrier, with a copy sent to the employee's mailing address,] not later than the eighth day after the receipt of notice of occupational disease, or the eighth day after the employee's first day of absence from work due to injury or death. For purposes of this section, a report is filed when personally delivered, [or] postmarked, reported via tele-claims, or electronically submitted. The employer shall maintain a record of the date the report of injury is filed with the carrier.

(d) The employer shall deliver a written copy of the report to the injured employee or to the employee's last known mailing address, at the time the report is made to the insurance carrier. The written report shall contain the information required by §120.1(a)(1)-(7) of this title (relating to Employer's Record of Injuries).

(e) The employer must provide the employee a summary of rights and responsibilities with the report required in subsection (d) of this section. The text for the summary shall be in English and Spanish and any other language common to the employer's employee population. The following English text and the Span-

ish text provided by the commission must be used without any additional words or changes.

Figure 1: 28 TAC §120.2(e)

(f) The employer shall maintain a record of the date the copy of the report of injury and the summary of rights and responsibilities were provided to the employee.

(g)[(d)] If a report has not been received by [the commission or] the carrier, the employer has the burden of proving that the report was filed within the required time frame. The employer has the burden of proving that good cause exists if the employer failed to timely file or provide the report.

(h)[(e)] Failure of [An] an employer who fails to file the report as required with the carrier or to provide a copy of the report as required to the employee without good cause is subject to [may be assessed an administrative] a penalty not to exceed \$500. An employer who fails to file the report [without good cause] waives the right to reimbursement of voluntary benefits even if no administrative penalty is assessed.

§120.3 Employer's Supplemental Report of Injury.

(a) (No change.)

(b) As provided in §129.4 of this title (relating to Adjustment of Temporary Income Benefit Amount), the employer shall file [form TWCC-6,] the Supplemental Report of Injury, in the form, format and manner prescribed by the commission. The report may be filed in writing, by electronic data interchange, facsimile (fax), or telephone/tele-claims reporting. The report shall be filed with the employer's carrier and the injured employee within ten days after the end of each pay period in which the injured employee has a change in earnings as a result of the injury or within ten days after the employee resigns or is terminated.

(c) For injuries requiring a [form TWCC-1] First Report of Injury to be filed, the employer shall file [form TWCC-6,] the Supplemental Report of Injury[,] with the employer's carrier and the injured employee [by first class mail or personal delivery] within three days after:

(1)-(2) (No change.)

(d) For purposes of this section, a report is filed with the carrier when personally delivered, postmarked, reported via tele-claims, or electronically submitted. A report is filed with the injured employee when personally delivered or postmarked:

(e)[(d)] . The employer shall maintain a record of the date the supplemental report of injury is filed with the carrier and provided to the employee. If a

report required by this section has not been received by the carrier, the employer has the burden of proving that the report was filed within the required time frame. The employer has the burden of proving that good cause exists if the employer failed to file the report.

(f)[(e)] Failure to comply with the requirements of this section, without good cause, is a Class D administrative violation, subject to a penalty not to exceed \$500.

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 11, 1995.

TRD-9510176

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700

Chapter 124. Carriers: Required Notices and Mode of Payment

• 28 TAC §124.1

The Texas Workers' Compensation Commission proposes an amendment to §124.1, concerning the written notice of injury.

Recent legislation (House Bill 1089, 74th Legislature, 1995) amended the Texas Labor Code, §409.005 to require that employers report injuries to insurance carriers and that carriers then report the injury to the commission electronically. Prior to this statutory amendment, employers were required to report injuries directly to the commission and the carrier. The amendment to §409.005 also requires the employer to deliver a copy of the report of injury to the injured employee and that the report include a plain language summary of the employee's rights and responsibilities. The commission is authorized to adopt rules relating to the information to be contained in the report and relating to the development and implementation of an electronic filing system. The amendment to §124.1 is proposed to adapt the language in the rule to implement the requirement for the employer to file with the carrier and the requirement for electronic filing of reports of injury by the insurance carrier.

Deletion of the statutory requirement that the employer file a first report of injury with the commission was necessary to implement a system of electronic filing. Requiring electronic submission of claims data is aligned with goals and improvements of the workers' compensation system at the national level. TWCC has participated with the International Association of Industrial Accident Boards and Commissions (IAIABC) over the past year to develop national standards for reporting workers' compensation data. In conjunction with the IAIABC, several states, carriers, third

party administrators, and servicing agents attend monthly technical development meetings to develop and resolve issues at the national level

As proposed, amended §124.1 defines "written notice of injury" as used in the Texas Workers' Compensation Act, §409.021 and requires an insurance carrier to maintain a record of each notice of injury and supplemental report of injury received, including the postmark date of reports which are received by mail. The carrier is also required to create a record of each notice of injury received. Upon request, the carrier is to provide the commission a business record affidavit regarding the reports and relevant dates. The proposed amendment gives the insurance carrier the statutory seven days from the date the carrier receives the notice of injury from the employer to submit it electronically to the commission. The proposed amendment provides that the commission shall prescribe the form, format, and content of electronic submission and may waive the electronic filing requirement.

Janet Chamness, Chief of Budget, has determined that for the first five-year period the proposed rule as amended is in effect there will be fiscal implications for state or local governments as a result of enforcing or administering the amended rule. Any increased costs would be associated with the commission's development and implementation of an electronic filing system for claims, and the commission has already developed this system. The commission will experience cost savings of the type described in the following paragraphs of this preamble for those who must comply with the amended rule. The cost implications for a state or local government required as a carrier or an employer to comply with the rule will be the same as for other employers and carriers, discussed in the following paragraphs of this preamble.

Ms Chamness has also determined that for each year of the first five years the amended rule as proposed is in effect the public benefit anticipated as a result of enforcing the amended rule will be implementation of the Texas Workers' Compensation Act as amended by the 74th Legislature in 1995 and faster and more efficient claims filing.

There are several costs savings and public benefits to be realized through electronic data interchange (EDI) of workers' compensation data that is currently being submitted manually by paper. They are as follows: a reduction in costs and efficient service to insurance carriers, employers, and workers of Texas by electronic submission of claim related information using national reporting standards; studies have shown system savings as a result of early reporting; improved accuracy and integrity of the data through reduction in the number of times data is handled and key-entered, and through system edits by the sender and by the commission; increased timeliness of data reporting; increased efficiency in overall processing of a claim; improved tracking and reporting for research and analysis; and fewer compliance violations; enhanced customer service to the injured employee and other trading partners by freeing up commission staff resources.

There may be economic costs to individuals who are required to comply with the amended

rule as proposed in the form of equipment purchases by insurance carriers to allow for electronic filing with the commission; however, the rule does provide a mechanism for waiver of this requirement by the commission.

There will also be associated cost savings, and the economic costs for carriers to develop or procure systems to comply with EDI are anticipated to be offset by the savings realized in costs of processing paper forms. The savings are as follows: reduction in overall costs associated with processing paper; reduction in postage costs associated with processing paper, reduction in mail processing costs of paper, reduction in data entry costs associated with processing paper; reduction in filing and storage costs associated with paper; and increased dollar savings and benefits, not only to Texas, but the system as a whole.

Employers will experience the following cost savings as well as sharing in the overall system savings resulting from early reporting of injuries; reduction in overall costs associated with processing paper, reduction in postage costs associated with processing paper, and reduction in mail processing costs of paper.

An increase in cost associated with mailing a summary of rights and responsibilities to the employee is possible, but will be offset because dispute resolution will be reduced from early knowledge of rights and responsibilities.

There will be no differences in costs of compliance for small businesses as compared to large businesses.

Comments on the proposal or requests for a public hearing must be received by 5:00 p.m. on Tuesday, September 19, 1995 and should be submitted to Elaine Crease, Office of the General Counsel, Mail Stop 4D, Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

The amendment is proposed under the Texas Labor Code, §402.061, which authorizes the commission to adopt rules necessary to administer the Act; and the Texas Labor Code, §409.005, which provides the procedure for filing a report of injury and the format to be used.

The proposed amendment affects the following statutes: Texas Labor Code, §402.061, and Texas Labor Code §409.005.

§124.1. Written Notice of Injury [Defined].

(a) Written notice of injury, as used in The Texas Workers' Compensation Act (Act), §409.021 [§5.21], consists of the insurance carrier's earliest receipt of:

(1) the employer's first report of injury as described in commission §120.2 of this title (relating to Employer's Report of Injury);

(2) the notification provided by the commission under subsection (c) of this section; or

(3) any other [written document,] notification regardless of source, which fairly informs the insurance carrier of the name of the injured employee, the identity of the employer, the approximate date of the injury, and facts showing compensability.

(b) A carrier shall maintain a record of the date each notice of injury or supplemental report of injury is received. If the report is received by mail the carrier shall also maintain a record of the postmark date of the mailing. [date-stamp each written notice of injury upon receipt.] The carrier shall immediately create a record of any notice of injury received. Upon request of the commission, a carrier shall provide a business record affidavit authenticating the existence or absence of a report received or electronically filed and the postmark or receipt date.

(c) (No change.)

(d) For purposes of this title, the carrier shall be presumed to have received notice on the date the commission received [written notice] a document or form required by the Act or commission rules to be filed with the carrier and with the commission. The carrier has the burden of proving that it did not receive or timely receive the written notice.

(e) [Effective March 15, 1995, the] The insurance carrier shall electronically submit [Carrier-reported] the First Report of Injury information to the commission not later than the seventh day after the carrier has received notice from the employer, regardless of whether coverage is disputed. [in the format, form and manner prescribed by the commission.] Written requests for a waiver of the electronic filing requirement may be submitted to the Director of Records for consideration. Waivers require written approval from the commission.

(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 11, 1995.

TRD-9510177

Susan Cory
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 440-3700

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 355. Research and Planning Fund

Subchapter A. General Research and Planning

• 31 TAC §§355.1-355.5, 355.8, 355.10

The Texas Water Development Board (the Board) proposes amendment to 31 TAC Chapter 355, Research and Planning Fund. Amendments to §§355.1, 355.4, and 355.8 expand the use of the research and planning fund to include aquifer storage and recovery planning. Amendment to §355.2 adds a definition for aquifer storage and recovery planning. Amendment to §355.3 increases the number of grant categories from three to four. Amendment to §355.5 defines the criteria to evaluate aquifer storage and recovery planning projects. Amendment to §355.10 identifies funding limitations for aquifer storage and recovery planning projects at 50% grants.

Pamela Ansboury, Director of Finance, 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. Ansboury 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 expand the use of the research and planning fund to include funding for aquifer storage and recovery planning projects. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted within 30 days from the date of publication hereof to Carolyn Brittin, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, (512) 475-2056.

The amendments are proposed under Texas Water Code, §§6.101, 11.153(e), and 15.403, which requires the Board to adopt rules to carry out the purposes of the Texas Water Code.

Texas Water Code, §§15.101, 15.153(e), and 15.402 are the provisions affected by the proposed amendments.

§355.1. General. This subchapter shall govern the board's use of the research and planning fund to provide money for water research, flood control planning, [and] regional planning for water resources, and aquifer storage and recovery planning.

§355.2. Definitions. The following words and terms, when used in this subchapter,

shall have the following meanings, unless the context clearly indicates otherwise. Words defined in the applicable provisions of the Texas Water Code, Chapter 15, and not defined here shall have the meanings provided by such chapter.

Aquifer storage and recovery planning.—The process of determining the feasibility of aquifer storage and recovery projects prior to implementation of pilot projects for storage of appropriated water in aquifers and subsequent retrieval of such waters for beneficial use.

§355.3. Legal and Fiscal Information. As funds become available, and needs are identified, the executive administrator will publish notice in the *Texas Register* requesting applications from eligible applicants for grants in one or more of the four [three] categories. Applicants shall submit application(s) in the form and in the numbers prescribed by the executive administrator. The executive administrator may request additional information needed to evaluate the application, and may return any incomplete applications. Applicants may also submit and the executive administrator may also consider applications at any time, depending on availability of funds and demonstrated need.

§355.4. Eligibility. Any person may apply for research grants, but only political subdivisions may apply for flood control, [and] regional planning grants, and aquifer storage and recovery planning grants. Funding of projects shall be at the discretion of the board from funds in the research and planning fund.

§355.5. Criteria. Applications will be evaluated by the executive administrator, considering, at a minimum, the following criteria:

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

(4) **Aquifer storage and recovery planning project criteria:**

(A) degree to which proposed planning duplicates previous or ongoing planning;

(B) overall project organization and budget;

(C) adequacy of water conservation plan and commitment to water conservation; and

(D) feasibility level scope of project.

§355.8. Notice Requirements. For flood protection, [and] regional planning projects, and aquifer storage and recovery plan-

ning projects, applicants must notify all cities, counties, non-profit water supply corporations, regional planning agencies, and all districts and authorities created under the Texas Constitution, Article III, Chapter 52, or Article XVI, Chapter 59, in the planning area by certified mail that an application for planning assistance is being filed with the board. The notice shall include the name and address of the applicant and the name of the applicant's manager or official representative; and brief description of the planning area, the purposes of the planning project; the board's name, address, and the name of a contact person with the board; a statement that any comments must be filed with the executive administrator and the applicant within 30 days of the date on which the notice is mailed. Prior to action by the board, the applicant must provide one copy of the notice sent to affected political subdivisions, a list of the political subdivisions to which notice was sent, and the date on which the notice was sent. The board may not act on such application before the end of the 30-day notice period unless all political subdivisions to which notice is required to be sent agree in writing to waive the notice period.

§355.10. Funding Limitations.

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

(g) **Grants for aquifer storage and recovery planning shall be limited to 50% of the total cost of the project.**

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 14, 1995.

TRD-9510255

Craig D Pedersen
Executive Administrator
Texas Water Development Board

Proposed date of adoption: September 21, 1995

For further information, please call: (512) 463-7981

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 81. Administrative Provisions

• 37 TAC §81.31

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

The Texas Youth Commission (TYC) proposes the repeal of §81.31, concerning TYC involvement in family in reducing recidivism advisory committee. The advisory committee was abolished by the 74th Legislature.

John Franks, Director of Finance, 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.

Mr. Franks 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 the elimination of rules that are no longer necessary. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

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

The proposed rule implements the Human Resource Code, §61.034

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 11, 1995.

TRD-9510155 Steve Robinson
Executive Director
Texas Youth Commission

Earliest possible date of adoption. September 18, 1995

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part III. Texas Commission on Alcohol and Drug Abuse

Chapter 141. General Provisions

- 40 TAC §§141.1-141.7, 141.21-141.24, 141.31-141.34, 141.41, 141. 51, 141.61, 141.62, 141.71, 141.81

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Al-

cohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§141.1-141.7, 141.21-24, 141.31-141.34, 141.41, 141.51, 141.61, 141.62, 141. 71, and 141.81, concerning composition, make-up and powers of the commission. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15).

§141.1. *Origin of the Commission.*

§141.2. *Composition of Commission.*

§141.3. *Purpose.*

§141.4. *Legal Basis.*

§141.5. *Organization for Chemical Dependency Services.*

§141.6. *Relation to Other Agencies.*

§141.7. *Committees of the Commission.*

§141.21. *Commission Meetings.*

§141.22. *Public Comment and Requests.*

§141.23. *Minutes and Recordings.*

§141.24. *Officers.*

§141.31. *Funding and Fees.*

§141.32. *Amendment of Rules.*

§141.33. *Policies of the Commission.*

§141.34. *Commission Records.*

§141.41. *Definitions.*

§141.51. *Nondiscrimination in Employment and Funding.*

§141.61. *General Authority To Accept Donations.*

§141.62. *Standards of Conduct between Employees and Officers and Private Donors.*

§141.71. *Resolution of Complaints.*

§141.81. *Continuity of Care of Inmates with a History of Drug or Alcohol Abuse.*

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 10, 1995.

TRD-9510039 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

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• 40 TAC §§141.1-141.14, 141.31, 141.33, 141.34, 141.41, 141. 51, 141.61, 141.62

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§141.1-141. 14, 141.31, 141.33, 141.34, 141.41, 141.51, 141.61, and 141.62, concerning the composition, make-up and powers of the commission. The new sections are being proposed to conform with recent legislation and to describe the powers vested in the commission; the

structure and meetings of the board, meetings, minutes, and public comments, the advisory council, commissioner travel; signature authority; basic policies of the commission; and standards of conduct between employers and offices and private donors. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be more efficient and effective commission operations. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commissioner in administering any commission programs.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, §461.

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 11, 1995.

TRD-9510182 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption September 18, 1995

For further information, please call. (512) 867-8720



Chapter 142. Investigations and Hearings

- 40 TAC §§142.11, 142.21, 142.22, 142.31-142.33

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§142.11, 142.21,

142.22, and 142.31-142.33, concerning investigations and hearings. The new sections are being proposed to provide rules for general investigations and child abuse investigations, and to describe hearing procedures for licensure sanctions appeals, administrative penalty appeals, and all other appeals. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are to be in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be consistent, orderly, and fair investigations and hearings for persons regulated by the commission. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commissioner in administering any commission programs.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461.

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 11, 1995.

TRD-9510184 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption. September 18, 1995

For further information, please call: (512) 867-8720



Chapter 143. Introduction

- 40 TAC §§143.11-143.19, 143.31-143.36

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register

office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§143.11-143.19 and §§143.31-143.36 concerning appeals hearings. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commissioner in administering any commission programs.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15).

§143.11. Appeals to the Board.

§143.12. Hearing Examiners.

§143.13. Requirement for Appeal Requests.

§143.14. Notice of Hearing.

§143.15. Location of Hearings.

§143.16. Nature of Hearings.

§143.17. Restrictions on Communications During Appeals.

§143.18. Representation by Agent.

§143.19. Adjournment, Continuances, and Postponements of Hearings.

§143.31. Evidence.

§143.32. *Abstention from Voting.*

§143.33. *Decision of the Board.*

§143.34. *Continuing Jurisdiction.*

§143.35. *Exhaustion of Remedies.*

§143.36. *Record on Appeal.*

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 10, 1995

TRD-9510041 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

◆ ◆ ◆
Chapter 143. Awards

Subchapter A. Funding Mechanisms

• 40 TAC §§143.11-143.16

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§143.11-143.16, concerning awards funding mechanisms. The new sections are being proposed to describe the methods used by the commission to award funds to applicants. Identical emergency action has been simultaneously filed

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period new sections are to be in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be clear understanding of the commission's funding mechanisms and how they are used. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461

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 11, 1995

TRD-9510186 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption September 18, 1995

For further information, please call (512) 867-8720

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Subchapter B. Eligibility

• 40 TAC §§143.21-143.25

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§143.21-143.25, concerning eligibility for commission awards. The new sections are being proposed to establish minimum criteria for persons who wish to apply for funding from the commission. Identical emergency action has been simultaneously filed

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be ensuring that all applicants for commission funding meet minimum criteria. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug

Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461

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 11, 1995.

TRD-9510188 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption September 18, 1995

For further information, please call (512) 867-8720

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Subchapter C. Competitive Funding Process

• 40 TAC §§143.31-143.46

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§143.31-143.46, concerning the competitive funding process. The new sections are being proposed to describe the procedures used in the commission's primary funding mechanism, the request for proposal (RFP) process. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be fair and consistent treatment of all applications received by the commission. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, in-

cluding rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461.

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 11, 1995.

TRD-9510190 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption. September 18, 1995

For further information, please call: (512) 867-8720

Chapter 148. Facility Licensure Standards

Subchapter A. Licensure Information

General Provisions

• 40 TAC §§148.1-148.4

(Editor's Note. The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.1-148.4, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464

§148.1. Purpose.

§148.2. License Required.

§148.3. Application of the Rules.

§148.4. Variances.

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 10, 1995.

TRD-9510043 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Chapter 148. Facility Licensure Subchapter A. Licensure Information

• 40 TAC §§148.1-148.4, 148.21-148.27, 148.41, 148.42, 148.61

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§148.1-148.4, 148.21-148.27, 148.41, 148.42, and 148.61, concerning chemical dependency facility licensure information. The new sections are being proposed to describe general provisions; procedures for licensure application, renewal, and changes in status; licensure fees; licensure reviews; sanctions and injunctions; and definitions. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections

are in effect the public benefit anticipated as a result of enforcing the new sections will be a clear understanding of the procedures required for licensure. There will be no effect on small businesses. The anticipated economic costs to persons who are required to comply with the new sections as proposed will be between \$600 and \$2000 annually for each person seeking licensure, depending on the size and composition of the facility

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

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 11, 1995.

TRD-9510192 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Licensure Procedures

• 40 TAC §§148.21-148.27

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.21-148.27, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result

of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.21. Licensure Application.

§148.22. Licensure Review.

§148.23. Changes in Status.

§148.24. Change in Ownership.

§148.25. Licensure Renewal.

§148.26. Licensure Fees.

§148.27. Discontinuing Treatment.

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 10, 1995.

TRD-9510045 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

◆ ◆ ◆
Licensure Sanctions

◆ ◆ ◆
• 40 TAC §§148.41-148.46

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.41-148.46, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.41. Grounds for Sanctions.

§148.42. Informal Hearing.

§148.43. Appeals Hearing.

§148.44. Administrative Penalties.

§148.45. Informal Disposition.

§148.46. Injunctions.

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 10, 1995.

TRD-9510047 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Definitions

◆ ◆ ◆
• 40 TAC §148.61

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §148.61, concerning facility licensure standards. This rule is being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, 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 repealing and replacing the rule.

Mr. Weiss also has determined that for each year of the first five years after the repeal occurs the public benefits anticipated as a result of repealing the rule will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeal is proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeal is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

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§148.61. Definitions.

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 10, 1995.

TRD-9510049 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720

Subchapter B. Facility Management Administration

• 40 TAC §§148.71-148.74

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.71-148.74, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.71. Governing Body and Facility Director.

§148.72. Policies, Procedures, and Licensure Standards.

§148.73. Standards of Conduct.

§148.74. Required Facility Reports.

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 10, 1995.

TRD-9510051 Thomas Mann, Jr. General Counsel Texas Commission on Alcohol and Drug Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

• 40 TAC §§148.71-148.75, 148.91-148.93, 148.111-148.117, 148.131, 148.132

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§148.71-148.75, 148.91-148.93, 148.111-148.117, 148.131, and 148.132, concerning chemical dependency facility management. The new sections are being proposed to establish minimum criteria for organizational structure and procedures, standards of conduct, referral practices, personnel and staff development, and safety. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the rule will be sound organizational structure, qualified personnel, and appropriate referral practices in facilities licensed by the commission. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

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 11, 1995.

TRD-9510194 Thomas Mann, Jr. General Counsel Texas Commission on Alcohol and Drug Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Referral

• 40 TAC §§148.91-148.93

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.91-148.93, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.91. Compensation Based on Indicators of Client Revenue.

§148.92. Advertising and Billing.

§148.93. *Solicitation and Referral.*

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 10, 1995.

TRD-9510053 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call. (512) 867-8720

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Personnel and Staff Development

• 40 TAC §§148.111-148.117

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.111-148.117, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.111. *Organizational Structure.*

§148.112. *Hiring Practices.*

§148.113. *Initial Training.*

§148.114. *Special Training Requirements.*

§148.115. *Volunteers and Students.*

§148.116. *Personnel Files and Training Records.*

§148.117. *Basic Staffing Requirements.*

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 10, 1995.

TRD-9510055 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

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Safety

• 40 TAC §148.131, §148.132

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §148.131 and §148.132, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical depen-

ency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.131. *General Environment.*

§148.132. *Emergency Evacuation.*

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 10, 1995.

TRD-9510057 Thomas Mann, Jr
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

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Subchapter C. Client Management

Client Rights

• 40 TAC §§148.141-148.146

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.141-148.146, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals

occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.141. Required Postings.

§148.142. Client Bill of Rights.

§148.143. Bill of Rights for Involuntary Clients.

§148.144. Client Grievance Procedure

§148.145. Responding to Client Grievances.

§148.146. Court Commitment During Voluntary Treatment.

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 10, 1995.

TRD-9510059
Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

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Abuse, Neglect, and Exploitation

◆ ◆ ◆
• **40 TAC §§148.161-148.163, 148.165**

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.161-148.163 and 148.165, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.161. Client Abuse, Neglect, and Exploitation.

§148.162 Behavior Management.

§148.163. Client Labor.

§148.165. Investigations.

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 10, 1995.

TRD-9510061
Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

◆ ◆ ◆
Client Information

◆ ◆ ◆
• **40 TAC §§148.171-148.173**

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts

on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.171-148.173, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.171. Client Record Security.

§148.172. General Documentation Requirements.

§148.173. Release of Confidential Information.

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 10, 1995.

TRD-9510063
Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Crisis Management

• 40 TAC §§148.181-148.185

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.181-148.185, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.181. *Significant Incident Reports.*

§148.182. *Responding to Emergencies.*

§148.183. *Special Treatment Procedures.*

§148.184. *Documenting Special Treatment Procedures.*

§148.185. *Adolescents Absent Without Permission.*

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 10, 1995.

TRD-9510065

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Subchapter D. Program Services

General Program Services Provisions

• 40 TAC §148.201, §148.202

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §148.201 and §148.202, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.201. *General Information.*

§148.202. *Services Required In All Programs.*

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

Issued in Austin, Texas, on August 10, 1995.

TRD-9510067

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Treatment Levels

• 40 TAC §§148.211-148.214

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.211-148.214, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.211. *Level I Treatment.*

§148.212. *Level II Treatment.*

§148.213. *Level III Treatment.*

§148.214. *Level IV Treatment.*

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 10, 1995.

TRD-9510069 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720

◆ ◆ ◆
Special Provisions

• 40 TAC §§148.231-148.235

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.231-148.235, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.231. *Adolescents.*

§148.232. *Parents and Their Dependent Children.*

§148.233. *Children's Services.*

§148.234. *Correctional Facilities.*

§148.235. *Pharmacotherapy Programs.*

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

Issued in Austin, Texas, on August 10, 1995

TRD-9510071 Thomas Mann, Jr.
General Counsel
Texas Commission on
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Abuse

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For further information, please call: (512) 867-8720

◆ ◆ ◆
Food and Nutrition

• 40 TAC §§148.251-148.254

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.251-148.254, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflict-

ing sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.251. *Meals in Outpatient Programs.*

§148.252. *Meals in Residential Programs.*

§148.253. *Meals Prepared by Clients.*

§148.254. *Meals Provided by a Food Service.*

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 10, 1995.

TRD-9510076 Thomas Mann, Jr.
General Counsel
Texas Commission on
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Abuse

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For further information, please call: (512) 867-8720

◆ ◆ ◆
Medication

• 40 TAC §§148.261-148.268

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.261-148.268, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.261. *General Provisions for Medication.*

§148.262. *Medication Storage.*

§148.263. *Medication Inventory.*

§149.264. *Disposing of Medication.*

§148.265. *Staff Qualifications and Training.*

§148.266. *Authorization for Medication.*

§148.267. *Administration of Prescription Medication.*

§148.268. *Self-Administration of Medication.*

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 10, 1995.

TRD-9510074

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720



Subchapter E. Treatment Process

Admission

• 40 TAC §§148.281-148.284

(Editor's Note. The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.281-148.284, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.281. *Admission.*

§148.282. *Screening.*

§148.283. *Intake and Consent to Treatment.*

§148.284. *Client Orientation.*

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

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TRD-9510077

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720



Stabilization Process (Level I)

• 40 TAC §§148.291-148.293

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§148.291-148.293, concerning facility licensure standards. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.291. *Stabilization History.*

§148.292. *Stabilization Plan.*

§148.293. *Stabilization Notes.*

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 10, 1995.

TRD-9510079 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720

Primary and Transitional Treatment Process (Level II, III, and IV)

• 40 TAC §§148.301-148.304

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal §§148.301-148.304, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.301. Psychosocial History.

§148.302. Treatment Plan.

§148.303. Progress Notes.

§148.304. Treatment Plan Reviews.

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 10, 1995.

TRD-9510081 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

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For further information, please call: (512) 867-8720

Discharge

• 40 TAC §§148.321-148.325

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal §§148.321-148.325, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B,

Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.321. Discharge Criteria.

§148.322. Discharge Plan.

§148.323. Discharge Summary.

§148.324. Discharge Follow-Up.

§148.325. Request for Discharge.

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 10, 1995.

TRD-9510083 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Subchapter F. Physical Plant General Physical Plant Provisions

• 40 TAC §148.341

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §148.341, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, 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 repealing and replacing the rule.

Mr. Weiss also has determined that for each year of the first five years after the repeal occurs the public benefit anticipated as a result of repealing the rule will be to avoid conflicting sets of rules and adopt new rules

to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701

The repeal is proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities

The code affected by the proposed repeal is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464

§148.341. General Physical Plant Provisions.

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 10, 1995.

TRD-9510085 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720



Subchapter F. Physical Plant

- 40 TAC §§148.341, 148.351-148.359, 148.371, 148.372

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§148.341, 148.351-148.359, 148.371, and 148.372, concerning physical plant requirements for licensed chemical dependency facilities. The new sections are being proposed to describe requirements for the physical plants of residential treatment facilities, including inspections, space; exits; fire systems; furniture and supplies; lighting; plumbing; sanitation; ventilation, small family living environments, and additional requirements for facilities housing children. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be a safer environment for clients receiving treatment in facilities licensed by the commission. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

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 11, 1995.

TRD-9510202 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720



Residential Physical Plant Requirements

- 40 TAC §§148.351-148.359

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal §§148.351-148.359, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflict-

ing sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.351. Required Inspections.

§148.352. Space Requirements.

§148.353. Exits.

§148.354. Fire Systems.

§148.355. Furniture and Supplies.

§148.356. Lighting.

§148.357. Plumbing.

§148.358. Sanitation.

§148.359. Ventilation.

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 10, 1995.

TRD-9510087 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720



Special Physical Plant Requirements

- 40 TAC §148.371, §148.372

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text

of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal §148.371 and §148.372, concerning facility licensure standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for licensure of chemical dependency treatment facilities.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464.

§148.371. *Small Family-Living Environment.*

§148.372. *Additional Physical Plant Requirements for Children.*

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 10, 1995.

TRD-9510089 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Chapter 149. Court Commitments and Related Procedures

Subchapter A. Court Commitments

- 40 TAC §§149.11-149.16, 149.21, 149.22, 149.31-149.33, 149.54

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §149.11-149.16, 149.21, 149.22, 149.31-149.33, 149.54, concerning chemical dependency court commitments. The new sections are being proposed to establish minimum requirements for facilities accepting court commitments, including staff training, documentation; procedures for client admission under emergency detention and orders of protective custody; and special rights for clients under emergency detention and orders of protective custody. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be greater protection for clients admitted under court order to facilities approved by the commission. There will be no effect on small businesses. The anticipated economic costs to persons who are required to comply with the new sections as proposed will be \$100 for each person seeking approval.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461 and 462, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules and standards for approval of chemical dependency treatment facilities to accept court commitments.

The code affected by the proposed new sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461 and 462.

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 11, 1995.

TRD-9510204 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Chapter 149. Project Funding Funding Overview

- 40 TAC §149.26

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed section it adopts on an emergency basis in this issue. The text of the repealed section may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §149.26, concerning uniform grant and contract management standards. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, 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 repealing and replacing the rule.

Mr. Weiss also has determined that for each year of the first five years after the repeal occurs the public benefit anticipated as a result of repealing the rule will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeal is proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs.

The code affected by the proposed repeal is the Texas Health and Safety Code, Title 6, Subtitle B, §461.012(15).

§149.26. Uniform Administrative Requirements.

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 10, 1995

TRD-9510091 Thomas Mann, Jr.
General Counsel
Texas Commission on
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Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

◆ ◆ ◆
Subchapter B. Treatment as an Alternative to Arrest

◆ ◆ ◆
• 40 TAC §§149.81-149.83

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§149.81-149.83, concerning chemical dependency treatment as an alternative to arrest. The new sections are being proposed to establish minimum criteria for facilities providing chemical dependency treatment as an alternative to arrest for public intoxication. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be orderly procedures in facilities approved by the commission. There will be no effect on small businesses. The anticipated economic costs to persons who are required to comply with the new sections as proposed will be \$100 for each person seeking approval

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are adopted under the Penal Code, §42.08, and the Texas Health and Safety Code, Title 6, Subtitle B, §141.12(15), which provide the Texas Commission on Alcohol and Drug Abuse with the authority to approve facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances.

The code affected by the proposed new sections are in the Texas Penal Code, §42.08 and Texas Health and Safety Code, Title 6, Subtitle B, Chapter 141.

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 11, 1995.

TRD-9510206 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

◆ ◆ ◆
Chapter 150. Licensure of Chemical Dependency Counselors

◆ ◆ ◆
• 40 TAC §§150.1-150.18, 150.20, 150.22

(Editor's Note: The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§150.1-150.18, 150.20, and 150.22, concerning licensure requirements for licensed chemical dependency counselors. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeal occurs the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Civil Statutes, Article 4512o, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency counselors. The commission prescribes the rules and procedures by which a person who provides chemical dependency counseling must obtain a license issued under this Act.

The code affected by the proposed repeals is the Texas Civil Statutes, Article 4512o.

◆ ◆ ◆
§150.1. Definitions.

§150.2. License Required.

§150.3. Exemptions.

§150.4. Discrimination Prohibited.

§150.5. Commission Powers and Duties.

§150.6. Consumer Information.

§150.7. Advertising.

§150.8. Official Roster.

§150.9. Fees.

§150.10. Licensure: Application, License Requirements, Issuance of License.

§150.11. Examination.

§150.12. Use of Title.

§150.13. License Expiration, Renewal.

§150.14. Reciprocity.

§150.15. Continuing Education.

§150.16. Disciplinary Action, Grounds.

§150.17. Disciplinary Action, Procedure.

§150.18. Civil Penalty Enforcement.

§150.20. Transition.

§150.22. Ethical Standards.

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 10, 1995.

TRD-9510093 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720
◆ ◆ ◆

Chapter 151. Peer Assistance

• 40 TAC §§151.21-151.28

(Editor's Note. The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the new sections it adopts on an emergency basis in this issue. The text of the new sections are in the Emergency Rules section of this issue.)

The Texas Commission on Alcohol and Drug Abuse proposes new §§151.21-151.28, concerning peer assistance programs. The new sections are being proposed to establish minimum requirements for peer assistance programs, including definitions, general requirements, policies and procedures, peer intervenors, and referrals. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Conservatorship Board, has determined that for the first five-year period the new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing the new sections.

Mr. Weiss also has determined that for each year of the first five years the new sections are in effect the public benefit anticipated as a result of enforcing the new sections will be more effective peer assistance programs for impaired professionals. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the new sections as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The new sections are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, §461.12(14), and §467.001, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish minimum criteria for approved peer assistance programs.

The code affected by the proposed sections are in the Texas Health and Safety Code, Title 6, Subtitle B, Chapters 461 and 467.

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 11, 1995

TRD-9510210

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Chapter 151. Licensure

Court Commitments

• 40 TAC §151.601, §151.602

(Editor's Note. The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §151.601 and §151.602, concerning approval of chemical dependency treatment facilities for involuntary court commitments by civil and criminal state courts having proper jurisdiction. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to approve treatment facilities to accept involuntary court commitments referred by civil and criminal state courts having proper jurisdiction.

The code affected by the proposed repeals is the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 462.

§151.601. Approval for Court Commitments.

§151.602. Minimum Criteria.

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 10, 1995.

TRD-9510094

Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720

Chapter 155. Community Services

• 40 TAC §§155.21-155.27, 155.31-155.34, 155.41-155.45

(Editor's Note. The Texas Commission on Alcohol and Drug Abuse proposes for permanent adoption of the repealed sections it adopts on an emergency basis in this issue. The text of the repealed sections may be examined in the offices of the Texas Commission on Alcohol and Drug Abuse or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §§155.21-155.27, 155.31-155.34 and 155.41-155.45, concerning the approval of facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances. These rules are being repealed to allow adoption of a revised version. Identical emergency action has been simultaneously filed.

J. Michael Weiss, Chair of the Board of Conservators, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of repealing and replacing the rules.

Mr. Weiss also has determined that for each year of the first five years after the repeals occur the public benefit anticipated as a result of repealing the rules will be to avoid conflicting sets of rules and adopt new rules to ensure a more effective chemical dependency service system. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Tamara Allen, Program Compliance, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The repeals are proposed under the Penal Code §42.08, and the Texas Health and Safety Code, Title 6, §§461.012, 461.014 and 461.015, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to set minimum criteria for approved peer assistance programs and to approve facilities for the treatment of individuals appearing in a public place under the influence of alcohol or any other substances.

The code affected by the proposed repeals are the Texas Health and Safety Code, Title 6, Subtitle B, Chapters 461 and 467, and Texas Penal Code, §42. 08.

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 10, 1995.

TRD-9510096 Thomas Mann, Jr.
General Counsel
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: September 18, 1995

For further information, please call: (512) 867-8720



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code Chapter 5, Subchapter L, Article 5.96

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The Commissioner of Insurance will hold a public hearing under Docket Number 2170 on October 6, 1995, at 9:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a petition by the staff of the Texas Department of Insurance proposing amendments to the Homeowners and Farm and Ranch Owners sections of the Texas Personal Lines Manual. The petition requests consideration of a proposal to add a new rule to these two sections to provide optional large deductibles for coverage afforded under a homeowners policy and a farm and ranch owners policy. The proposed rule (Rule 7 under the General Requirements Section V, Deductibles Subsection D) provides for optional large deductibles of 1-1/2%, 2.0%, 2-1/2%, 3.0%, 4.0% or 5.0% of the limit of liability of Coverage A (Dwelling) under Texas

Homeowners Policy Forms HO-A, HO-B and HO-C and Texas Farm and Ranch Owners Policy Forms FRO-A and FRO-B. The proposed rule provides that the large deductible may be selected at the option of the insured to apply to the policyholder's coverage for windstorm, hurricane and hail or to the policyholder's coverage for all other perils covered under the policy or for both of these types of coverages. The proposed rule requires the actual deductible amount in dollars and the premium credit for the optional large deductible selected to be shown on the declarations pages of the homeowners policy forms and the farm and ranch owners policy forms.

The staff petition requests that applicable premium credits for the optional large deductibles be determined at the next residential property insurance benchmark rate hearing held pursuant to Articles 5.101 and 1.33B of the Insurance Code. The petition further requests that the effective date of the new rules be the effective date of the residential property insurance benchmark rates determined at such hearing.

Currently, insureds may select deductibles of zero, \$250, \$500, \$1,000, 1/2 of 1.0% or 1.0% of the limit of liability of Coverage A (Dwelling). The proposed rules are necessary to provide insureds with the option of selecting a larger deductible for their homeowners and farm and ranch owners coverage for a reduced premium. In addition, the availability of large deductibles may encourage insurers to write homeowners insurance in areas in which such insurers have in the past restricted such writings

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35, 5.101, and 5.96

Copies of the full text of the staff petition and the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition and proposed amendments, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number P-0895-24-1).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in the *Texas Register* to the Office of the Chief Clerk, P.O. Box 149104, MC113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner for Property and Casualty Division, P.O. Box 149104, MC103-1A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001)

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

Issued in Austin, Texas, on August 11, 1995.

TRD-9510222 Alicia M. Fechtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Filed: August 11, 1995

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



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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 3. Memorandums of Understanding with Other State Agencies

- 25 TAC §3.22

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.24(b), the proposed new §3.22, submitted by the Texas Department of Health has been automatically withdrawn, effective August 4, 1995. The new section as proposed appeared in the February 3, 1995, issue of the *Texas Register* (20 TexReg 618).

TRD-9509858

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter B. Interagency Agreements

- 25 TAC §401.58

Pursuant to Texas Government Code, §2001.027 and 1 TAC §91.24(b), the proposed new §401.58, submitted by the Texas Department of Mental Health and Mental Retardation has been automatically withdrawn, effective August 8, 1995. The new section as proposed appeared in the February 7, 1995, issue of the *Texas Register* (20 TexReg 875).

TRD-9510105

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 27. Intermediate Care Facilities for the Mentally Retarded (ICFs-MR)

Subchapter D. Reimbursement Methodology

- 40 TAC §§27.401, 27.403, 27.405, 27.407, 27.409, 27.411, 27.413, 27.419, 27.421, 27.423

The Texas Department of Human Services has withdrawn from consideration the proposed repeal of §§27.401, 27.403, 27.405, 27.407, 27.409, 27.419, and 27.421, proposed amendments to §§27.411 and 27.413, and proposed new §§27.401, 27.403, 27.405, 27.407, 27.409, 27.423, and 27.425, concerning reimbursement methodology, in its Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) chapter. The text of the proposed repeal, amendments, and new sections appeared in the February 17, 1995, issue of the *Texas Register* (20 TexReg 1123). The effective date of the withdrawal is immediately upon filing.

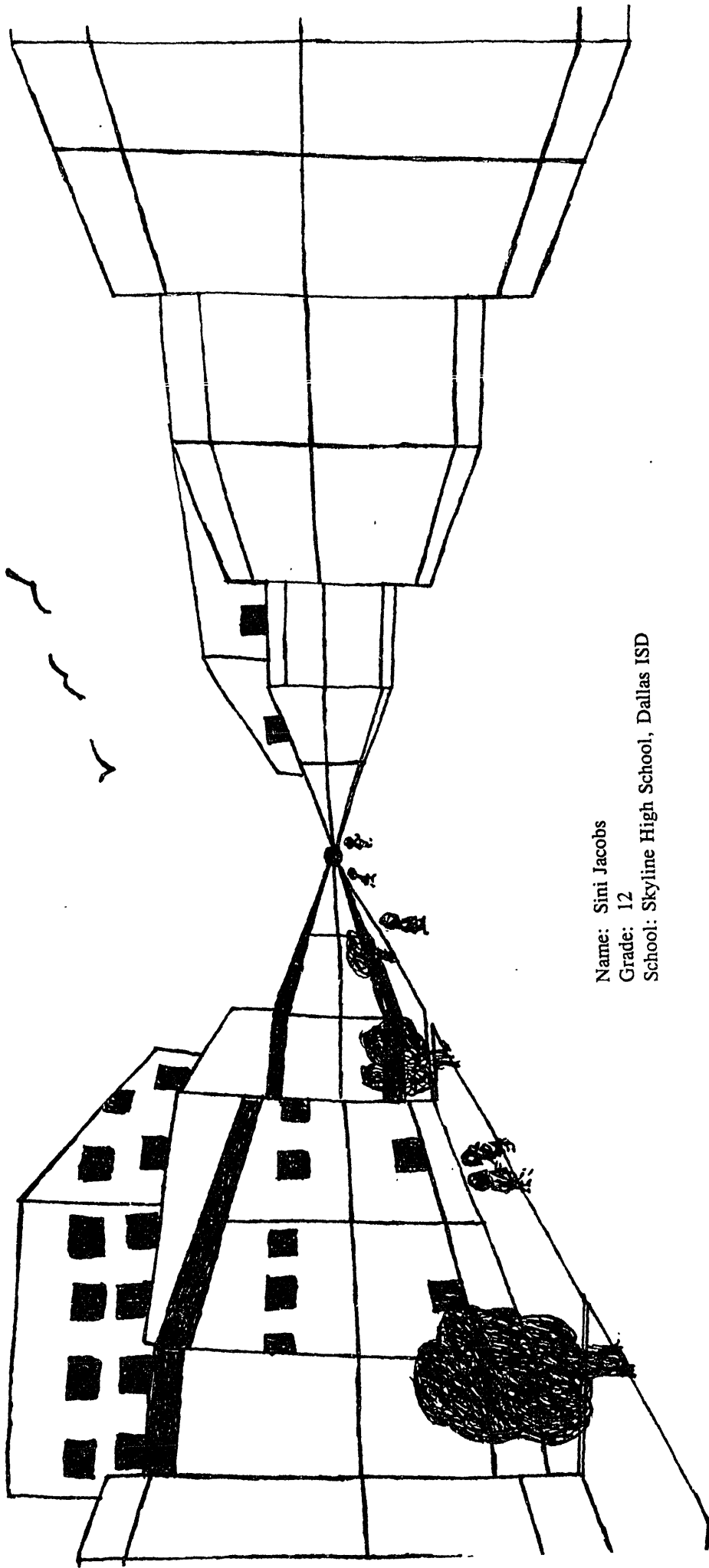
Issued in Austin, Texas, on August 14, 1995.

TRD-9510254

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

Effective date: August 15, 1995

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



Name: Simi Jacobs

Grade: 12

School: Skyline High School, Dallas ISD

ADOPTED RULES

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

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

TITLE 16. ECONOMIC REGULATION

Part III. Texas Alcoholic Beverage Commission

Chapter 33. Licensing

Application Procedures

• 16 TAC §33.5

The Texas Alcoholic Beverage Commission adopts new §33.5, concerning the fee and requirements for holders of food and beverage certificates as required by Texas Alcoholic Beverage Code, §25.13(b) and (c), §28.18(b) and (c), §32.23(b) and (c), and §69.16(b) and (c), with changes to the proposed text as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4897).

This rule allows the commission to appropriately identify those licenses or permits whose primary business is that of a food service establishment. The adopted changes to the proposed text serve to make the rule more uniform and to more closely conform to the statutory framework.

Comment was received from the Texas Restaurant Association pointing out aspects of the proposed rule that would, in certain circumstances, impose more limitations than allowed by the enabling statute. These comments were accommodated by amendment to the proposed text.

The new section is adopted under the authority of Texas Alcoholic Beverage Code, §5.31, which provides the Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code.

§33.5. Food and Beverage Certificate.

(a) Each applicant for an original or renewal food and beverage certificate shall include all information required by the commission to insure compliance with all applicable statutes and rules and regulations of the agency.

(b) Application for the certificate shall be upon forms provided by the agency.

(c) The annual certificate fee for each location is \$100 and must be submitted

in the form of a cashier's check or U.S. postal money order payable to the Texas Alcoholic Beverage Commission. The original certificate will expire upon expiration of the primary permit or license. No prorated certificate fees will be given and no refunds made for issuance of the food and beverage certificate for less than one year.

(d) The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

(1) Food service—Cooking or assembling food on premise primarily for on-premise consumption. Commercially pre-packaged items which require no cooking or assembly and which may be purchased off-premise do not constitute food service under this section.

(2) Entree—Main dish of a meal.

(3) Multiple entrees—No fewer than eight different entrees per meal period must be available to customers.

(4) Food service facilities—A portion of the licensed premises where food is stored and prepared primarily for on-premise consumption.

(e) An applicant is not qualified for a food and beverage certificate unless the following conditions, in addition to other requirements, are satisfied:

(1) with respect to retail dealer's on-premise licenses and wine and beer retailer's permits, the applicant's primary business on the premises is food service and with respect to mixed beverage permits and private club registration permits, the applicant maintains food service on the premise;

(2) multiple entrees are available to customers;

(3) food service facilities are maintained on the premises;

(4) the hours of operation for sale and service of food and alcoholic beverages are the same except that food may be sold or served before or after the legal hours for sale of alcoholic beverages; and

(5) subject to the approval of the commission, an applicant may present evidence to the commission which demonstrates substantial compliance with subsection (e)(2) and (4) and that full compliance is limited by the nature of the business operation. Approval by the commission may be granted when the commission is satisfied that the operation is a food service establishment.

(f) If the applicant is a hotel that maintains separate area restaurants, lounges or bars, food service facilities must exist for each of the licensed premises.

(g) An applicant for an originally issued food and beverage certificate shall submit a sworn statement attesting that food service is maintained on the premises and for holders of wine and beer retailer's permits and retail dealer's on-premise licenses, food service is the primary business on the premises. The applicant shall furnish the following, as well as any other information as may be deemed reasonably necessary by the commission:

(1) the menu or, if no menu is available, a listing of the food and beverage items;

(2) hours of operation of food service and hours of operation for sale or service of alcoholic beverages;

(3) sales data or, if not available, projection of sales. The projection or data should include sufficient breakdown of revenues of food, alcoholic beverages and other major categories at the location;

(4) listing of equipment used in preparation and service of food versus the equipment used in preparation and service of alcoholic beverages; and

(5) copies of floor plans of the licensed premises indicating areas devoted primarily to the preparation and service of food and those devoted primarily to the preparation and service of alcoholic beverages.

(h) Applicants for renewal of food and beverage certificates whose primary permits are a wine and beer retailer's permit

or a retail dealer's on-premise license shall submit sales information and other information or documents required by the commission to indicate the business at the licensed location is a food service establishment with food service facilities for the preparation and service of multiple entrees.

(i) The commission may review the operation at the licensed premises to determine the applicant or holder of the food and beverage certificate has or is maintaining food service with food service facilities for the preparation and service of multiple entrees. In doing so the commission may review such items as required in the original or renewal application and advertising, promotional items, changes in operations or hours, changes in floor plans, prominence of food items on menu as compared to alcoholic beverages, name of business, number of transactions with food components, copies of city or county permits or certificates relating to type of business operation and any other item deemed necessary or applicable.

(j) Failure to submit documentation requested or accurately maintain required records is prima facie evidence of non-compliance.

(k) The certificate shall be posted in a conspicuous place adjacent to the primary permit or license at all times on the licensed premises.

(l) In verifying that the certificate holder is maintaining food service as the primary business on the premises, the commission may examine all books, papers, records, documents, supplies and equipment of the certificate holder.

(m) Recordkeeping requirements for holders of wine and beer retailer's permits, including railway cars and excursion boats, and retail dealer's on-premise licenses:

(1) each holder of a food and beverage certificate whose primary permit or license is a wine and beer retailer's permit, including those issued for railway cars and excursion boats, or a retail dealer's on-premise license shall maintain records to reflect separate totals for alcoholic beverage sales, food sales and other major sales categories at the location. Purchase invoices must be maintained to reflect the total purchases of alcoholic beverages, food and other major purchase categories;

(2) complimentary alcoholic beverages shall be recorded and included in the total alcoholic beverage sales as if it was a normal sale and clearly marked as being complimentary;

(3) all records are required to be maintained for four years and made available to authorized representatives of the commission upon reasonable request; and

(4) in examining the alcoholic beverage sales, the commission may compute and determine the percentage of alcoholic beverage sales upon the basis of information filed with the commission or held by the certificate holder, but if such information is insufficient, the computation and determination of the percentage of sales may be based upon any records or information which is available.

(n) In considering alcoholic beverage sales for holders of mixed beverage permits, private club registration permits, private club exemption certificate permits and private club beer and wine permits, the dollar value of complimentary drinks shall be added to total sales of alcoholic beverages in determining the percentage of alcoholic beverage sales on the licensed premises.

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 10, 1995.

TRD-9510021 Doyno Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: August 31, 1995

Proposal publication date: July 4, 1995

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

◆ ◆ ◆ License and Permit Surcharges

• 16 TAC §33.23

The Texas Alcoholic Beverage Commission adopts an amendment to §33.23, with changes to the proposed text as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4898). This amendment deals with the annual surcharges for all licenses and permits issued by the Texas Alcoholic Beverage Commission.

This amendment was adopted to bring the agency's practice in conformance with statutory changes contained in contingency riders 11, 12, 13, and 14 to the agency's appropriation in House Bill 1, 74th Legislature, Regular Session. The amendment changes the surcharges for all licenses and permits. These changes will be effective September 1, 1995.

The word "all", appearing over the surcharge amount column in the proposed text was deleted as surplus age.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Alcoholic Beverage Code, Subchapter B, §5.31, which provides the Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provisions of the Texas Alcoholic Beverage Code and §5.50(b), which specifically mandates the surcharges.

§33.23. Alcoholic Beverage License and Permit Surcharges.

(a) A surcharge of all original or renewal permit or license fees set by the Texas Alcoholic Beverage Code shall be levied against all license and permit holders as follows:

Figure 1: 16 TAC §33.23(a)

(1) The surcharge shall apply to each brewpub licensed under Texas Alcoholic Beverage Code, Chapter 74, even though one or more are licensed under the same general management or ownership.

(2) An organization which meets the requirements for exemption from a private club registration permit under the Texas Alcoholic Beverage Code, §32.11, is also exempt from the surcharge.

(b) The surcharges shall be due and payable at the same time and in the same place and manner as the original or renewal permit, certificate, or license fee to which the surcharges apply.

(c) Failure or refusal to timely pay the license, certificate or permit surcharge shall be considered the same as failure to timely pay the original or renewal certificate, permit or license fee and the same penalties will apply.

(d) The amount of surcharge due shall be determined by the issue date of the permit or license and the surcharge in effect under this rule on the issue date of that license or permit.

(e) This section shall take effect September 1, 1995.

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 10, 1995.

TRD-9510022 Doyno Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: September 1, 1995

Proposal publication date: July 4, 1995

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

◆ ◆ ◆ • 16 TAC §33.24

The Texas Alcoholic Beverage Commission adopts new §33.24, concerning conduct surety bonds, with changes to the proposed text as published in the June 30, 1995, issue of the *Texas Register* (20 TexReg 4671).

The rule governs the requirements of bonds required in connection with certain licenses and permits and the conditions under which those bonds can be revoked.

The rule is being adopted to bring the agency's practice in conformance with amendments to the Alcoholic Beverage Code, §11.11 and §61.13. Section 33.24(j)(1) of the proposed text was amended to bring the rule into conformance with the stated legislative intent underlying the above mentioned statutory amendments.

Public comment was received from the Gramercy Insurance Company indicating that it would be financially unfeasible to issue a bond to a licensee or permittee under the conditions stated in the proposed rule. This comment was accommodated by amendment to the proposed text.

The new section is adopted under the Alcoholic Beverage Code, §5.31, which provides the Texas Alcoholic Beverage Commission with the authority to prescribe and publish rules necessary to carry out the provision of the Texas Alcoholic Beverage Code.

§33.24. Conduct Surety Bond.

(a) A bond required under the Alcoholic Beverage Code, Texas Civil Statutes, §11.11 and §61.13, must be executed only on forms prescribed by this agency with the licensee or permittee as principal, a qualified surety company doing business in this state as surety and the state as payee.

(b) All bonds of permittees and licensees shall be payable in Travis county.

(c) A separate surety, in the amount of \$5,000 or \$10,000, shall be obtained, submitted and maintained for each license or permit as set out in the Alcoholic Beverage Code, §11.11 and §61.13.

(d) If certificates of deposit, savings accounts or letters of credit are furnished, the administrator or his designee shall keep them in his possession. Interest earned on a certificate of deposit or savings account is not subject to the assignment and remains the property of the owner of the certificate of deposit or savings account.

(e) A certificate of deposit or savings account furnished by a licensee or permittee must be assigned to the state, in a manner approved by the administrator or his designee, to secure payment to the state.

(f) A letter of credit furnished by a licensee or permittee, under this rule, must be on a form approved by the administrator or his designee and contain any conditions required by the administrator to secure payment to the state.

(g) The surety bond, assignment of certificate of deposit, savings account, or letter of credit may be continuous in nature and must cover the minimum time required of the applicant to qualify for exemption from the surety imposed by the Alcoholic Beverage Code, §11.11 and §61.13.

(h) Qualifications of Surety.

(1) A surety company, to qual-

ify to provide bonds under this rule, must be licensed by this state and in "good standing" with the State Board of Insurance, Comptroller of Public Accounts, Secretary of State and any other regulatory agencies with jurisdiction over its affairs.

(2) A bank, savings institution or credit union, in addition to the requirements of the Alcoholic Beverage Code, §11.11 and §61.13, must have a physical facility in this state to accept cash deposits, make cash advances to customers and carry out day-to-day operations within this state.

(i) Submission of Security.

(1) An applicant for an original or renewal license or permit must submit, at the time of their application, the security as prescribed by the Alcoholic Beverage Code, §11.11 and §61.13, and meet the requirements of this rule.

(2) Failure to submit the necessary surety in proper form will result in the denial of the application.

(j) License/Permit Cancelled or Suspended.

(1) If a license or permit is cancelled by the commission or three or more suspensions have been imposed after September 1, 1995, and no appeal is pending, the commission shall notify the surety company, bank, savings institution or credit union to remit to the state the amount of surety required within ten days after notification.

(2) The commission may institute action in its own name, for the benefit of the state, on the surety supporting the bond, and against the bank, savings institution or credit union, as set forth in the Alcoholic Beverage Code, §11.70, to recover the security.

(k) Release of Surety.

(1) A surety company may terminate liability by giving the proper 30-day written notice, as provided in the Alcoholic Beverage Code, §11.71.

(2) Grounds for termination of a permit/license upon termination of liability by surety is the same as provided in the Alcoholic Beverage Code, §11.71.

(3) Upon expiration of the license or permit, its voluntary cancellation, or upon the applicant's subsequent approval for exemption from the surety requirement, the licensee or permittee may request the release and return of the security supporting their license or permit.

(4) The release of this security will not be unreasonably withheld; however, the surety company, bank, savings institution or credit union is not released from its obligation until they receive written notice of the release from this agency.

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 10, 1995.

TRD-9510020

Doyne Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: August 31, 1995

Proposal publication date: June 30, 1995

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

Chapter 39. Port of Entry

• 16 TAC §39.1

The Texas Alcoholic Beverage Commission adopts an amendment to §39.1, without change to the proposed text as published in the July 4, 1995, issue of the *Texas Register* (20 TexReg 4899).

This amendment deals with the handling of funds collected and tax stamps issued by the agency's ports of entry division.

The amendment was adopted to increase efficiency in the administration of the alcoholic beverage tax stamp program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of §5.31 of the Texas Alcoholic Beverage Code.

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 10, 1995.

TRD-9510019

Doyne Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: August 31, 1995

Proposal publication date: July 4, 1995

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

Chapter 50. Alcohol Awareness and Education

• 16 TAC §50.9

The Texas Alcoholic Beverage Commission adopts an amendment to §50.9, concerning exemptions from certain administrative actions, without changes to the proposed text as published in the June 30, 1995, issue of the *Texas Register* (20 TexReg 4672).

This rule clarifies when, and under what circumstances, licensees and permittees can claim exemption from administrative actions under Texas Alcoholic Beverage Code, §106.14.

The rule was adopted to enhance enforcement of the relevant Texas Alcoholic Beverage Code provisions by increasing efficiency and certainty of application.

The Texas Package Stores Association provided comment indicating it was in opposition to §50.9(c) of the rule. In the alternative to that opposition, the association suggested amendments relaxing the provisions of §50.9(c). The commission determined that the questioned provision was necessary. The suggested amendments were rejected because they would make the proposed rule too cumbersome in operation.

This amendment is adopted under the authority of §5.31 of the Texas Alcoholic Beverage Code.

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 10, 1995.

TRD-9510018 Doyne Bailey
Administrator
Texas Alcoholic Beverage
Commission

Effective date: August 31, 1995

Proposal publication date: June 30, 1995

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

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TITLE 25. HEALTH SERVICES
Part XI. Texas Cancer Council

Chapter 703. Project Contracts and Grants

• **25 TAC §703.9, §703.10**

The Texas Cancer Council adopts amendments to §703.9 and §703.10, concerning project contracts and grants, with changes to the proposed text as published in the May 26, 1995, issue of the *Texas Register* (20 TexReg 3886). The changes include a revised part (a) and the deletion of part (b) under §703.9 Audits, and a reordering of part of §703.10 Funding Restrictions due to the deletion of an original part F.

The rules are being amended to comply with the requirements of the Uniform Grant and Contract Management Standards (UGCMS).

The rules inform contractors of audit requirements of the Texas Cancer Council.

Two comments were received concerning the applicability to state agencies and contractors who are not included under OMB Circular A-128.

After reviewing the comments and consulting with the State Auditor's Office, the Council altered §703.9(a) and deleted §703.9(b).

The amendments are proposed under the Health and Safety Code, Chapters 102.002 and 102.009, which provides the Texas Can-

cer Council with the authority to develop and implement the Texas Cancer Plan, and Texas Civil Statutes, Article 6252-13a §4, which provide the Texas Cancer Council with the authority to adopt rules governing council practice and procedures.

§703.9. Audits. Audits of contractors are required in accordance with the requirements of the Uniform Grant and Contract Management Standards (UGCMS). The Council shall reimburse the contractor for the relative cost of the required audit.

§703.10. Funding Restrictions.

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

(c) Disallowable costs.

(1) The following are the most common types of costs which are disallowed:

(A)-(E) (No change.)

(F) payment for direct services to patients for screening, diagnosis, or other support services if third-party coverage is currently available.

(2) (No change.)

(d) (No change.)

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 9, 1995.

TRD-9509985 Emily F. Untermyer
Executive Director
Texas Cancer Council

Effective date: August 30, 1995

Proposal publication date: May 26, 1995

For further information, please call: (512) 463-3190

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TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts new §116.14, concerning Standard Permit Definitions and new §116.615, concerning General Conditions. Also, the TNRCC adopts amendments to §116.610, concerning Applicability and §116.617, concerning Standard Permit List. Sections 116.14, 116.615, and

116.617 are adopted with changes to the proposed text as published in the March 3, 1995, issue of the *Texas Register* (20 TexReg 1506). Section 116.610 is adopted without changes and will not be republished.

The new sections and amendments streamline the permit process for oil and gas facilities and establish a new standard permit for oil and gas facilities under new §116.617(3). Section 116.14 adds a definition for the terms "oil and gas facility" and "off-plant receptor." Section 116.610 is modified to delete the General Conditions and retitle the section to "Applicability." Section 116.615 includes the general conditions now located in §116.610 and adds applicable general conditions found in Subchapter B, concerning applicable new source review permits. Section 116.617 contains the standard permit list and adds a new standard permit for oil and gas facilities.

A public hearing was held in Austin on April 5, 1995. Six commenters submitted written testimony on the proposal and one commenter presented oral testimony. The Galveston-Houston Association for Smog Prevention (GHASP), the Texas Mid-Continent Oil and Gas Association (TMOGA), the City of Dallas, the Association of Texas Intrastate Natural Gas Pipelines (Intrastate), and the Pennzoil Company made objections or recommendations. The United States Environmental Protection Agency (EPA) submitted a letter stating that it has no issues of major concern.

A general comment from the TMOGA and Intrastate was that there are existing provisions for permitting oil and gas facilities such as with the standard exemption program, and that today's standard permit should be a new, third alternative. Existing wording seems to imply that the oil and gas standard permit is a replacement for Standard Exemption Number 66.

A key passage which clarified the relationship to the standard exemption program was inadvertently deleted from the *Texas Register* proposal. This standard permit is now a third alternative.

The GHASP did not address specific rule language, but proposed that a distance requirement of perhaps 500 to 1,000 feet should be added to reduce potential air pollution impacts from oil and gas facilities. Another commenter disagreed with having distance requirements in this standard permit, since the TNRCC and industry policies are sufficient.

There is an existing TNRCC regulation, §101.4 (concerning Nuisance), which prohibits the discharge of air contaminants in concentrations and duration which would be injurious to or which would adversely affect human health or welfare, animal life, vegetation, or property, or which would interfere with the normal use and enjoyment of animal life, vegetation, or property. Best Available Control Technology (BACT) and impacts considerations (including off-plant receptors) were incorporated into the rule development.

Hydrogen sulfide (H₂S) emission limits in this rule take into consideration the distance to the nearest off-plant receptor to ensure consistency with the property line standards in 30

TAC §1123(a) and §112 31 (concerning control of sulfur dioxide), therefore, distance requirements have been adequately addressed

The GHASP also objected to the flat fee of \$450 for each oil and gas standard permit on the grounds that this fee is equivalent to a subsidy for industry

Staff time and manpower to evaluate and process a standard permit application are significantly less than the resources required to review and process a formal Subchapter B permit application. The intent of a standard permit is to simplify and accelerate the permit review process for facilities which can prequalify to a relatively stringent level of control. Standard permit review is streamlined because BACT measures and pollution impacts are incorporated into the standard permit eligibility criteria so that the extent of the permit review consists only of ensuring the facility meets all conditions of the standard permit.

The TNRCC staff maintains that a \$450 permit application fee is consistent with the existing fee structure and is appropriate for the resources required to review and process a standard permit application.

The TMOGA requested that the TNRCC consider deleting §116.610(d)-(g), concerning applicability, since they appear to be redundant to the general conditions under §116.615(1)-(3) and (9).

The TNRCC staff agrees that the intent of the rule revision was to delete the outdated general conditions in §116.610(d)-(g) and create a new §116.615 entitled "General Conditions." However, the final rule cannot be modified, because in the proposal, subsections (d)-(g) were proposed with no changes. Therefore, subsections (d)-(g) must be deleted in a future proposal.

Intrastate and the TMOGA offered changes to the definition of the term "oil and gas facility" in §116.14, concerning Standard Permit Definitions. The TMOGA suggested using the term "water injection" in place of "salt water disposal," and adding a definition for "sulfur recovery unit" to distinguish sulfur recovery units from natural gas sweetening units. The new definition for sulfur recovery units would be "a process device whose primary purpose is to recover elemental sulfur from acid gas, a process device that incidentally recovers minor quantities of elemental sulfur during natural gas sweetening shall not be considered a sulfur recovery unit." In Intrastate's opinion, the term "facility cluster" is misleading and should be clarified to include special types of equipment.

The TNRCC has no objection to replacing the term "salt water disposal" with "water injection," adding a definition for sulfur recovery unit, and replacing the term "facility cluster" with "facility." These changes have been incorporated into §116.14 relating to definitions. However, the TNRCC does not agree with the proposed definition for a sulfur recovery unit. The TMOGA does not consider a "Lo-Cat" unit (a proprietary device name) as a form of sulfur recovery and takes the position that the sulfur recovered by a Lo-Cat unit is incidental. Instead, the TNRCC considers a

Lo-Cat unit to be a true form of sulfur recovery, and retains the original language to exclude all sulfur recovery units.

Intrastate, the GHASP, and the City of Dallas disagreed with paragraphs in §116.615, concerning General Conditions. They stated that in paragraph (1), the terms "welfare and environment" should be added to the general purpose of protecting health and property. In paragraph (2), the GHASP objected to the 30-day time window to notify the TNRCC of changes in representations of the permit. Intrastate objected to the notification requirements in the case of plant shutdowns or decreases in production levels. The City of Dallas and the GHASP stated that paragraphs (2) and (6) should include notification of local air quality agencies in changes of representation and upon start-up. In paragraph (4), the GHASP stated that the term "reasonable time" should be better defined because it is too subjective; another commenter supported the more general terms. In paragraph (5), Intrastate objected to notification requirements upon changes in construction scheduling. The GHASP also desired clarification of time periods specified in paragraphs (6) and (7), relating to start-up notification and sampling requirements. Finally, the GHASP requested that information in paragraph (9), relating to recordkeeping, should be maintained by the plant operator for at least five years, instead of two years as proposed.

Responses follow the order of comments presented. The TNRCC feels that the concept of "welfare" is adequately treated in paragraph (1) and is consistent with the General Rules (30 TAC §101.4). No change is needed to §116.615(2), regarding the notification to the TNRCC within 30 days after the change, because a facility may remain eligible for the standard permit following changes; therefore, post-change notification is acceptable, but the rule wording has been modified to clarify this assumption. The TNRCC does not agree with Intrastate's request to exclude notifications in the cases of removal, shutdown, or other decreases in emissions, because the current wording of §116.615(2) specifically states that notification to the TNRCC of changes in conditions is required if the facility is no longer eligible for a standard permit or if the change in conditions will result in a change in method of control, a change in character of emissions, or an increase in discharge of emissions. Notification to other air pollution agencies having jurisdiction has been added in paragraphs (2) and (6). The TNRCC has decided to retain the term "reasonable time" in paragraph (4), since "reasonable time" for project completion will vary depending on each project's size and complexity. In response to the comment regarding construction progress in paragraph (5), it is necessary to monitor start of construction and construction interruptions to enforce the requirements of paragraph (4). The TNRCC staff believes that it is not necessary to specify a minimum time for advance notification to the regional offices prior to start-up and sampling of facilities which are eligible for a standard permit, since the facilities are smaller sources of emissions. The TNRCC allocates staff resources to larger emission sources which are

not eligible for the standard permit, therefore, the TNRCC feels that notification prior to start-up and sampling in paragraphs (6) and (7) without a minimum time specified is adequate.

The TNRCC also disagrees with Intrastate's request to remove the requirement of contacting the TNRCC Office of Air Quality prior to sampling to obtain the proper data and forms and to get approval for the sampling method selected. These requirements are necessary to maintain consistency and to ensure sampling is conducted properly. Lastly, the TNRCC disagrees with the GHASP's request to require five years of data for demonstration of compliance in §116.615(9) and §116.617(3)(E)(viii). The TNRCC feels that the requirement to maintain information on file for at least two years is sufficient to demonstrate compliance with standard permit representations and is consistent with existing rules and current permit requirements. A public compliance file is maintained at the TNRCC Austin office for periods much longer than two years and may be viewed upon request.

The TMOGA, Intrastate, the GHASP, and Pennzoil suggested revisions to §116.617(3)(A), concerning emission specifications. Several commenters desired the TNRCC to adopt some specific oil and gas industry terminology. The TMOGA disagreed with the wording concerning releases of more than 0.3 long tons of sulfur per day by specifying vents or flares in clause (i), because the limits apply to venting or flaring, not the content of the petrochemicals themselves. Intrastate desired that the standard permit limitation on sulfur emissions should be expanded to two (2.0) long tons per day to be consistent with the applicable standard exemption for oil and gas facilities. The TMOGA suggested that the proper term should be "routed" instead of "vented" in clause (ii). In clause (iii), the phrase "failure of utilities" should be replaced with "emergency relief of system pressure." The GHASP desired that rupture discs should be placed ahead of any safety relief valves. TMOGA disagreed with this design because industry safety policies expressly prohibit this practice. Finally, clause (vi) should be revised to clarify that a 40 million British thermal unit per hour heat input threshold relates to maximum heat input during operation instead of being a design parameter.

The TNRCC agrees to some minor changes in terminology contained in §116.617(3)(A)(i) and (ii) as recommended by the TMOGA.

The TNRCC staff disagrees with the recommendation by Intrastate to change the sulfur limit to include facilities which condition produced gas up to 2.0 long tons per day of sulfur. While it is true that Standard Exemption Number 66 includes sulfur recovery units which condition produced gas containing less than two long tons per day of sulfur compounds, this standard permit does not include sulfur recovery units. Further, sulfur which is not recovered is emitted to the atmosphere and is limited by Standard Exemption 66 to a maximum of 25 tons per year of sulfur dioxide and 4.0 pounds per hour of total sulfur compounds.

Regarding the discussion of rupture disks in §116.617(3)(A)(iii), the TNRCC disagrees with the recommendation to require rupture discs on safety relief valves, because debris from a ruptured disc could lodge in the safety valve causing it to malfunction and result in the loss of a vessel. Section 116.617(3)(C)(i)(VII) and (ii)(VII) require that accessible valves be leak-checked for fugitive emissions at least quarterly with an approved gas analyzer. These same subclauses allow the company the option of installing rupture discs on valves which are not monitored. Regarding §116.617(3)(A)(iii) and emergency procedures, the TNRCC disagrees with the TMOGA's recommendation to replace "failure of utilities" with "emergency relief of system pressure," since this would likely exempt all relief valves from minimum vent height requirements.

The TNRCC disagrees with the TMOGA's recommendation to base the oxides of nitrogen (NO_x) limitation on the maximum heat input during operation as opposed to by design specification. The intent of this subparagraph is to ensure that combustion units with a design maximum heat input greater than 40 million British thermal units (MMBtu) per hour will not exceed 0.06 pounds of NO_x per MMBtu. If based on heat input during actual operation, combustion units with design capacities greater than 40 MMBtu could be able to operate at or below 40 MMBtu and emit more than 0.06 pounds of NO_x per MMBtu. There would be no guarantee that the unit would be able to achieve the 0.06 pounds per MMBtu NO_x limitation if the heat input of the unit was increased above 40 MMBtu.

Pennzoil offered an editorial change in §116.617(3)(A)(iv) to delete the phrase "relating to the Standard Permit list" because it appears to be redundant.

The TNRCC does not agree with the Pennzoil comment that the last sentence of §116.617(3)(A)(iv) is redundant and should be deleted. The current language is not redundant, since §116.211(a)(1) of this title contains applicable emission limits which are not listed in Standard Exemption Number 6.

Many commenters submitted major comments on process and fugitive emissions limits contained in §116.617(3)(A)(vii)(ix). The TMOGA and Pennzoil requested that the uncontrolled process emission limits for total volatile organic hydrocarbons in clause (vii) be set at 25 tons per year (tpy) and that the TNRCC set a new limit of 20 tpy for fugitive volatile organic compound (VOC) emissions. The existing 10 tpy applicability threshold as stated in the standard permit proposal for oil and gas facilities could impose regulatory burdens without regard to costs, while having negligible air quality benefits. Commenters also stated that requirements for monitoring total fugitive emissions below 25 tpy should be removed, because many of the affected oil and gas facilities are in remote, rural areas, making emissions controls and monitoring very costly. Another major recommendation for the proposed rule language is to remove the leak detection requirements for hydrogen sulfide and sulfur dioxide process emissions set forth in §116.617(3)(A)(ix). The TMOGA

strongly objected to stringent leak detection and repair programs for the oil and gas industry, monitoring standards known as "28VHP," which require corrective actions if VOC levels exceed 500 parts per million, and suggested the deletion of the entire §116.617(3)(C)(ii). Finally, Intrastate again objected to fugitive leak detection for piping and valves smaller than a nominal two-inch diameter size. Pennzoil suggested that §116.617(3)(A)(vii) and (viii) could be improved by combining them to read: "If total VOC emissions exceed 25 tpy and total fugitive VOC emissions exceed 20 tpy, equipment will be inspected according to subparagraph (C)(i)." Alternatively, the TMOGA suggested language to not control VOC emissions at oil and gas facilities if total emissions are below 25 tpy and if fugitive emissions are below 20 tpy (as in Standard Exemption Number 66), and use "28M Guidelines" if total VOC emissions are equal to or above 25 tpy and fugitives are above 20 tpy. Relatively minor suggestions for the fugitive emissions sections in §116.617(3)(A)(vii)-(x) were also included. The TMOGA requested that only piping and valves greater than two inches nominal size be included in fugitive emissions estimations.

Regarding the TMOGA and Pennzoil comments on §116.617(3)(A)(vii) and (viii), the TNRCC agrees to add flexibility into the fugitive VOC monitoring requirements by considering the distance between the facility and the nearest off-plant receptor. This flexibility will significantly reduce the number of facilities subject to §116.617(3)(A)(viii). The TNRCC disagrees with the recommendation to delete §116.617(3)(A)(viii) and §116.617(3)(C)(ii). The TNRCC feels this fugitive monitoring program is necessary to control large emission sources, including sources with uncontrolled emissions greater than 25 tpy which are located close to an off-plant receptor and for all sources with uncontrolled emissions greater than 40 tpy. These controls are necessary to protect public health, welfare, and the environment from the potential impacts of significant emission sources.

The TNRCC disagrees with Intrastate's recommendation to exclude piping and valves less than two inches in nominal size from the fugitive emissions estimation, since these must be included to determine the level of fugitive VOC monitoring covered under §116.617(3)(C)(i) or (ii), and for the sake of rule consistency, as stated previously. For the sake of consistency and general engineering practices, 30 TAC Chapter 115 does not exclude piping and valves less than two inches in nominal diameter from monitoring requirements. Therefore, all piping must be monitored except as noted in the standard permit.

The TMOGA requested that alternative methods to approve flare design, such as EPA Reference Method 22, should be allowed to be approved if approved by the executive director. Finally, the GHASP desired that infrared monitors be required to monitor flame temperature. The TMOGA opposed this view and offered that a thermocouple is equivalent to the use of infrared equipment for flame temperature detection.

Regarding §116.617(3)(A)(x), the TNRCC agrees to include wording which will allow an

equivalent performance standard approved by the commission. The intent of §116.617(3)(A)(x) is for flares to meet the design and operational requirements of 40 Code of Federal Regulations (CFR), Part 60.18 and not the physical inspection and testing requirements themselves. The word "inspected" has been removed from the rule text to clarify this requirement. Regarding the recommendation from the GHASP on the infrared monitor, an infrared monitor is not in this case an emissions measuring device. It is solely used to detect flame-out conditions. Opacity and visible emission operational requirements are contained in a separate rule (30 TAC §111.111(a)(4)).

The TMOGA, Intrastate, and Pennzoil objected to paragraphs in §116.617(3)(B), concerning control requirements. One commenter stated that the limitations in subsection (i) should not apply to pressurized tanks, and that floating roof tanks should not be required unless the tank capacity is greater than 42,000 gallons. The existing rule language limits tanks without floating roofs to 25,000 gallons. Another commenter stated that barrels are the industry standard for measuring tank sizes (e.g., a 1,000-barrel limit). Further, BACT for storage tanks requires no controls if the true vapor pressure is less than 1.5 pounds per square inch (psi), as stated in 30 TAC Chapter 115. The BACT requirement should be increased from 0.5 psi to 1.5 psi at maximum operating temperatures, because these rules are designed to be the most stringent rules to prevent ozone formation in air quality nonattainment areas. Additionally, the desired 42,000 gallon and 1.5 psi levels are warranted because they are equivalent to EPA programs for federal New Source Performance Standards (NSPS) and Control Technology Guidelines. Opposing this view, the GHASP requested that the 25,000-gallon tank size limitation be restricted to 5,000 gallons, above which floating tank roofs would be required.

Regarding comments to §116.617(3)(B)(i), the TNRCC agrees to include an exception for pressurized tanks which comply with Standard Exemption Number 83 and also agrees to include the term "nominal" relating to tank capacity, to allow for slight variations in tank capacity.

The TNRCC disagrees with changing the size or vapor pressure exemption limits for storage tanks, since the limits in the proposed rule are consistent with current BACT requirements. The TNRCC also feels it is not necessary to express the storage tank capacity in units of barrels, since the conversion from units of gallons to barrels is very straightforward. In fact, barrels are used in monitoring and recordkeeping requirements in paragraph (E) of the standard permit, but tank capacity is typically sized in terms of gallons.

The GHASP and the TMOGA responded to language in §116.617(3)(B)(i)(IV), relating to control requirements. In addition to using floating-roof tanks to capture VOCs, other containment or destruction methods should be allowed. The TMOGA noted that pressurized containers may be used to prevent hydrocarbon loss, as another option to requiring

floating roof tanks or flares. The GHASP questioned why vapor recovery systems (95%) are 30% less effective than combustion devices (98%), so that the two alternatives are not equivalent.

The TNRCC agrees to modify the wording of §116.617(3)(B)(ii)(II)(-a-) from "control efficiency" to "destruction efficiency" for consistency with §116.617(3)(B)(i)(IV)(-a-). In response to the comment regarding the 30% difference between the control efficiencies of combustion devices and vapor recovery systems, it is not technically feasible for a vapor recovery system to achieve the same control efficiency as a combustion device. The TNRCC does not specify the type of control to be used, since this will vary depending on variables such as the type and quantity of pollutants to be controlled, type of process, and technical and economic feasibility. The control efficiencies identified in §116.617(3)(B)(ii)(II)(-a-) and (-b-) represent efficiencies which the TNRCC currently considers to be best available and most technically feasible for the respective control devices.

It is important to note that vapor recovery systems do not introduce new contaminants into ambient air as a result of the control process, as do combustion devices and flares. Vapor recovery systems remove contaminants from a waste stream, whereas combustion devices convert contaminants into other less hazardous compounds which are then introduced into the atmosphere.

The TMOGA suggested amending §116.617(3)(C)(i)(I), concerning inspection requirements, to delete metric measurement units, include evaluation of applicable NSPS criteria for determining whether to monitor piping and valves two inches in nominal size and smaller, and remove the term "upstream" relating to installation of rupture discs to allow flexibility in rupture disc location.

Regarding the TMOGA comments on §116.617(3)(C)(i)(I), metric equivalents are proposed as a method of being flexible, not as a restrictive measure. In the last sentence of the same subclause, the TNRCC agrees with the TMOGA's recommendation to include the applicability of NSPS and Chapter 115. The TNRCC also agrees with TMOGA's recommendation to delete "upstream" to allow the option of installing an upstream or downstream rupture disc.

In §116.617(3)(C)(i)(II), the GHASP questioned the definition of the terms "technically feasible" and "rendered impractical" as they apply to repairs on leaking process VOC fugitive emissions. The same commenter similarly questioned the definition of the term "reasonably accessible" in subclause (IV). Also, the commenter requested that walk-through inspection records be maintained on a weekly basis in subclause (V), and in subclause (VII) that pressure gauges should be installed to monitor rupture disc integrity. These same comments would also apply to §116.617(3)(C)(ii), concerning oil and gas facilities which have the potential to emit over 25 tons per year.

Regarding the GHASP's comments on the terms "technically feasible" and "rendered im-

practical," the TNRCC feels that these terms cannot be specifically defined, since there are too many variables to evaluate before a determination is made. The definitions will vary depending on the type and complexity of the project or situation. The TNRCC will determine what is considered "technically feasible" and a "rendered impractical" on a project-by-project basis.

Regarding the comment on the definition of the term "reasonably accessible" used in §116.617(3)(C)(i)(IV) and (ii)(IV), reasonably accessible valves are those which would not expose monitoring personnel to immediate danger. The TNRCC determines what is considered "reasonably accessible" on a case-by-case basis due to the variability of monitoring scenarios. The height limitation of two meters originated in 40 CFR, Part 60.482-7(h), which considers valves to be inaccessible if they cannot be monitored without elevating the monitoring personnel more than two meters above a support surface. Section 116.617(3)(C)(i)(IV) and (ii)(IV) require that a list of inaccessible valves be maintained and made available upon request, therefore, any valves which the company considers to be inaccessible are subject to evaluation by the TNRCC.

Regarding the GHASP comment on §116.617(3)(C)(i)(V) and (ii)(V) which identified the need to keep records documenting visual, audible, and olfactory inspections, these records are already included in §116.617(3)(E)(ii). Regarding the GHASP comment on §116.617(3)(C)(i)(VII) and (ii)(VII) requesting that rupture discs be required to be equipped with pressure gauges, this requirement is already included in these two subclauses. The TNRCC does not agree with the GHASP's request to include §116.617(3)(C)(ii)(XI) under §116.617(3)(C)(ii). Including the directed maintenance requirements in two locations under the same fugitive monitoring program would be redundant.

The TMOGA suggested the removal of the requirement to perform daily inspections for each site in §116.617(3)(C)(iii) on the basis that added expenses would make marginal oil and gas facilities unprofitable.

The TNRCC has modified the language of §116.617(3)(A)(ix) and added new §116.617(3)(E)(i) to allow the option of installing ambient H₂S property line monitors in the event it is not possible for operations personnel to check the facility on a daily basis. This regulatory flexibility allows for low-cost, unmanned surveillance.

The TNRCC has replaced "plant personnel" with "operating personnel." The TNRCC does not agree with the recommendation to delete §116.617(3)(C)(iii) (III). This requirement is necessary in the event that efforts to isolate and repair the leak, as required by §116.617(3)(C)(iii)(I) and (II) are unsuccessful.

The TMOGA suggested modifications to §116.617(3)(D), concerning approved test methods, in which air quality models could be used to demonstrate proper operation of condensers instead of using monitors. Use of dispersion modeling can be used for predict-

ing VOC emissions from glycol dehydrator units.

The TNRCC does not entirely agree with the TMOGA's recommendations to §116.617(3)(D), regarding the use of computer simulation modeling in lieu of ambient sampling to demonstrate proper in-use operation of a condenser. While computer simulations are effective tools for predicting air quality impacts, they cannot be used to verify actual operating conditions for demonstration of compliance with permit limits. The TNRCC maintains that sampling and testing is necessary to obtain actual data to verify that a control device is actually operating as previously predicted or represented.

The TMOGA, GHASP, and the City of Dallas offered corrections to §116.617(3)(E), concerning monitoring and recordkeeping requirements. The TMOGA argued that inspection records be kept for process vents or flares, but not for all process streams. The GHASP and the City of Dallas noted that local air pollution agencies should be included in §116.617(3)(E)(i), regarding availability of fugitive inspection and repair information.

The TNRCC agrees with the TMOGA's recommendation to allow records to be kept on the total sulfur content of gas process vents or flares, but does not agree with removing the option of keeping records on the total sulfur content of gas processing streams. The TNRCC prefers to include both options to allow flexibility in the method used for demonstrating compliance with total sulfur content limits. The TNRCC agrees with recommendations to include air pollution control agencies in the notification requirements under §116.615(6) and (7) and §116.617(3)(E)(ii), as recommended by GHASP and the City of Dallas.

Under §116.617(3)(E)(iv), the GHASP requested definition of the term "continuous compliance." The TMOGA suggested that the term "continuous" in clause (iv) should be deleted from permit compliance demonstrations.

Regarding the GHASP's request for a definition of "continuous compliance," this term cannot be specifically defined, since demonstration of compliance will vary depending on each facility and type of operation; therefore, the TNRCC will determine how continuous compliance will be demonstrated on a case-by-case basis. Continuous compliance may be demonstrated through a variety of methods which may include periodic monitoring or recording of appropriate operational parameters on a continuous basis or on some ongoing specified frequency. The TNRCC has replaced the term "continuous" with "ongoing," however, to clarify its intent, because the former term can be confused with Continuous Emission Monitoring Systems, a technical sampling protocol.

Subchapter A. Definitions

• 30 TAC §116.14

The new section is adopted under the Texas Health and Safety Code, Texas Clean Air Act (TCAA) §382.017, which provides the TNRCC with the authority to adopt rules con-

sistent with the policy and purposes of the TCAA

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

Oil and gas facility—For the purposes of Subchapter F of this chapter (relating to Standard Permits) only, oil and gas facilities shall be defined as facilities which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth's surface. These oil and gas facilities include, but are not limited to: oil or gas production facilities; water injection facilities; carbon dioxide separation facilities; or oil or gas pipeline facilities consisting of one or more tanks, separators, dehydration units, free water knock-outs, gunbarrels, heater treaters, vapor recovery units, flares, pumps, internal combustion engines, gas turbines, compressors, natural gas liquid recovery units, or gas sweetening and other gas conditioning facilities. This definition does not include sulfur recovery units.

Sulfur recovery unit—For the purposes of Subchapter F of this chapter only, sulfur recovery unit shall be defined as a process device whose primary purpose is to recover elemental sulfur from acid gas.

Off-plant receptor—For the purposes of Subchapter F of this chapter only, off-plant receptor shall be defined as any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facilities or owner of the property upon which the facilities are located.

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 9, 1995.

TRD-9510157 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Effective date: September 1, 1995

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For further information, please call: (512) 239-1966

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Subchapter F. Standard Permits
• 30 TAC §§116.610, 116.615,
116.617

The amendments and new section are adopted under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with

the authority to adopt rules consistent with the policy and purposes of the TCAA.

§116.615. General Conditions. The following general conditions shall be applicable to holders of standard permits, but may not be specifically stated within the standard permit document.

(1) Protection of public health and welfare. The emissions from the facility shall comply with all applicable rules and regulations of the Texas Natural Resource Conservation Commission (TNRCC or commission) adopted under the Texas Health and Safety Code, Chapter 382, and with intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public.

(2) Standard permit representations. All representations with regard to construction plans, operating procedures, and maximum emission rates in any registration for a standard permit become conditions upon which the facility or changes thereto, shall be constructed and operated. It shall be unlawful for any person to vary from such representations if the change will affect that person's right to claim a standard permit under this section. Any change in condition such that a person is no longer eligible to claim a standard permit under this section requires proper authorization under §116.110 of this title (relating to Applicability). If the facility remains eligible to claim a standard permit, the owner or operator of the facility must notify the TNRCC of any change in conditions which will result in a change in the method of control of emissions, a change in the character of the emissions, or an increase in the discharge of the various emissions as compared to the representations in the original registration or any previous notification of a change in representations. Notice of changes in representations must be received by the TNRCC no later than 30 days after the change.

(3) Standard permit in lieu of permit amendment. All changes authorized by standard permit to a facility previously permitted pursuant to §116.110 of this title (relating to Applicability) shall be administratively incorporated into that facility's permit at such time as the permit is amended or renewed.

(4) Voiding of standard permit. A standard permit under this chapter is automatically void if the holder fails to begin construction within 18 months of date of registration, discontinues construction for more than 18 consecutive months prior to completion, or fails to complete construction within a reasonable time. Upon request, the executive director may grant a onetime 18-month extension of the date to begin construction.

(5) Construction progress. Start of construction, construction interruptions exceeding 45 days, and completion of construction shall be reported to the appropriate regional office of the TNRCC not later than 15 working days after occurrence of the event.

(6) Start-up notification. The appropriate air program regional office of the commission and any other air pollution control program having jurisdiction shall be notified prior to the commencement of operations of the facilities authorized by the standard permit in such a manner that a representative of the TNRCC may be present. Phased construction, which may involve a series of units commencing operations at different times, shall provide separate notification for the commencement of operations for each unit.

(7) Sampling requirements. If sampling of stacks or process vents is required, the standard permit holder shall contact the TNRCC Office of Air Quality and any other air pollution control program having jurisdiction prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the executive director and coordinated with the regional representatives of the commission. The standard permit holder is also responsible for providing sampling facilities and conducting the sampling operations or contracting with an independent sampling consultant.

(8) Equivalency of methods. It shall be the responsibility of the standard permit holder to demonstrate or otherwise justify the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the standard permit. Alternative methods shall be applied for in writing and must be reviewed and approved by the executive director prior to their use in fulfilling any requirements of the standard permit.

(9) Recordkeeping. A copy of the standard permit along with information and data sufficient to demonstrate applicability of and compliance with the standard permit shall be maintained in a file at the plant site and made available at the request of personnel from the TNRCC, United States Environmental Protection Agency, or any air pollution control program having jurisdiction. For facilities that normally operate unattended, this information shall be maintained at the nearest staffed location within Texas specified by the standard permit holder in the standard permit application. This information shall include, but is not limited to, production records and operating hours. Additional recordkeeping requirements may be specified in requirements for the standard permit. Infor-

mation in the file shall be retained for at least two years following the date that the information or data is obtained.

(10) Maintenance of emission control. The facilities covered by the standard permit shall not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. Notification for upsets and maintenance shall be made in accordance with §101.6 and §101.7 of this title (relating to Notification Requirements for Major Upset and Notification Requirements for Maintenance).

(11) Compliance with rules. Registration of a standard permit by a standard permit applicant constitutes an acknowledgement and agreement that the holder will comply with all rules, regulations, and orders of the commission issued in conformity with the TCAA and the conditions precedent to the granting of the standard permit. If more than one state or federal rule or regulation or permit condition are applicable, the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated. Acceptance includes consent to the entrance of commission employees and agents into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the standard permit.

§116.617. Standard Permit List. Pursuant to the Texas Clean Air Act, §382.051, projects involving the types of facilities or physical or operational changes to facilities listed in this section qualify for a standard permit subject to the conditions stated in §116.610 of this title (relating to Applicability).

(1)-(2) (No change.)

(3) Installation and/or modification of oil and gas facilities.

(A) Emission specifications.

(i) Venting or flaring more than 0.3 long tons per day of total sulfur shall not be allowed.

(ii) No facility shall be allowed to emit total uncontrolled emissions of sulfur compounds, except sulfur dioxide (SO₂), from all vents (excluding process fugitive emissions) equal to or greater than four pounds per hour unless the vapors are collected and routed to a flare.

(iii) Any vent, excluding any safety relief valves that discharge to the atmosphere only as a result of fire or failure of utilities, emitting sulfur compounds other than sulfur dioxide, shall be at least 20 feet above ground level.

(iv) New or modified internal combustion reciprocating engines or gas turbines permitted under this standard permit shall satisfy all of the requirements of Standard Exemption Number 6, except that registration using the Form PI-7 or PI-8 shall not be required. Emissions from engines or turbines shall be limited to the amounts found in §116.211(a)(1) of this title (relating to Standard Exemption List).

(v) Total volatile organic compound (VOC) emissions from a natural gas glycol dehydration unit shall not exceed ten tons per year (tpy) unless the vapors are collected and controlled in accordance with subparagraph (B)(ii) of this paragraph.

(vi) Any combustion unit (excluding flares, internal combustion engines, or natural gas turbines), with a design maximum heat input greater than 40 million British thermal units (Btu) per hour (using lower heating values) shall not emit more than 0.06 pounds of nitrogen oxides (NO_x) per million Btu.

(vii) No facility which is less than 500 feet from the nearest off-plant receptor shall be allowed to emit uncontrolled VOC process fugitive emissions equal to or greater than ten tpy, but less than 25 tpy, unless the equipment is inspected and repaired according to subparagraph (C)(i) of this paragraph.

(viii) No facility which is 500 feet or more from the nearest off-plant receptor shall be allowed to emit uncontrolled VOC process fugitive emissions equal to or greater than 25 tpy unless the equipment is inspected and repaired according to subparagraph (C)(i) of this paragraph.

(ix) No facility which is less than 500 feet from the nearest off-plant receptor shall be allowed to emit uncontrolled VOC process fugitive emissions equal to or greater than 25 tpy unless the equipment is inspected and repaired according to subparagraph (C)(ii) of this paragraph.

(x) No facility shall be allowed to emit uncontrolled VOC process fugitive emissions equal to or greater than 40 tpy unless the equipment is inspected and repaired according to subparagraph (C)(ii) of this paragraph.

(xi) No facility which is located less than one quarter of a mile from the nearest off-plant receptor shall be allowed to emit hydrogen sulfide (H₂S) or SO₂ process fugitive emissions unless the equipment is inspected and repaired according to subparagraph (C)(iii) of this paragraph. No facility which is located at least one quarter of a mile from the nearest off-plant receptor shall be allowed to emit H₂S or SO₂ process fugitive emissions unless the equipment is inspected and repaired accord-

ing to subparagraph (C)(iii) of this paragraph or unless the H₂S or SO₂ emissions are monitored with ambient property line monitors according to subparagraph (E)(i) of this paragraph. Components in sweet crude oil or gas service as defined by Chapter 101 of this title (relating to General Rules) are exempt from these limitations.

(xii) Flares shall be designed and operated in accordance with 40 Code of Federal Regulations (CFR), Part 60.18 or equivalent standard approved by the commission, including specifications of minimum heating values of waste gas, maximum tip velocity, and pilot flame monitoring. If necessary to ensure adequate combustion, sufficient gas shall be added to make the gases combustible. An infrared monitor is considered equivalent to a thermocouple for flame monitoring purposes. An automatic ignition system may be used in lieu of a continuous pilot.

(xiii) Appropriate documentation shall be submitted to demonstrate that compliance with the Prevention of Significant Deterioration (PSD) and nonattainment new source review (NSR) provisions of the FCAA, Parts C and D, and regulations promulgated thereunder, are being met. The oil and gas facility shall be required to meet the requirements of Subchapter B of the chapter (relating to New Source Review Permits) instead of this subchapter if a PSD or nonattainment permit is required.

(xiv) Documentation shall be submitted to demonstrate compliance with applicable New Source Performance Standards (NSPS, 40 CFR 60) and National Emission Standards for Hazardous Air Pollution (NESHAP, 40 CFR 61).

(xv) New and increased emissions shall not cause or contribute to a violation of any National Ambient Air Quality Standard (NAAQS) or regulation property line standards as specified in Chapters 111, 112, and 113 of this title (relating to Control of Air Pollution From Visible Emissions and Particulate Matter; Control of Air Pollution From Sulfur Compounds; and Control of Air Pollution From Toxic Materials). Engineering judgment and/or computerized air dispersion modeling may be used in this demonstration. To show compliance with §116.610(a)(1) of this title (relating to Applicability) for H₂S emissions from process vents, ten milligrams per cubic meter shall be used as the "L" value instead of the value represented by §116.610(a)(1) of this title.

(xvi) Fuel for all combustion units and flare pilots shall be sweet natural gas or liquid petroleum gas, fuel gas containing no more than ten grains of total sulfur per 100 dry standard cubic feet (scdf), or field gas. If field gas contains

more than 1.5 grains of H₂S or 30 grains total sulfur compounds per 100 scdf, the operator shall maintain records, including at least quarterly measurements of fuel H₂S and total sulfur content, which demonstrate that the annual SO₂ emissions from the facility do not exceed the limitations listed in the standard permit registration. If a flare is the only combustion unit on a property, the operator shall not be required to maintain such records on flare pilot gas.

(B) Control requirements.

(i) Floating roofs or equivalent controls shall be required on all new or modified storage tanks, other than pressurized tanks which meet Standard Exemption 83, unless the tank is less than 25,000 gallons in nominal size or the vapor pressure of the compound to be stored in the tank is less than 0.5 pounds per square inch absolute (psia) at maximum short-term storage temperature.

(I) For internal floating roofs, mechanical shoe primary seal or liquid-mounted primary seal or a vapor-mounted primary with a rim-mounted secondary seals shall be used.

(II) Mechanical shoe or liquid-mounted primary seals shall include a rim-mounted secondary seal on all external floating roofs tanks. Vapor-mounted primary seals will not be accepted.

(III) All floating roof tanks shall comply with the requirements under §115.112(a)(2)(A)-(F) of this title (relating to Control Requirements).

(IV) In lieu of a floating roof, tank emissions may be routed to:

(-a-) a destruction device such that a minimum VOC destruction efficiency of 98% is achieved; or

(-b-) a vapor recovery system such that a minimum VOC recovery efficiency of 95% is achieved.

(V) Independent of the exemptions listed in this clause, if the emissions from any fixed roof tank exceed ten tpy of VOC or ten tpy of sulfur compounds, the tank emissions shall be routed to a destruction device, vapor recovery unit, or equivalent method of control that meets the requirements listed in subclause (IV) of this clause.

(ii) The VOC emissions from a natural gas glycol dehydration unit shall be controlled as follows.

(I) If total uncontrolled VOC emissions are equal to or greater than ten tons per year, but less than 50 tons per year, a minimum of 80% by weight minimum control efficiency shall be achieved by either operating a condenser and a separator (or flash tank), vapor recovery unit, destruction device, or equivalent control device.

(II) If total uncontrolled VOC emissions are equal to or greater than 50 tpy, a minimum of:

(-a-) 98% by weight minimum destruction efficiency shall be achieved by a destruction device or equivalent; or

(-b-) 95% by weight minimum control efficiency shall be achieved by a vapor recovery system or equivalent.

(C) Inspection requirements.

(i) Owners or operators who are subject to subparagraph (A)(vii) or (viii) of this paragraph shall comply with the following requirements.

(I) No component shall be allowed to have a VOC leak for more than 15 days after the leak is detected to exceed a VOC concentration greater than 10,000 parts per million by volume (ppmv) above background as methane, propane, or hexane, or the dripping or exuding of process fluid based on sight, smell, or sound for all components. The VOC fugitive emission components which contact process fluids where the VOCs have an aggregate partial pressure or vapor pressure of less than 0.5 psia at 100 degrees Fahrenheit are exempt from this requirement. If VOC fugitive emission components are in service where the operating pressure is at least 0.725 pounds per square inch (psi) (five kilopascals (Kpa) below ambient pressure, then these components are also exempt from this requirement as long as the equipment is identified in a list that is made available upon request by Texas Natural Resource Conservation Commission (TNRCC) representatives, the EPA, or any other air pollution agency having jurisdiction. All piping and valves two inches nominal size and smaller, unless subject to Federal New Source Performance Standards requiring a fugitive VOC emissions leak detection and repair program or Chapter 115 of this title (relating to Control of Air Pollution from Volatile Organic Compounds), are also exempt from this requirement.

(II) All technically feasible repairs shall be made to repair a

VOC leaking process fugitive component within 15 days after the leak is detected. If the repair of a component would require a unit shutdown, the repair may be delayed until the next scheduled shutdown. All leaking components which cannot be repaired until a scheduled shutdown shall be identified for such repair by tagging. The TNRCC executive director, at his or her discretion, may require early unit shutdown or other appropriate action based on the number and severity of tagged leaks awaiting shutdown.

(III) New and reworked underground process pipelines containing VOCs shall contain no buried valves such that process fugitive emission inspection and repair is rendered impractical.

(IV) To the extent that good engineering practice will permit, new and reworked valves and piping connections in VOC service shall be so located to be reasonably accessible for leak-checking during plant operation. Valves elevated more than two meters above a support surface will be considered non-accessible and shall be identified in a list to be made available upon request.

(V) New and reworked piping connections in VOC service shall be welded or flanged. Screwed connections are permissible only on piping smaller than two-inch diameter. No later than the next scheduled quarterly monitoring after initial installation or replacement, all new or reworked connections shall be gas-tested or hydraulically-tested at no less than normal operating pressure and adjustments made as necessary to obtain leak-free performance. Flanges in VOC service shall be inspected by visual, audible, and/or olfactory means at least weekly by operating personnel walk-through.

(VI) Each open-ended valve or line in VOC service, other than a valve or line used for safety relief, shall be equipped with a cap, blind flange, plug, or a second valve. Except during sampling, the second valve shall be closed.

(VII) Accessible valves in VOC service shall be monitored by leak-checking for fugitive emissions at least quarterly using an approved gas analyzer. For valves equipped with rupture discs, a pressure gauge shall be installed between the relief valve and rupture disc to monitor disc integrity. All leaking discs shall be replaced at the earliest opportunity, but no later than the next process shutdown. Sealless/leakless valves (including, but not limited to, welded bonnet bellows and dia-

phragm valves) and relief valves equipped with a rupture disc or venting to a control device are exempt from monitoring.

(VIII) Dual pump seals with barrier fluid at higher pressure than process pressure, seals degassing to vent control systems kept in good working order, or seals equipped with an automatic seal failure detection and alarm system, submerged pumps, or sealless pumps (including, but not limited to, diaphragm, canned, or magnetic driven pumps) are exempt from monitoring.

(IX) All other pump and compressor seals emitting VOC shall be monitored with an approved gas analyzer at least quarterly.

(X) After completion of the required quarterly inspections for a period of at least two years, the operator of the oil and gas facility may request in writing to the TNRCC, Office of Air Quality, New Source Review Division that the monitoring schedule be revised based on the percent of valves leaking. The percent of valves leaking shall be determined by dividing the sum of valves leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements. This request shall include all data that has been developed to justify the following modifications in the monitoring schedule.

(-a-) After two consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(-b-) After five consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(ii) Owners or operators who are subject to subparagraph (A)(ix) or (x) of this paragraph shall comply with the following requirements.

(I) No component shall be allowed to have a VOC leak for more than 15 days after the leak is found which exceeds a VOC concentration greater than 500 ppmv for all components except pumps and compressors and greater than 2,000 ppmv for pumps and compressors above background as methane, propane, or hexane, or the dripping or exuding of process fluid based on sight, smell, or sound.

The VOC fugitive emission components which contact process fluids where the VOCs have an aggregate partial pressure or vapor pressure of less than 0.044 psia at 100 degrees Fahrenheit are exempt from this requirement. If VOC fugitive emission components are in service where the operating pressure is at least 0.725 psi (five Kpa) below ambient pressure, these components are also exempt from this requirement as long as the equipment is identified in a list that is made available upon request by TNRCC representatives, the EPA, or any air pollution control agency having jurisdiction. All piping and valves two inches nominal size and smaller are also exempt from this requirement.

(II) All technically feasible repairs shall be made to repair a VOC leaking process fugitive component within 15 days after the leak is detected. If the repair of a component would require a unit shutdown, the repair may be delayed until the next scheduled shutdown. All leaking components which cannot be repaired until a scheduled shutdown shall be identified for such repair by tagging. The executive director, at his or her discretion, may require early unit shutdown or other appropriate action based on the number and severity of tagged leaks awaiting shutdown.

(III) New and reworked underground process pipelines containing VOCs shall contain no buried valves such that process fugitive emission inspection and repair is rendered impractical.

(IV) To the extent that good engineering practice will permit, new and reworked valves and piping connections in VOC service shall be so located to be reasonably accessible for leak-checking during plant operation. Valves elevated more than two meters above a support surface will be considered non-accessible and shall be identified in a list to be made available upon request.

(V) New and reworked piping connections in VOC service shall be welded or flanged. Screwed connections are permissible only on piping smaller than two-inch diameter. No later than the next scheduled quarterly monitoring after initial installation or replacement, all new or reworked connections shall be gas-tested or hydraulically-tested at no less than normal operating pressure and adjustments made as necessary to obtain leak-free performance. Flanges in VOC service shall be inspected by visual, audible, and/or olfactory means at least weekly by operating personnel walk-through.

(VI) Each open-ended valve or line in VOC service, other than a valve or line used for safety relief, shall be equipped with a cap, blind flange, plug, or a second valve. Except during sampling, the second valve shall be closed.

(VII) Accessible valves in VOC service shall be monitored by leak-checking for fugitive emissions at least quarterly using an approved gas analyzer. For valves equipped with rupture discs, a pressure gauge shall be installed between the relief valve and rupture disc to monitor disc integrity. All leaking discs shall be replaced at the earliest opportunity, but no later than the next process shutdown. Sealless/leakless valves (including, but not limited to, welded bonnet bellows and diaphragm valves) and relief valves equipped with a rupture disc or venting to a control device are exempt from monitoring.

(VIII) Dual pump seals with barrier fluid at higher pressure than process pressure, seals degassing to vent control systems kept in good working order or seals equipped with an automatic seal failure detection and alarm system, submerged pumps, or sealless pumps (including, but not limited to, diaphragm, canned, or magnetic driven pumps) are exempt from monitoring.

(IX) All other pump and compressor seals emitting VOC shall be monitored with an approved gas analyzer at least quarterly.

(X) After completion of the required quarterly inspections for a period of at least two years, the operator of the oil and gas facility may request in writing to the TNRCC, Office of Air Quality, New Source Review Division that the monitoring schedule be revised based on the percent of valves leaking. The percent of valves leaking shall be determined by dividing the sum of valves leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements. This request shall include all data that have been developed to justify the following modifications in the monitoring schedule.

(-a-) After two consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(-b-) After five consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator

may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(XI) A directed maintenance program shall be used and consist of the repair and maintenance of VOC fugitive emission components assisted simultaneously by the use of an approved gas analyzer such that a minimum concentration of leaking VOC is obtained for each component being maintained. Replaced components shall be remonitored within 30 days of being placed back into VOC service.

(iii) For owners and operators who are subject to the applicable parts of subparagraph (A)(xi) of this paragraph, auditory and visual checks for SO₂ and H₂S leaks within the operating area shall be made every day. Immediately, but no later than eight hours upon detection of a leak, operating personnel shall take the following actions:

(I) isolate the leak;
and

(II) commence repair or replacement of the leaking component; or

(III) use a leak collection/containment system to prevent the leak until repair or replacement can be made if immediate repair is not possible.

(D) Approved test methods.

(i) An approved gas analyzer used for the VOC fugitive inspection and repair requirement in subparagraph (C) of this paragraph, shall conform to requirements listed in 40 CFR 60.485(a) and (b).

(ii) Tutweiler analysis or equivalent shall be used to determine the hydrogen sulfide content as required under subparagraphs (A) and (E) of this paragraph.

(iii) Proper operation of any condenser used as a VOC emissions control device to comply with subparagraph (A)(v) of this paragraph shall be tested to demonstrate compliance with the minimum control efficiency. Sampling shall occur within 60 days after start-up of new or modified facilities. The permittee shall contact the Engineering Services Section, Air Quality Enforcement Division 45 days prior to sampling for approval of sampling protocol. The appropriate regional office in the region where the source is located shall also be contacted 45 days prior to sampling to provide them the opportunity to view the sampling. Neither the regional office nor the Engineering Services Section, Air Qual-

ity Enforcement Division personnel are required to view the testing. Sampling reports which comply with the provisions of the TNRCC Sampling Procedure Manual, Chapter 14, shall be distributed to the appropriate regional office, any local programs, and the Engineering Services Section, Air Quality Enforcement Division.

(E) Monitoring and recordkeeping requirements.

(i) If the operator elects to install and maintain ambient H₂S property line monitors to comply with subparagraph (A)(xi) of this paragraph, the monitors shall be approved by the TNRCC Engineering Services Section, Air Quality Enforcement Division office in Austin, and shall be capable of detecting and alarming at H₂S concentrations of ten ppmv. Operations personnel shall perform an initial on-site inspection of the facility within 24 hours of initial alarm and take corrective actions as listed in subparagraph (C)(iii)(I)-(III) of this paragraph within eight hours of detection of a leak.

(ii) The results of the VOC leak detection and repair requirements shall be made available to the executive director, his or her designated representative, or any air pollution control agency having jurisdiction upon request. Records, for all components, shall include:

- (I) appropriate dates;
- (II) test methods;
- (III) instrument readings;
- (IV) repair results; and
- (V) corrective actions.

Records of flange inspections are not required unless a leak is detected.

(iii) Records for repairs and replacements made due to inspections of H₂S and SO₂ components shall be maintained.

(iv) Records shall be kept for each production, processing, and pipeline tank battery or for each storage tank if not located at a tank battery, on a monthly basis, as follows:

(I) tank battery identification or storage tank identification, if not located at a tank battery;

(II) compound stored;

(III) monthly throughput in barrels/month; and

(IV) cumulative annual throughput, barrels/year.

(v) A plan shall be submitted to show how ongoing compliance will be demonstrated for the efficiency requirements listed in subparagraph (B)(i)(IV) of this paragraph. The demonstration may include, but is not limited to, monitoring flowrates, temperatures, or other operating parameters.

(vi) Records shall be kept on at least a monthly basis of all production facility flow rates (in standard cubic feet per day) and total sulfur content of process vents or flares or gas processing streams. Total sulfur shall be calculated in long tons per day.

(vii) Records shall be kept of all ambient property line monitor alarms and shall include the date, time, duration, and cause of alarm, date and time of initial on-site inspection, and date and time of corrective actions taken.

(viii) All required records shall be made available to representatives of the TNRCC, EPA, or local air pollution control agencies upon request and be kept for at least two years. All required records shall be kept at the plant site, unless the plant site is unmanned during business hours. For plant sites ordinarily unmanned during business hours, the records shall be maintained at the nearest office in the state having day-to-day operations control of the plant site.

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 9, 1995.

TRD-9510158 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

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For further information, please call: (512) 239-1966

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

• 34 TAC §3.315

The Comptroller of Public Accounts adopts an amendment to §3.315, concerning motor vehicle parking and storage, without changes to the proposed text as published in the February 24, 1995, issue of the *Texas Register* (20 TexReg 1328).

The amendment occurs in subsection (a) and reflects current comptroller policy on the taxability of charges for parking and storage services of vehicles when the services include transportation charges. Language was added to the amendment in order to provide clarification.

Comments were received suggesting that the amendment be prospective and not retroactive to October 1, 1993, and that we had not given proper notification of the policy change. The change is not retroactive. The policy has been in effect since at least 1992 and is being applied from October 1, 1993, forward.

Another taxpayer commented that the statutory basis for the rule amendment is unclear. Although transportation is not in itself a taxable service, the law defines the sales price of a taxable item as "...the total amount for which a taxable item is sold without a deduction for the cost of... transportation incident to the performance of a taxable service." The definition also provides that the "...total amount for which a taxable item is sold includes a service that is a part of the sale..." §151.007.

Another taxpayer commented that the 5.0% policy should apply to motor vehicle parking and storage services. The 5.0% policy was not included in the rule on motor vehicle parking and storage services because it only applies in situations where nontaxable unrelated services and taxable services are sold for a single charge. The law specifies that transportation incident to the performance of a taxable service is taxable. Because the transportation is not a nontaxable unrelated service, the 5.0% rule would not apply.

This amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 9, 1995.

TRD-9509957
Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: August 30, 1995

Proposal publication date: February 24, 1995

For further information, please call: (512) 463-4028

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part XIII. Texas Commission on Fire Protection

Chapter 421. Standards for Certification

• 37 TAC §421.5

The Texas Commission on Fire Protection adopts an amendment to §421.5, concerning definitions, without changes to the text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3967).

The justification for the section is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the National Fire Academy (resident or field courses).

The amendment to this section deletes the definition of "training points" made obsolete by proposed changes to other chapters that will discontinue the use of training points to determine eligibility for higher levels of certification, effective September 1, 1995.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish standards for advanced fire protection personnel positions.

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 9, 1995.

TRD-9510107
Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 423. Fire Suppression

Subchapter A. Minimum Standards for Structure Fire Protection Personnel Certification

• 37 TAC §§423.3, 423.5, 423.7

The Texas Commission on Fire Protection adopts the repeal of §§423.3, 423.5, and 423.7, concerning minimum standards for intermediate, advanced, and master structure fire protection personnel certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3968).

The justification for repealing the sections and replacing with new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 9, 1995.

TRD-9510108
Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection adopts new §§423.3, 423.5, and 423.7, concerning minimum standards for intermediate, advanced, and master structure fire protection personnel certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3968).

The justification for the new sections and is that higher levels of certification requirements

are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 11, 1995.

TRD-9510253 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Subchapter B. Minimum Standards for Aircraft Crash and Rescue Fire Protection Personnel

- 37 TAC §§423.205, 423.207, 423.209

The Texas Commission on Fire Protection adopts the repeal of §§423.205, 423.207, 423.209, concerning minimum standards for intermediate, advanced and master aircraft rescue and fire protection personnel certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3969).

The justification for repealing the sections and replacing with new sections is that higher levels of certification requirements are streamlined and focused on professional fire

protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.038, which provides the commission with authority to adopt requirements for certification of aircraft rescue and fire protection personnel.

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 10, 1995.

TRD-9510110 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection adopts new §§423.205, 423.207, and 423.209, concerning minimum standards for intermediate, advanced and master aircraft rescue and fire protection personnel certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3970).

The justification for the new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire sci-

ence or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections have a September 1, 1995, effective date.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.038, which provides the commission with authority to adopt requirements for certification of aircraft rescue and fire protection personnel.

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 10, 1995.

TRD-9510109 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Subchapter C. Minimum Standards for Marine Fire Protection Personnel

- 37 TAC §§423.305, 423.307, 423.309

The Texas Commission on Fire Protection adopts new §§423.305, 423.307, and 423.309, concerning minimum standards for intermediate, advanced and master marine fire protection personnel certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3972).

The justification for the new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses

for specific levels. The new sections have a January 1, 1996, effective date.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions; and Texas Government Code, §419.037, which provides the commission with authority to adopt requirements for certification of marine fire protection personnel.

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 10, 1995.

TRD-9510111 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: January 1, 1996

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 429. Minimum Standards for Fire Inspectors

• 37 TAC §§429.5, 429.7, 429.9

The Texas Commission on Fire Protection adopts the repeal of §§429.5, 429.7, and 429.9, concerning standards for intermediate, advanced, and master fire inspector certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3973).

The justification for repealing the sections and replacing with new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish mini-

imum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 10, 1995.

TRD-9510113 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection adopts new §§429.5, 429.7, and 429.9, concerning standards for intermediate, advanced, and master fire inspector certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3973).

The justification for the new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections have a September 1, 1995, effective date.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 10, 1995.

TRD-9510112 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 431. Minimum Standards for Fire and Arson Investigator

• 37 TAC §§431.5, 431.7, 431.9

The Texas Commission on Fire Protection adopts the repeal of §§431.5, 431.7, and 431.9, concerning standards for intermediate, advanced, and master fire and arson investigator certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3974).

The justification for the new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections replacing the repealed sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The repealed sections are replaced by new sections dealing with the same subject matter. The repeals have a September 1, 1995, effective date.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 10, 1995.

TRD-9510115 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

The Texas Commission on Fire Protection adopts new §§431.5, 431.7, and 431.9, concerning standards for intermediate, advanced, and master fire and arson investigator certification, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3975)

The justification for the new sections is that higher levels of certification requirements are streamlined and focused on professional fire protection courses delivered by colleges and the NFA (resident and field courses). In addition, the new sections allow more flexibility in scheduling of courses, particularly for colleges in rural areas of the state that offer courses on a three- or four-year rotation.

The new sections replace repealed sections dealing with the same subject matter. The new sections discontinue the use of training points for determining eligibility for higher levels of certification as well as the balancing of length of experience with the amount of training points, and substitute experience requirements of three, six, and nine years for intermediate, advanced, and master certification levels, respectively. In addition, the new sections permit credit for any college fire science or fire technology course or NFA course, instead of requiring specific courses for specific levels. The new sections will have a September 1, 1995, effective date.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

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 10, 1995.

TRD-9510114 Jack Woods
 General Counsel
 Texas Commission on Fire
 Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 435. Fire Fighter Safety

• 37 TAC §435.3

The Texas Commission on Fire Protection adopts an amendment to §435.3, concerning self-contained breathing apparatus, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3976).

The justification for the amendment is that the risk of contaminants in breathing air is increased where a storage system is used. Therefore, testing of breathing air before it enters the storage system and at the orifice where SCBA cylinders are filled will enhance the safety of those who rely on SCBA and minimize the liability of departments that employ firefighters.

The amendment requires a vendor that is providing compressed breathing air to a fire department to provide certification of compressed breathing air testing, whether the SCBA cylinder is supplied by the department or the vendor or a larger cylinder is filled for use in a cascade or storage system.

One commenter opposed the amendment for the reason that it requires more testing for a department that acquires vendor supplied air than a department that compresses its own breathing air. The commission disagreed with the commenter for the reason that the risk of contaminants is increased with the use of storage systems and that breathing air may not always be acquired from the same vendor.

Other commenters spoke in favor of the amendment citing the increased level of protection and minimizing liability of the fire department, and examples of problems some departments had encountered with contamination with water introduced into a cascade system by a large cylinder after the regular semi-annual test of air from the cylinder that caused SCBA cylinders to "freeze up" at a fire incident. In addition, another commenter noted the risk of particulate contamination including rust from the interior of a cylinder.

A representative of the Commerce Fire Department submitted comments against the amendment.

Commenters in favor of the rule amendment included representatives of the Texas Fire Chief's Association, the Killeen Fire Department, and International Personnel Protection, Inc.

The amendment is adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and Texas Government Code, §419.041, which provides the commission with authority to adopt standards for self-contained breathing apparatus.

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 10, 1995.

TRD-9510116 Jack Woods
 General Counsel
 Texas Commission on Fire
 Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 439. Examinations for Certification

• 37 TAC §§439.5, 439.7, 439.9

The Texas Commission on Fire Protection adopts amendments to §§439.5, 439.7, and 439.9, concerning examinations for fire protection personnel certification definitions, procedures, and eligibility, without changes to the proposed text as published in the May 30, 1995, issue of the *Texas Register* (20 TexReg 3977)

The justification for this section is that the changes clarify the respective roles of approved training facilities and commission staff regarding determination of eligibility for examinations and promote uniformity in applying examination standards.

The changes to §439.5 add a new definition of "certificate of completion" furnished by the provider of training and modify the definition of "endorsement of eligibility" to be issued only by commission staff. The changes to §439.7 pertain to course approvals and certificates of completion. The changes to §439.9 require a certificate of completion in order to qualify for an examination, and reiterate that commission staff determine eligibility for an examination.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.032(b), concerning basic certification examinations.

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 10, 1995.

TRD-9510117 Jack Woods
 General Counsel
 Texas Commission on Fire
 Protection

Effective date: September 1, 1995

Proposal publication date: May 30, 1995

For further information, please call: (512) 918-7184

Chapter 463. Application Criteria

• 37 TAC §463.1, §463.4

The Texas Commission on Fire Protection adopts amendments to §463.1 and §463.4, concerning the application process and competitive needs criteria for the Fire Department Emergency Program, without changes to the proposed text as published in the May 16, 1995, issue of the *Texas Register* (20 TexReg 3651).

The justification for adopting the amended sections is that competitive needs criteria that

were deemed obsolete were replaced with more pertinent and relevant criteria.

The amendment to §463.1 changes the deadline for submitting applications from 45 days prior to the Funds Allocation Advisory Committee meeting to 30 days prior thereto. The amendment to §463.4 concerning competitive needs criteria substitutes average weekly wage for per capita and family income and deletes key insurance rates, tax burden data and population density from the list of criteria. The ratio of fire responses to fire apparatus was substituted for the ratio of physical resources to fire responses to give a more meaningful comparison. In addition, separate criteria for applications from incorporated areas and applications from rural and unincorporated areas were consolidated with other criteria. Finally, the comparison of the amount of approved protective clothing with the number of personnel and fire responses was added.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Government Code, §§419.051-419.064, which provides the Texas Commission on Fire Protection with the authority to establish rules for the administration of Texas Government Code, §§419.051-419.064 for the Fire Department Emergency Program.

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 9, 1995.

TRD-9510106 Jack Woods
General Counsel
Texas Commission on Fire
Protection

Effective date: September 1, 1995

Proposal publication date: May 16, 1995

For further information, please call: (512) 918-7184

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XII. Texas Board of Occupational Therapy Examiners

Chapter 365. Types of Licenses

• 40 TAC §365.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §365.1, concerning Types of Licenses, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3565).

This amended section is being adopted to limit the duration of a temporary license granted to a foreign-trained licensee.

This amended section limits the duration of a temporary license issued to an applicant trained outside the United States or its territory, the same length of time one is issued to an applicant trained in the United States or its territory.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 10, 1995.

TRD-9510099 John P. Mallne
Executive Director
Texas Board of
Occupational Therapy
Examiners

Effective date: August 31, 1995

Proposal publication date: May 12, 1995

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

Chapter 372. Referral

• 40 TAC §372.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §372.1, concerning Referral, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3566).

This amended section is being adopted to clarify and strengthen the requirement for written orders to verify referrals.

This amended section specifies an oral referral for direct treatment must be followed by a written referral signed by the referring physician.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 10, 1995.

TRD-9510100 John P. Mallne
Executive Director
Texas Board of
Occupational Therapy
Examiners

Effective date: August 31, 1995

Proposal publication date: May 12, 1995

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

Chapter 373. Supervision

• 40 TAC §373.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §373.1, concerning Supervision, with typographical changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3566).

This amended section is being adopted to establish a new form and procedure for OTAs and COTAs to follow to maintain records of professional supervision.

This amended section requires documentation of supervision of COTAs and OTAs on a "COTA/OTA Supervision Log" prescribed by the board. It also requires retention of the original logs by COTAs and OTAs, with copies of the logs to be maintained by the licensees' employers.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

§373.1. Supervision.

(a) Supervision of COTAs.

(1) (No change.)

(2) A COTA shall provide occupational therapy services only under the general supervision of a licensed OTR.

(A) A minimum of eight hours of supervision per month for full time COTAs must be documented on a "COTA/OTA Supervision Log" prescribed by the board. COTAs employed part time shall prorate the required supervision. (If the COTA is employed less than 20 hours per month, a minimum of four hours of supervision is required.) The "COTA/OTA Supervision Log" must be kept by the COTA, and a copy of this form must be maintained by the facility where the COTA provides services.

(B)-(C) (No change.)

(3)-(9) (No change.)

(b) (No change.)

(c) Supervision of an occupational therapist or an occupational therapy assistant with a temporary license:

(1) Temporary License Pending Passage of Certification Examination:

(A) (No change.)

(B) A minimum of 16 hours of supervision per month for full time OTAs must be documented on a "COTA/OTA Supervision Log" prescribed by the board. OTAs employed part time shall prorate the required supervision. (If the OTA is employed less than 20 hours per month, a minimum of four hours of supervision is required.) The "COTA/OTA Supervision Log" must be kept by the OTA, and a copy of this form must be maintained by the facility where the OTA provides services.

(C)-(F) (No change.)

(2) (No change.)

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 10, 1995.

TRD-9510101 John P. Mallne
Executive Director
Texas Board of
Occupational Therapy
Examiners

Effective date: August 31, 1995

Proposal publication date: May 12, 1995

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



Chapter 374. Disciplinary Actions/Complaints

• 40 TAC §374.1

The Texas Board of Occupational Therapy Examiners adopts an amendment to §374.1, concerning Disciplinary Actions, without changes to the proposed text as published in the May 12, 1995, issue of the *Texas Register* (20 TexReg 3567).

This amended title is being adopted to clarify the subject of the rule, and this amended section is being adopted to establish requirements for reinstatement of a license after a probationary period.

This amended title accurately reflects the chapter contents. This amended section specifies a licensee will have his or her license reinstated after a period of suspension once all licensing requirements have been met.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 10, 1995.

TRD-9510102 John P. Mallne
Executive Director
Texas Board of
Occupational Therapy
Examiners

Effective date: August 31, 1995

Proposal publication date: May 12, 1995

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



Chapter 376. Registration of Facilities

• 40 TAC §376.5, §376.8

The Texas Board of Occupational Therapy Examiners adopts the amendments to §376.5, concerning Exemptions to Registration, and §376.8, concerning Restoration of Registration, without changes to the proposed text as published in the May 26, 1995, issue of the *Texas Register* (20 TexReg 3889).

The amended sections are being adopted to establish conditions under which the board will waive registration fees, and requirement for reinstatement of a facility registration after it has expired.

The amended sections allow the facility registration fees to be waived for qualifying facilities which offer occupational therapy services. They also specify how the restoration of registration fees will be calculated for facilities which have allowed facility registration to expire.

No comments were received regarding adoption of the amendments.

The amendments are adopted 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.

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 10, 1995.

TRD-9510103 John P. Mallne
Executive Director
Texas Board of
Occupational Therapy
Examiners

Effective date: August 31, 1995

Proposal publication date: May 28, 1995

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



Texas Department of Insurance Exempt Filing

Exempt Filing Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L, Article 5.96

(Editor's Note: As required by the Insurance Code, Articles 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be

published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The Commissioner of Insurance, at a public hearing held on August 4, 1995, at 9:00 a.m., under Docket Number 2152, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted amendments to Texas Homeowner's Policy forms and endorsements and amendments to rules in the Homeowner's Section of the Texas Personal Lines Manual. The amendments were proposed by the Texas Association of Insurance Agents (TAIA) in a petition filed on February 7, 1995, and

amended on April 11, 1995. The TAIA petition requested consideration of twelve proposals to change the Texas Homeowner's Policy forms and Manual rules, including six proposals for additional coverages and six proposals for clarification of existing forms and rules. Only those proposals for clarification of existing forms and rules were considered and adopted by the Commissioner. Notice of the proposed changes (Reference Number P-0295-3) were published in the June 27, 1995, issue of the *Texas Register* (20 TexReg 4623). The hearing was initially scheduled for August 2, 1995, and was re-scheduled to August 4, 1995 (20 TexReg 5314, July 18, 1995). The adopted

proposals are contained in Item Numbers 1, 4, 6, 8, 11, and 12 of the TAIA petition and are adopted without changes to the proposals as published.

The Commissioner has determined that the adopted amendments are necessary to clarify existing forms and rules. The amendments as adopted by the Commissioner are:

Item 1. Amendment to the Special Limits of Liability provision #4 relating to business personal property in the Coverage B (Personal Property) subsection of Section I-Property Coverage in all homeowner's policy forms to delete the words "or farm and ranch property." The Commissioner has determined that this change is necessary to clarify that all property insured under a homeowner's policy (HO-A, HO-B, HO-C, HO-BT, HO-CT, HO-CON-B, and HO-CON-C), including farm and ranch related property, is covered up to the policy limit of liability unless such property is used for business purposes. Amendatory Endorsement Number HO-147 is adopted to implement this change.

Item 4. Amendment to paragraph 2-a in the Coverage A (Dwelling) subsection of Section I-Property Coverage of HO-A, HO-B, and HO-C policy forms to delete the references to "commercial, manufacturing or farming" and to substitute the term "business." The Commissioner has determined that this change is needed to clarify the types of other structures located on the residence premises that are excluded from the ten percent of the Coverage A (Dwelling) limit of liability that is provided in the HO-A, HO-B, and HO-C policy forms. The lack of a definition in the policy for the terms "commercial, manufacturing or farming" has resulted in confusion and different interpretations among insurers. The term "business" is defined in the homeowner's policy forms and includes "trade, profession, or occupation." The substitution of the term "business" in lieu of the terms "commercial, manufacturing, or farming" will clarify that any other structures used for business purposes of any type are excluded from the ten percent of the Coverage A (Dwelling) limit of liability that is provided in the HO-A, HO-B, and HO-C policy forms. Amendatory Endorsement Number HO-146 is adopted to implement this change.

Item 6. Amendment of the definition of the term "residence premises" in the Definitions section of homeowner's policies HO-A, HO-B, HO-C, HO-BT, HO-CT, HO-CON-B, and HO-CON-C to delete the reference to "where you reside or intend to reside" and to substitute "where an insured resides or intends to reside"; amendment to paragraph 1 in the Coverage A (Dwelling) subsection of Section I-Property Coverage of HO-A, HO-B, and HO-C policy forms to delete subparagraphs 1-a and 1-b to eliminate redundancy of the proposed definition of "residence premises" in the policy form; and amendment to endorsement HO-305 in the replacement definition of "residence premises" to delete the reference to "where you reside or intend to reside" and to substitute "where an insured resides or intends to reside" and to delete the reference to paragraph 1-b of the Coverage A (Dwelling) subsection of Section I-Property Coverage of HO-A, HO-B, and HO-C policy forms.

The Commissioner has determined that these amendments are necessary to eliminate any conflict between the definition of "residence premises" in the policy forms and endorsement and the coverage provided to the residence premises under Coverage A (Dwelling) in the policy coverage forms. Without these changes coverage could be denied if the named insured is not actually occupying the dwelling at the time of loss. The adopted amendments remove any question that coverage applies to a dwelling if occupied by a person that is included within the definition of the term "insured" and Endorsement Number HO-301 is attached. Amendatory Endorsements Numbers HO-145 and HO-146 are adopted to implement these changes.

Item 8. Amendment to paragraph 1 in Coverage C (Personal Liability) subsection of Section II-Liability Coverage of all homeowner's policy forms to add language to provide that "Damages include pre-judgment interest awarded against the insured." The Commissioner has determined that this language is necessary to clarify that liability damages paid under the Texas Homeowner's Policy include pre-judgment interest. Amendatory Endorsement Number HO-231 is adopted to implement this change.

Item 11. Amendment to the Additional Insured Endorsement Number HO-301 to delete the language "a resident of your household" in the Occupant-Section II Liability portion of the endorsement and to substitute the language "an occupant of the residence premises." The Commissioner has determined that this change is necessary to ensure that Section II-Liability Coverage is provided under this endorsement to an additional insured who occupies the insured dwelling, whether or not the dwelling owner resides at the residence premises.

Item 12. Amendment to Texas Personal Lines Manual Rule II.A. to add the words "grandparent or grandchild" to the provision on the application of "Owner occupancy" and amendment to Manual Rule II.E.1. to include "grandparent or grandchild" among the additional insureds, along with "mother, father, son, or daughter or any combination thereof, of the owner of the property," who may be covered under Endorsement Number HO-301. The Commissioner has determined that these amendments are necessary to permit coverage under a homeowner's insurance policy if the owner's grandparent or grandchild resides on the residence premises.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 535, 5.101, and 5.96.

The amendments as adopted by the Commissioner of Insurance are on file in the Chief Clerk's Office of the Texas Department of Insurance under Reference Number P-0295-3 and are incorporated by reference by Commissioner Order Number 95-0792.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under Article 5.96 from the requirements of the Administrative Procedure Act (73rd Legislature, Regular Session, Chapter 268, §1, 1993 Texas General Laws

737 (codified at Government Code, title 10, Chapter 2001)).

Consistent with the Insurance Code, Article 5.96(h), prior to October 1, 1995, the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that the amendments to the policy forms, endorsements, and Texas Personal Lines Manual rules for homeowner's insurance, and the amendatory endorsements to implement these amendments, as specified herein, which are attached to this Order and incorporated into this Order by reference, are adopted to become effective on all applicable policies issued on and after October 1, 1995.

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 11, 1995.

TRD-9510224

Alicia M. Fechtel
General Counsel and Chief
Clerk
Texas Department of
Insurance

Effective date: October 1, 1995

Proposal publication date: June 27, 1995

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

◆ ◆ ◆
The Commissioner of Insurance, at a public hearing under Document Number 2156 held at 1:30 p.m., August 8, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted a forms filing by the Texas Alcoholic Beverage Commission (TABC) for a new surety bond form entitled "Conduct Surety Bond" (Bond). The Bond is a requirement of the Alcoholic Beverage Code (Code), Texas Civil Statutes, §11.11 and §61.13, as amended by House Bill 984, acts of the 74th Legislature, Regular Session 1995. The forms were filed in the Chief Clerk's Office on July 12, 1995.

The Bond is conditioned on the applicant or holder of a license or permit conforming with the Alcoholic Beverage Code and any rules of the Commission. The amount of the penalty on the Bond is \$5,000 but if the place of business is within 1,000 feet of the property line of a public school the penalty increases to \$10,000. The Bond may be canceled by the surety by giving 30 days written notice, however, the surety remains liable under the Bond for the period of time the Bond was in force. Under certain circumstances set out in subsection (e) of §11.11 and §61.13, a person who holds a permit or license may be exempt from the Bond requirement.

The full text of the surety bond form filing (Reference Number 0-0795-17), was published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5370 and 20 TexReg 5431).

The Texas Department of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15, and 5.97.

The full text of the new Conduct Surety Bond form as adopted by the Texas Department of Insurance is filed with the Chief Clerk under (Reference Number 0-0795-17) and is incorporated by reference by Commissioner Order Number 95-0796.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure Act.

The Texas Department of Insurance hereby certifies that the adopted form filing referenced herein has been reviewed by legal counsel and found to be within this agency's authority to adopt.

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 11, 1995.

TRD-9510225 Alicia M. Fachtel
 General Counsel and Chief
 Clerk
 Texas Department of
 Insurance

Effective date: September 2, 1995

Proposal publication date: July 21, 1995

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



The Commissioner of Insurance at a public hearing under Docket Number 2157 held at 1 30 p.m., August 8, 1995, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, adopted a forms filing by the Texas Department of Insurance (Department) for two revised surety bond forms entitled "Texas Title Agent's/Direct Operation's Bond" and "Texas Escrow Officers Schedule Bond". The bonds are a requirement of Article 9.38 and Article 9.45 respectively of the Texas Insurance Code. The forms were filed in the Chief Clerk's Office on July 12, 1995.

The Texas Insurance Code, Article 1 01, as amended by acts of the 72nd Legislature, in part created the Texas Department of Insurance. The bond forms have been revised to change the name of the obligee from the State Board of Insurance to the Texas Department of Insurance and to change "KNOW ALL MEN BY THESE PRESENTS" to "KNOW ALL PERSONS BY THESE PRESENTS".

The full text of the surety bond form filing (Reference Number 0-0795-18-1), was published in the July 21, 1995, issue of the *Texas Register* (20 TexReg 5371 and 20 TexReg 5432).

The Texas Department of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15, and 5.97.

The full text of the surety bond forms entitled "Texas Title Insurance Agent's/Direct Operation's Bond" and "Texas Escrow Officers Schedule Bond", as adopted by the Texas Department of Insurance is filed with the Chief Clerk under (Reference Number 0-0795-18-1) and is incorporated by reference by Commissioner Order Number 95-0795.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure 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 11, 1995

TRD-9510226 Alicia M. Fachtel
 General Counsel and Chief
 Clerk
 Texas Department of
 Insurance

Effective date: September 2, 1995

Proposal publication date: July 21, 1995

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



● 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.

Figure 1: 16 TAC §33.23(a)

| Liquor Permits | A11 |
|--|---------|
| Agent's Permit | \$ 9.00 |
| Airline Beverage Permit | \$18.00 |
| Beverage Cartage Permit | \$14.00 |
| Bonded Warehouse Permit | \$ 6.00 |
| Bonded Warehouse Permit (Dry Area) | \$ 6.00 |
| Brewer's Permit | \$37.00 |
| Brewpub License | \$14.00 |
| Carrier's Permit | \$13.00 |
| Caterer's Permit | \$10.00 |
| Daily Temporary Mixed Beverage Permit (Per Day) | \$14.00 |
| Daily Temporary Private Club Registration Permit | \$14.00 |
| Distiller's & Rectifier's Permit | \$13.00 |
| Industrial Permit | \$22.00 |
| Local Cartage Permit | \$ 9.00 |
| Local Distributor's Permit | \$10.00 |
| Local Industrial Alcohol Manufacturer's Permit | \$12.00 |
| Manufacturer's Agent's Permit | \$ 9.00 |
| Market Research Packager's Permit | \$ 7.00 |
| Medicinal Permit | -0- |
| Minibar Permit | \$18.00 |
| Mixed Beverage Permit | \$20.00 |
| Mixed Beverage Late Hours Permit | \$16.00 |
| Non Resident Brewer's Permit | \$ 7.00 |
| Non Resident Seller's Permit | \$14.00 |
| Package Store Permit | \$10.00 |
| Package Store Tasting Permit | \$ 4.00 |
| Wine Only Package Store Permit | \$10.00 |
| Passenger Train Beverage Permit | \$16.00 |
| Physician's Permit | -0- |
| Private Carrier's Permit | \$12.00 |
| Private Club Exemption Certificate Permit | -0- |
| Private Club Registration Permit | \$26.00 |
| Private Club Beer and Wine Permit | \$18.00 |
| Private Club Late Hours Permit | \$16.00 |
| Private Storage Permit | \$ 4.00 |
| Public Storage Permit | \$ 4.00 |
| Wholesaler's Permit | \$29.00 |
| General Class B Wholesaler's Permit | \$29.00 |
| Local Class B Wholesaler's Permit | \$29.00 |
| Wine and Beer Retailer's Permit Railway Car | \$12.00 |
| Wine and Beer Retailer's Permit Excursion Boat | \$12.00 |
| Wine Bottler's Permit | \$29.00 |

Figure 1: 16 TAC §33.23(a) cont.

| | |
|---|---------|
| Winery Permit | \$39.00 |
| Winery Storage Permit | \$ 8.00 |
| Beer Licenses | |
| Agent's Beer License | \$ 9.00 |
| Branch Distributor's License | \$29.00 |
| General Distributor's License | \$29.00 |
| Importer's License | \$21.00 |
| Importer's Carrier's License | \$ 8.00 |
| Local Distributor's License | \$24.00 |
| Manufacturer's License | \$37.00 |
| Manufacturer's Warehouse License | \$26.00 |
| Non Resident Manufacturer's License | \$14.00 |
| Beer Retailer's Off Premise License | \$10.00 |
| Beer Retailer's On Premise License | \$10.00 |
| Retail Dealer's On Premise Late Hours License | \$10.00 |
| Temporary License | \$ 9.00 |
| Wine and Beer Retailer's Permit | \$10.00 |
| Wine and Beer Retailer's Off Premise Permit | \$10.00 |

YOUR RIGHTS IN THE TEXAS WORKERS' COMPENSATION SYSTEM

1. You have the right to receive benefits.

You may receive benefits regardless of who caused or helped cause your injury. You may not receive benefits if you injured yourself intentionally or if your injury occurred during horseplay.

2. You have the right to receive the medical care necessary to treat your work-related injury or illness for the rest of your life.

3. You have the right to choose your own doctor.

You may not change doctors except with the approval of the Commission. You do not need to get approval to go to a different doctor for emergency treatment, if you or your doctor moves or if your doctor is unable to continue treating you.

4. You have the right to hire an attorney to help you get benefits or to help you resolve disputes.

5. You have the right to receive assistance from Commission staff and/or a Commission ombudsman.

You have the right to receive information and assistance regarding your claim. Commission staff will explain your rights and responsibilities under the Texas Workers' Compensation Act. Additionally, you have the right to be assisted by a Commission ombudsman in informal dispute resolutions and in administrative proceedings if you are not represented. However, an ombudsman cannot serve as a legal representative or attorney for you.

6. You have the right to privacy.

Only people who need to know - like your doctor, your employer or your employer's insurance company - may see information in the commission's files. A prospective employer may get limited information from the commission about your claims. If you wish someone who is assisting you to have access to your file, you must provide written approval for them to do so.

YOUR RESPONSIBILITIES UNDER THE TEXAS WORKERS' COMPENSATION SYSTEM

1. Tell your employer about your injury or illness.

You must tell your employer *within 30 days* of the date you were injured, or *within 30 days* of the date you first knew you had a work-related illness. You, or someone helping you, may either talk with or write your employer or any supervisor where you work.

If you do not tell your employer within 30 days, you could lose your right to get benefits.

2. Fill out a claim form and send it to the Commission.

You must send a completed claim form, called a TWCC-41, to the Commission *within one year* of the date you were injured, or *within one year* of the date you first knew you had a work-related illness.

Send the completed claim form to the Commission even if you are already getting benefits.

If you do not send the form within one year, you could lose your right to get benefits. For a copy of the form, call the field office handling your claim, or call 1-800-252-7031.

3. Tell the Commission or the insurance company any time your income changes.

If you are NOT getting benefits and you have changed employers since your injury, tell the Commission if your injury causes you to miss work or lose income. Call 1-800-252-7031.

If you ARE getting benefits and you have changed employers since your injury, tell the insurance company paying your benefits if your income changes. Tell the insurance company regardless of whether your income went up or down.

Texas Workers' Compensation Commission 28 TAC §120.2(e) Figure 1 continued:

If you have stopped working since your injury, tell the insurance company if you start working again or if you have a job offer.

4. *Tell your doctor you were injured at work.*

If possible, tell the doctor before the doctor treats you.

5. You should contact the commission if your home address, work address, or phone number change, so the commission will be able to contact you when necessary.

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Tuesday, August 22, 1995, 11:30 a.m.

Joe Cotton's B'B'Que, Highway 77

Robstown

Zone Two Pest Management Committee

AGENDA:

Introduction, approval of minutes of June 1, 1995 meeting, introduction of key personnel and Texas Department of Agriculture staff, discussion and possible action on law and regulation changes for 1995, Texas Department of Agriculture Program for 1995, committee member area reports, extension reports, Consolidated Farm Service Agency report, discussion of additional business before the committee, discussion and possible action on committee recommendations for program improvement.

Contact: Jon Sunday, 2800 South Padre Island Drive, Corpus Christi, Texas 78412, (512) 851-2745.

Filed: August 14, 1995, 3:46 p.m.

TRD-9510279

Tuesday-Wednesday, August 22-23, 1995, 1:00 p.m. and 8:00 a.m., respectively.

Ambassador Hotel, 3100 IH-40 West

Amarillo

Texas Wheat Producers Board

AGENDA:

Action: Call meeting to order; financial reports; audit report; minutes of last meeting; year-to-date financial report.

Report: Producer funded research projects; year-to-date collections; Texas Department of Agriculture representative; TDA Producer Advisory Committee meeting; NAWG Executive Committee; Lebanese Wheat Trade Team; Stramit opening; Vocational Agriculture Teachers Association meeting; TDA/TADA briefing; Texas Co-Agricultural Agents Association meeting; other board members reports and new business. Past quarter and future activities.

Report and action: Seed Trade meeting; USW Board of Directors meeting; NAWG Summer Leadership Conference.

Discussion and action: Integrated pest management/wheat pasture grazing demonstration.

Contact: Bill Nelson, 2201 Civic Circle, Amarillo, Texas 79109, (806) 352-2191.

Filed: August 14, 1995, 3:02 p.m.

TRD-9510277



Texas Commission on the Arts

Thursday, September 7, 1995, 9:00 a.m.

Embassy Suites Hotel, 1800 South Second Street

McAllen

Administrative Committee Meeting

AGENDA:

I. Call to order

II. Public hearing

III. Approval of minutes of the June 2, 1995 Administrative Committee meeting

IV. Policy recommendations

A. Application social security requirement

B. Operating grant floor

C. Touring program revision

D. Other business

V. Alamo Rent A Car update

VI. "State of the Arts" license plate update

A. Sales and marketing report

B. Marketing strategies

C. Other business

VII. Legislative outcomes

VIII. Other business

IX. Adjournment

Contact: Deborah Cole, P.O. Box 13406, Austin, Texas 78711-3406, (512) 463-5535.

Filed: August 14, 1995, 8:28 a.m.

TRD-9510235

Friday, September 8, 1995, 9:00 a.m.

Embassy Suites Hotel, 1800 South Second Street

McAllen

Commission Meeting

AGENDA:

I. Call to order

II. Public hearing

III. Items for commission consent

A. Approval of minutes for June 2, 1995 commission meeting

B. Administrative Committee report

C. Revised applications

D. Financial statement fiscal year 1995

E. Resolutions

F. Other business

IV. Items for information only

A. Committee appointments for fiscal year 1996

B. National Endowment for the Arts update

C. Arts in Education Conference report

D. TCANET update

E. County Arts Expansion Program update

F. Dance Task Force update

G. Panelist projections

H. Meeting schedule

I. Commission and staff rosters

J. Other business

V. Executive session

VI. Adjournment

Contact: Deborah Cole, P.O. Box 13406, Austin, Texas 78711-3406, (512) 463-5535.

Filed: August 14, 1995, 8:28 a.m.

TRD-9510238

State Banking Board

Tuesday, August 22, 1995, 10:00 a.m.

2601 North Lamar Boulevard

Austin

AGENDA:

Review and approval of minutes of previous meeting; consideration of conversion application for the Farmers and Merchants National Bank, Mart, Texas, and related reso-

lutions; consideration of interim charter applications; consideration of trust company charter application for Smith Barney Private Trust Company of Texas, Dallas, and related resolutions; consideration of approved charter application for First State Bank, Brazoria, Texas, and related resolutions; consideration of applications approved by not consummated and resolution of the State Banking Board; general discussion of limited banking associations; and the board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of the Texas Banking Code.

Contact: Lynda A. Drake, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: August 11, 1995, 10:48 a.m.

TRD-9510138

Conservatorship Board

Tuesday, August 15, 1995, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Meeting

AGENDA:

Call to order; approval of August 8, 1995 minutes; action on personnel policies and procedures; 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 11, 1995, 9:17 a.m.

TRD-9510125

Tuesday, August 15, 1995, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Emergency Revised Agenda

AGENDA:

Executive session to discuss personnel matters.

Reason for emergency: Necessary for Conservatorship Board to meet in order to meet statutory mandate.

Contact: Tom Mann, 710 Brazos, Austin, Texas 78701, (512) 867-8809.

Filed: August 11, 1995, 3:16 p.m.

TRD-9510179

Employees Retirement System of Texas

Wednesday, August 23, 1995, 11:00 a.m.

ERS Auditorium-ERS Building, 18th and Brazos

Austin

ERS Audit Committee

AGENDA:

1. Proposed fiscal year 1996 ERS internal audit plan

2. Status reports on audit activities

a. Fiscal year 1995 internal audit plan

b. Internal audit recommendations from prior fiscal years

c. State auditor recommendations from prior fiscal years

3. Future meeting date

4. Adjournment

Contact: William S. Nail, 18th and Brazos, Austin, Texas 78701, (512) 867-3336.

Filed: August 15, 1995, 8:50 a.m.

TRD-9510286

Wednesday, August 23, 1995, 1:30 p.m., Meeting will reconvene on Thursday, August 24, 1995, 9:00 a.m.

ERS Auditorium-ERS Building, 18th and Brazos

Austin

ERS Board of Trustees

AGENDA:

Approval of minutes; investment of the system's assets; fiscal year 1996 internal audit plan; transfer approvals from interest account to employees saving/retirement annuity reserve/stat accumulation accounts; proposed amendments to 34 TAC §87.7 and §87.21 relating to the Deferred Compensation Plan; proposed ERS operating budget for fiscal year ending August 31, 1996; appeals of contested cases; ERS Board of Trustees Chairman/Vice-Chairman election; next trustee meeting date; adjournment

Contact: William S. Nail, 18th and Brazos, Austin, Texas 78701, (512) 867-3336.

Filed: August 15, 1995, 8:50 a.m.

TRD-9510285

Texas Employment Commission

Tuesday, August 22, 1995, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Dockets 34 and 34A; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: August 14, 1995, 4:09 p.m.

TRD-9510283

◆ ◆ ◆
General Services Commission

Monday, August 21, 1995, 2:00 p.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

AGENDA:

1) Approval of minutes of December 14, 1994 meeting; 2) Consideration of having staff review library records storage and microfilming, as mandated by Senate Bill 366 of the 74th Regular Legislature; 3) Consideration of authorizing staff to engage technical consultants to assist staff in reviewing certain Health and Human Services programs to help the needy become self-dependent, as mandated by House Bill 1863 and Senate Bill 1675 of the 74th Regular Legislature; 4) Public comment; 5) Set date and time for next meeting.

Contact: David Ross Brown, 1711 San Jacinto, Austin, Texas 78701, (512) 475-2400.

Filed: August 11, 1995, 3:16 p.m.

TRD-9510178

Tuesday, August 22, 1995, 9:30 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 118

Austin

AGENDA:

1) Approval of 1996 fiscal year operating budget; 2) Consideration of proposed amendment to §118.7(c) relating to burial in the State Cemetery; 3) Consideration of delegation of authority to an acting executive director; 4) Approval of fiscal year 1996 Internal Audit Work Plan; 5) Consideration of request for financing of construction of a laboratory/office building for the Texas Department of Health located in Austin, Texas; 6) Consideration of request for financing of a construction project in Travis County; 7) Consideration of resolution to transfer real property to Texas Department of Mental Health and Mental Retardation; 8) Monthly program issues report; 9) Work

session on proposed rules 111.11-111.23 relating to historically underutilized businesses; executive session to consider personnel matters; executive session to consider the status of the purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b; executive session to receive a report from counsel concerning the status of pending litigation.

Contact: Davis R. Brown, 1711 San Jacinto, Austin, Texas 78701, (512) 475-2400.

Filed: August 11, 1995, 2:43 p.m.

TRD-9510162

Tuesday, August 22, 1995, 9:30 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 118

Austin

Revised Agenda

AGENDA:

1) Approval of 1996 fiscal year operating budget; 2) Consideration of proposed amendment to §115.7(c) relating to burial in the State Cemetery; 3) Consideration of delegation of authority to an acting executive director; 4) Approval of fiscal year 1996 Internal Audit Work Plan; 5) Consideration of request for financing of construction of a laboratory/office building for the Texas Department of Health located in Austin, Texas; 6) Consideration of request for financing of a construction project in Travis County; 7) Consideration of resolution to transfer real property to Texas Department of Mental Health and Mental Retardation; 8) Monthly program issues report; 9) Work session on proposed rules 111.11-111.23 relating to Historically Underutilized Businesses; executive session to consider personnel matters; executive session to consider the status of the purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b; executive session to receive a report from counsel concerning the status of pending litigation.

Contact: Davis R. Brown, 1711 San Jacinto, Austin, Texas 78701, (512) 475-2400.

Filed: August 14, 1995, 9:20 a.m.

TRD-9510240

◆ ◆ ◆
Texas Department of Health

Tuesday, August 22, 1995, 9:30 a.m.

Room M-618, Texas Department of Health, 1100 West 49th Street

Austin

Midwifery Board, Grievance Committee

AGENDA:

The committee will meet to discuss and possibly act on: approval of the minutes

from the May 16, 1995 meeting; new business (hearing complaints); ethics; amendment to 25 Texas Administrative Code, §37.178 regarding complaint procedures; and an open forum.

Contact: Cecilia Nobles, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. 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 10, 1995, 11:30 a.m.

TRD-9510015

◆ ◆ ◆
Texas Higher Education Coordinating Board

Thursday, August 31, 1995, 10:00 a.m.

Chevy Chase Office Complex, Building Five, Room 5.139, 7745 Chevy Chase Drive

Austin

Family Practice Residency Advisory Committee

AGENDA:

Review the Pilot Project proposals and formulate a recommendation for the Coordinating Board's consideration.

Contact: Stacey Silverman, P.O. Box 12788, Austin, Texas 78711, (512) 483-6206.

Filed: August 14, 1995, 2:15 p.m.

TRD-9510273

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Saturday, August 19, 1995, 9:00 a.m.

8212 Barton Club Drive, Barton Creek Conference and Resort Center, Travis Room

Austin

Board Meeting

AGENDA:

The board will meet to consider and possibly act on the following: Current status of 1994-1995 budget; budget presentations for 1995-1996; reports on: accounting operations; administration; board; CDBG; chief financial officer/deputy chief financial officer; community affairs; community services; compliance and monitoring; credit underwriting; data services; energy assistance; executive; financial services; government/public affairs; HOME/HOPE Program; housing programs/housing finance;

Housing Resource Center; Housing Trust Fund/Section Eight; internal audit; legal; loan administration; local government; low income housing tax credits/multi-family; manufactured housing; single family; analysis of programs; homeless census; banks outside of the US; new program initiatives; vision direction, goals and objectives of board; executive session on personnel matters regarding duties and responsibilities in relationship to budget under §551.074 and consultation with attorney under §551.071(2); action in open session on items discussed in executive session. Ad-journ.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 11, 1995, 4:39 p.m.

TRD-9510232

Sunday, August 20, 1995, 9:00 a.m.

8212 Barton Club Drive, Barton Creek Conference and Resort Center, Houston Room

Austin

Finance Committee Meeting

AGENDA:

The Finance Committee will meet to consider and possibly act on the following: Action on approval of budget for 1995-1996; executive session on personnel matters regarding duties and responsibilities in relationship to budget under §551.074 and consultation with attorney under §551.071(2); action in open session on items discussed in executive session; and adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: August 14, 1995, 8:00 a.m.

TRD-9510234

◆ ◆ ◆
Texas Department of Insurance

Thursday, August 31, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0721.E

To consider a request by American Security Insurance Company for an appeal hearing regarding rejection of their interruption of income rate and form filing (continued from August 8, 1995).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 15, 1995, 9:12 a.m.

TRD-9510287

Thursday, August 31, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0833.C

To consider whether disciplinary action should be taken against Paul R. Tubbs, Houston, Texas, who holds a Managing General Agent's License and a Surplus Lines Insurance Agent's License issued by the Texas Department of Insurance (continued from August 1, 1995).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 15, 1995, 9:12 a.m.

TRD-9510288

Friday, September 1, 1995, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0905.C

To consider the application of John Richard Weber, The Woodlands, and Houston, Texas, for a Solicitor's License to be issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: August 15, 1995, 9:12 a.m.

TRD-9510289

◆ ◆ ◆
Texas State Board of Medical Examiners

Monday, August 14, 1995, 3:30 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Agenda

Disciplinary Panel

AGENDA:

1. Call to order

2. Roll call

3. Consideration of the application for temporary suspension of the license of Beldon J. L. Coomansingh, M.D., License F-8446.

4. Adjourn

Reason for emergency: Information has been received by the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: August 11, 1995, 4:21 p.m.

TRD-9510229

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Thursday, August 17, 1995, 11:00 a.m.

Big Spring Industrial Airpark, 2000 Airpark Drive West, Suite 3

Big Spring

Emergency Meeting

AGENDA:

The committee will meet to review the minutes of the April 7, 1995, meeting; discuss reports on operational weather modification activities now in effect, proposed drought-alleviation activities, rainfall-enhancement research in West Texas; review of and recommendation on weather-modification license-renewal applications and other business.

Reason for emergency: The meeting purpose is to review and make recommendation for weather licenses and to discuss the use of hail canons in southwest Texas.

Contact: George W. Bomar, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0770.

Filed: August 14, 1995, 1:46 p.m.

TRD-9510270

Wednesday, August 23, 1995, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The commission will consider approving the following matters: District matters; water utility matters; underground injection permits; Class 2 mods; Advisory Committee appointment; resolution; Superfund; sludge permits; temporary order; air quality; municipal solid waste enforcement; public water system enforcements; municipal waste discharge; industrial hazardous waste enforcements; industrial waste discharge; air quality enforcement; rules; miscellaneous; examiner's items; executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to

this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration begins at 8:45 a.m. until 9:30 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: August 10, 1995, 1:06 p.m.

TRD-9510023

Thursday, August 24, 1995, 9:30 a.m.

6300 Ocean Drive, Texas A&M University
Corpus Christi, Conrad Blucher Institute

Corpus Christi

Management Committee of the Corpus
Christi Bay National Estuary Program

AGENDA:

I. Call to order/introduction/minutes

II. Program update

III. Oral presentations on fiscal year 1996
proposals

IV. CCMP development process and
timeline

V. Fiscal year 1995 contracts update

VI. Presentation on living resources

VII. Committee membership changes

VIII. Resolution to thank Commissioner
John Hall

IX. Additional items/adjourn

Contact: Richard Volk, Campus Box 290,
6300 Ocean Drive, Corpus Christi, Texas
78412, (512) 985-6767.

Filed: August 11, 1995, 9:40 a.m.

TRD-9510128

**Wednesday, September 27, 1995, 9:30
a.m.**

12118 North Interstate 35, Room 201S,
Building E

Austin

AGENDA:

For an agenda hearing on an application submitted by Rolling Creek Utility District of Harris County (the District) for authority to adopt and impose a standby fee on undeveloped property in the District for calendar years 1995, 1996 and 1997. Applicant is requesting the maximum amount of standby fees allowable under commission rules. The application is filed and the hearing will be held under authority of §50.056 of the Texas Water Code, 30 Texas Administrative Code §§293.141-293.152 and under the procedural rules of the commission. The nature and purpose of standby fees is to distribute a fair portion of the cost burden for operation and maintenance of the district

facilities and for financing capital costs of the district facilities to owners of property who have not constructed improvements but have water and/or wastewater facilities or capacity available. Any revenues collected from the standby fees shall be used to pay operation and maintenance expenses and debt service on the bonds. TNRCC Docket Number 94-0600-DIS.

Contact: Gloria A. Vasquez, Mail Code 152, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: August 11, 1995, 8:42 a.m.

TRD-9510119

Board of Nurse Examiners

**Thursday-Friday, August 24-25, 1995,
10:00 a.m.**

Holiday Inn-Market Square, 318 West Du-
rango

San Antonio

AGENDA:

The Board of Nurse Examiners will conduct a retreat beginning on Thursday, August 25, 1995, at 10:00 a.m. The board will review objectives regarding regulatory issues; examine their mission, vision and strategic goals and initiatives; and discuss trends and issues that could impact the board's future. The retreat will adjourn by 4:00 p.m. on Friday, August 25, 1995.

Contact: Erlene Fisher, Box 140466,
Austin, Texas 78714, (512) 835-8675.

Filed: August 11, 1995, 2:50 p.m.

TRD-9510163

Texas Board of Physical Therapy Examiners

Friday, September 1, 1995, 9:30 a.m.

333 Guadalupe, Suite 2-510

Austin

Application Review Committee

AGENDA:

I. Call to order.

II. Consideration and possible recommenda-
tion regarding application of Agnes Kiss

III. Consideration and possible recommen-
dation regarding application of Patricia G.
Humphries

IV. Consideration and possible recommen-
dations relating to Credentials Review
Agencies

V. Adjourn

Contact: Gerard Swain, 3001 South Lamar
Boulevard, Suite 101, Austin, Texas 78704,
(512) 443-8202.

Filed: August 14, 1995, 9:55 a.m.

TRD-9510256

Texas State Board of Plumb- ing Examiners

Thursday, August 24, 1995, 9:00 a.m.

929 East 41st Street

Austin

Enforcement Committee

AGENDA:

9:00 a.m.—Call to order and roll call; con-
sideration of minutes of June 26-27, 1995
Enforcement Committee meeting for adop-
tion as recorded; review of citation list and
possible action; cases for review; the fol-
lowing cases will be reviewed by and possi-
bly acted upon by the committee as time
allows: #95-0253, #95-0252, #95-0257,
#95-0256, #95-0213, #95-0282, #95-0298,
#95-0347, #95-0350, #95-0358, #95-0294,
#95-0371, #95-0286, #95-0231, #95-0433,
#95-0124, #95-0190, #95-0351, #95-0287,
#95-0343, #95-0297, #95-0361, #95-0411,
#95-0349, #95-0357, #95-0315, #95-0383,
#95-0340, #95-0258, #95-0356, #95-0337,
#95-0251, #95-0373, #95-0312, #95-0313,
#95-0414, #95-0339, #95-0192, #95-0374,
#95-0352, #95-0280, #95-0372, #95-0353,
#95-0395, #95-0381, #95-0394, #95-0388,
#95-0360, #95-0379, #95-0363, #95-0239.

Contact: Robert L. Maxwell, 929 East 41st
Street, Austin, Texas 78751, (512)
458-2145, Ext. 233.

Filed: August 14, 1995, 1:45 p.m.

TRD-9510269

State Preservation Board

Tuesday, August 22, 1995, 3:00 p.m.

Texas Capitol Extension, 1400 North Con-
gress Avenue, Room E1.012

Austin

AGENDA:

Present Historical Capital Grounds Master
Plan. Request approval to proceed with de-
sign work and contract for tree maintenance
and monument restoration. Request prelimi-
nary design approval for Korean War Mon-
ument and design review for Daughters of
the Republic of Texas Monument. Request
approval of annual report on status of col-
lections, Capitol historical artifacts acquisi-
tions/deaccessions, Collections Review
Committee appointments, and action re-
garding relocation of original Goddess of

Liberty. Present executive director's annual budget and work plan. Request approval of rules regarding Capitol Gift Shop and public information requests and revisions to the rule regarding the use of the Capitol for film or video production. Report on contracts and building change requests. Appoint new executive director.

Contact: Dealey Herndon, 1700 North Congress Avenue, Room 1029, Austin, Texas 78701, (512) 463-5495.

Filed: August 14, 1995, 4:22 p.m.

TRD-9510284

◆ ◆ ◆
Texas Department of Protective and Regulatory Services

Thursday-Friday, August 24-25, 1995, 10:00 a.m. and 8:30 a.m., respectively.

Wyndham Hotel, 4140 Governor's Row, Southpark Rooms A and B

Austin

Child Care Administrators and Facilities Advisory Committee

AGENDA:

Approval of minutes. Discussion with Maurine Dickey, PRS board chairman. Deputy director's report. Procedures for selecting new committee members. Consideration of strategies for optimizing involvement of advisory committee members. Feedback on draft of plan for director credentialing. Licensing response to committee issues. Lessening impact of revised day care center minimum standards. Monitoring visit overview. Examination of studies on child care outcomes.

Contact: Paul Grubb, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3736.

Filed: August 10, 1995, 11:30 a.m.

TRD-9510014

◆ ◆ ◆
Texas State Board of Examiners of Psychologists

Thursday-Friday, September 14-15, 1995, 8:00 a.m.

333 Guadalupe, Tower I, Room 1296

Austin

AGENDA:

The board will meet to consider public comments; minutes of the July 1995 meeting; policies and procedures; legislative/legal matters; and reports from the chair of the board, the executive director, and the following committees: Complaints and Enforcement Committee for agreed orders,

dismissals, §24A's, current disciplinary actions, projected time schedules and a field office presentation; Applications Committee for approval of applications; Opinion and Tone Committee; Budget Committee; Written Examinations Committee; Oral Examination Committee; Rules Committee for proposed and adopted rules; Personnel Committee; Evaluation Committee; Newsletter Committee; NAFTA Committee; Psychological Associate Advisory Committee; Continuing Education Committee; Reciprocity Committee; Public Information Committee; and Information Technology Committee. The board will also hold executive sessions to seek legal advice pursuant to Title 5, Chapter 551, Government Code, §551.071, and to discuss personnel pursuant to Title 5, Chapter 551, §551.074. The board will hear presentations regarding Senate Bill 1 from the following groups: Texas Association of Psychological Associates, Texas Association of School Psychologists, South Texas School Psychology Network, Texas Psychological Association, and the Psychological Association Advisory Committee. The board will hold a presentation ceremony for those board members whose terms will be expiring October 1995.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: August 11, 1995, 11:54 a.m.

TRD-9510144

◆ ◆ ◆
Public Utility Commission of Texas

Wednesday, August 16, 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 Docket Number 13575-Application of Texas Utilities Electric Company for approval of notices of intent, approval of demand side management programs and contracts, approval of renewable resources agreement, approval of requests regarding cost recovery mechanisms, and for other relief.

Reason for emergency: Statutory deadline is August 23, 1995.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 14, 1995, 11:32 a.m.

TRD-9510263

Railroad Commission of Texas

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on a request to advertise for bids on the Bastrop Abandoned Mine Land Reclamation project. The commission will consider and act on a request to amend the Abandoned Mine Land Simplified Grant Amendment. The commission will consider and act on a petition for rulemaking to §779.137 of the coal mining regulations. The commission will consider and act on several staff proposed regulatory coal mining program amendment submissions to the Federal Office of Surface Mining Reclamation and Enforcement. The commission will consider and act on the Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.E., P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: August 11, 1995, 10:42 a.m.

TRD-9510130

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act agency administration, budget, policy, and procedures, and personnel matters for all divisions. The commission may meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6981.

Filed: August 11, 1995, 10:42 a.m.

TRD-9510131

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: August 11, 1995, 10:43 a.m.

TRD-9510132

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Information Resource Manager's report on information resource planning documents. The commission will consider and act on the Information Resource Manager's report on the administration, budget, procedures, equipment acquisitions, contracts, work schedules and quarterly updates associated with the Department of Energy-RRC Area of Review (AOR) Data Management Enhancements Grant Status Review.

Contact: Mel Mireles, P.O. Box 12967, Austin, Texas 78701, (512) 463-7249.

Filed: August 11, 1995, 10:43 a.m.

TRD-9510133

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: August 11, 1995, 10:43 a.m.

TRD-9510134

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

The commission will consider and act on the agency budget, fiscal and administrative matters and the Administrative Services Division director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: August 11, 1995, 10:43 a.m.

TRD-9510135

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: August 11, 1995, 10:43 a.m.

TRD-9510136

Tuesday, August 22, 1995, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

Revised Agenda

AGENDA:

Job swap: Exchange of jobs between industry and commission employees.

Contact: Brenda Loudermilk, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7149.

Filed: August 11, 1995, 3:46 p.m.

TRD-9510214

Tuesday, August 22, 1995, 2:00 p.m.

1701 North Congress Avenue, 12th Floor Conference Room 12-126

Austin

AGENDA:

The commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: August 11, 1995, 10:42 a.m.

TRD-9510129

Office of the Secretary of State

Thursday, August 24, 1995, 10:00 a.m.

Capitol Extension, Room E1.030

Elections Advisory Committee

AGENDA:

Welcoming remarks; roll call and introduction of members; appointment of Elections Advisory Committee chair and vice-chair; introductory remarks; overview of Secretary of State Election Night Returns System; overview of process/introduction of key personnel, programming, features of the system, data entry procedures; charges for election night returns services; approval of Operations Manual; designation of one or more of Elections Advisory Committee members to be present on election night; closing remarks.

Contact: Kim Sutton, P.O. Box 12060, Austin, Texas 78711, (512) 463-5650.

Filed: August 14, 1995, 3:58 p.m.

TRD-9510280

State Seed and Plant Board

Tuesday, August 22, 1995, 9:00 a.m.

Barcelona Hotel, 5215 Loop 289 South Lubbock

AGENDA:

Discussion and action on: Minutes of May 24, 1995 meeting, applicants for license as certified seed growers, requests for certification eligibility, requests for certified seed grower license name changes, requests for varietal name change, requests to allow including plant variety protection statements on labels, requests for recertification, approval of foreign designations; and discussion on small grains and other agricultural issues with representatives of the Texas Seed Trade Association.

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: August 11, 1995, 9:39 a.m.

TRD-9510126

Wednesday, August 23, 1995, 10:00 a.m.

Texas Department of Agriculture, 4502 Englewood

Lubbock

Seed Arbitration Board

AGENDA:

Arbitration session to review the investigative findings and possibly take action on the following seed arbitration complaints filed with the department in accordance with the

Texas Seed Arbitration Law, the Texas Agriculture Code, Chapter 64: Joe Vasquez/Valley Melon Farms vs. Petoseed Company, Incorporated and Gary Boyd/Boyd-Vasquez Farms vs. Petoseed Company, Incorporated.

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: August 11, 1995, 9:39 a.m.

TRD-9510127

◆ ◆ ◆
**Texas Sustainable Energy
Development Council**

Friday, August 25, 1995, 2:30 p.m.

3701 Lake Austin Boulevard, Lower Colorado River Authority, Colorado Room

Austin

AGENDA:

- I. Call to order
- II. Public comment
- III. Update on schedule for releasing the strategic plan
- IV. Discuss public relations and promotion of the strategic plan
- V. Discuss financing strategies and successor entities
- VI. Revolution and counter-revolution in the fireplace (address by Dr. Lawrence Cranberg)
- VII. Public comment
- VIII. Adjourn

Contact: Charlotte Banks, 1700 North Congress Avenue, Room 1136A, Austin, Texas 78701, (512) 463-1745.

Filed: August 10, 1995, 11:30 a.m.

TRD-9510016

◆ ◆ ◆
**Teacher Retirement System
of Texas**

Friday, August 18, 1995, 8:30 a.m.

1000 Red River, Henry M. Bell, Jr. Boardroom

Austin

Board of Trustees

AGENDA:

Roll call of board members; consideration of appreciation awards; public comments; approval of minutes of July 21, 1995, meeting; consideration of proposed changes to approved common stock lists; consideration of proposed changes to the approved list process; consideration of the international portfolio management style; consideration

of proposed changes to the investment policy statement; consideration of extension of contract for investment advisors and real estate consultants; consideration of proposed changes to bylaws of the Board of Trustees; consideration of award of contract for fiduciary liability and directors and officers liability insurance for board members and employees; consideration of process for selecting space planning architect; consideration of payment to search consultant; consideration of salary of interim executive director; report of interim executive director; and comments by board members.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: August 10, 1995, 3:44 p.m.

TRD-9510037

◆ ◆ ◆
Texas State Technical College System

Monday, August 21, 1995, 10:30 a.m.

TSTC Waco, System Conference Room, 3801 Campus Drive

Waco

Board of Regents Executive Committee Teleconference

AGENDA:

The Board of Regents Executive Committee will discuss and act on the following agenda items:

Approval of general contractor selected for construction of the Student Health and Recreation Center at Texas State Technical College-Sweetwater, declaring the property remaining in Amarillo adjacent to the property leased to Amarillo College as not needed for educational purposes with the role and scope of Texas State Technical College and authorize the chancellor to negotiate with State General Services Commission for the disposal and sale of the surplus real property remaining in Amarillo.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: August 10, 1995, 11:31 a.m.

TRD-9510017

◆ ◆ ◆
Texas State Treasury

Tuesday, August 22, 1995, 2:00 p.m.

200 East Tenth Street, Room 227 (The board will meet by telephone conference call.)

Austin

TexPool Advisory Board

AGENDA:

Call to order; approval of minutes; discussion and amendment of TexPool's investment policy; and adjournment.

Contact: Ellen Rathgeber, 200 East Tenth Street, Suite 309, Austin, Texas 78701, (512) 463-5971.

Filed: August 14, 1995, 10:16 a.m.

TRD-9510257

◆ ◆ ◆
University of Houston System

Thursday, August 17, 1995, 8:00 a.m.

Shamrock Room, Conrad Hilton College Building, University of Houston

Houston

Board of Regents

AGENDA:

To discuss and/or approve the following: Minutes; executive session; appreciation resolutions; memorial resolution; board bylaws and policies; promotion in academic rank; personnel recommendations; various reports; amendment to easement; exchange of land; appointment of investment manager; endowment income; naming of School of Music; installation of stair and elevators; construction management services; amended contract; renewal of contract; various lease agreements; vending contracts; amendment of Wyatt Company contract; fiscal year 1996 fee changes; general use fee hearings; tuition waiver; purchase Public Broadcasting Service; purchase of equipment; audit fees; write-off of accounts; insurance premiums for fiscal year 1996; consulting and service contracts; auditing department long range plan; committee recommendations; election of board officers; and consent docket.

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: August 11, 1995, 8:42 a.m.

TRD-9510120

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University of North Texas/University of North Texas Health Science Center

Tuesday, September 12, 1995, 4:00 p.m.

3838 Oak Lawn Avenue, Suite 812

Dallas

Advancement Committee

AGENDA:

UNT: Capital campaign issues

Contact: Jana Dean, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: August 11, 1995, 1:06 p.m.

TRD-9510145

◆ ◆ ◆
**University of Texas Health
Science Center at San Antonio**

Wednesday, August 23, 1995, 3:00 p.m.

7703 Floyd Curl Drive, Room 422A

San Antonio

Institutional Animal Care and Use Committee

AGENDA:

1. Approval of minutes
2. Protocols for review
3. Subcommittee reports/semi-annual review of programs
4. Other business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: August 14, 1995, 10:37 a.m.

TRD-9510258

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**Texas Water Development
Board**

Tuesday, August 15, 1995, 10:00 a.m.

DFW Airport Administrative Building, Second Floor, 3200 East Airfield Drive

Dallas

Revised Agenda

AGENDA:

New agenda item #3:

Consider ratification of executive administrator's action to terminate contract with Hidalgo County Water Development Board.

Reason for emergency: Posting of this item as an emergency is necessary to meet challenges raised to the effectiveness of termination of the contract. Immediate contract termination is required to allow the board to maintain adequate oversight of federal funds. The contract termination was challenged after the posting deadline for this meeting, resulting in an unforeseeable situation.

Contact: Craig Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: August 14, 1995, 2:51 p.m.

TRD-9510276

Regional Meetings

**Meetings Filed August 10,
1995**

The Burke Center Board of Trustees Mental Retardation Joint Conference Committee will meet at 4101 South Medford Drive, Lufkin, August 22, 1995, at 11:30 a.m. Information may be obtained from Sandra J. Vann, Burke Center, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9510027.

The Burke Center Board of Trustees will meet at 4101 South Medford Drive, Lufkin, August 22, 1995, at 1:00 p.m. Information may be obtained from Sandra J. Vann, Burke Center, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9510028.

The Cass County Appraisal District Appraisal Review Board met at 502 North Main Street, Linden, August 15, 1995, at 9:00 a.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9510029.

The Central Plains Center for Mental Health Mental Retardation and Substance Abuse Board of Trustees met at 208 South Columbia, Plainview, August 17, 1995, at 4:00 p.m. Information may be obtained from Gail P. Davis, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9510013.

The Education Service Center, Region II Board of Directors met at Highway 77 (Joe Cotten's Bar-B-Q), Robstown, August 16, 1995, at 5:00 p.m. Information may be obtained from Dr. Ernest Zamora, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288, Ext. 2200. TRD-9510026.

The Education Service Center, Region II Board of Directors and Regional Advisory Committee (Combined Meeting) met at Highway 77 (Joe Cotten's Bar-B-Q), Robstown, August 16, 1995, at 7:00 p.m. Information may be obtained from Dr. Ernest Zamora, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288, Ext. 2200. TRD-9510025.

The Houston-Galveston Area Council Transportation Policy Council will meet at 3555 Timmons, Second Floor, Houston, August 25, 1995, at 9:30 a.m. Information may be obtained from Alan C. Clark, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200. TRD-9510098.

The Lamb County Appraisal District Appraisal Review Board will meet at 331 LFD Drive, Littlefield, August 29, 1995, at 8:00 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950, (806) 385-6474. TRD-9510009.

The Liberty County Central Appraisal District Appraisal Review Board met at 315 Main Street, August 17, 1995, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9510034.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, August 15, 1995, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3287. TRD-9510030.

The Lower Colorado River Authority Board of Trustees for LCRA's benefit plans met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, August 15, 1995, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-4043. TRD-9510031.

The Lower Rio Grande Valley Tech Prep Associate Degree Consortium Board of Directors met in the Board Room, Conference Center, Texas State Technical College, Corner of Loop 499 and Oak Street, Harlingen, August 16, 1995, at 11:30 a.m. Information may be obtained from Mrs. Pat Bubb, TSTC Conference Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9510035.

The North Texas Regional Library System Board of Directors will meet at Saginaw City Hall, 333 West McLeroy Boulevard, Saginaw, August 24, 1995, at 1:30 p.m. Information may be obtained from Cheryl Smith, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107-2949, (817) 335-6076. TRD-9510104.

The Sabine Valley Center Personnel Committee met at 107 Woodbine Place, Administration Building, Judson Road, Longview, August 17, 1995, at 6:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9510010.

The Sabine Valley Center Board of Trustees met at 107 Woodbine Place, Administration Building, Judson Road, Longview, August 17, 1995, at 7:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 237-2362. TRD-9510011.

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**Meetings Filed August 11,
1995**

The Archer County Appraisal District Appraisal District Board of Directors met at 101 South Center, Archer City, August 16,

1995, at 5:00 p.m. Information may be obtained from Edward M. Trigg, P.O. Box 1141, Archer City, Texas 76531, (817) 574-2172. TRD-9510149.

The Central Texas Council of Governments Executive Committee will meet at 302 East Central, Belton, August 24, 1995, at 11:30 a.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9510212.

The Central Texas MHMR Center Board of Trustees will meet at 408 Mulberry Drive, Brownwood, August 21, 1995, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9510154.

The Deep East Texas Council of Governments Solid Waste Task Force Committee will meet at Westwood Shores, FM 356, Trinity, August 24, 1995, at 10:30 a.m. Information may be obtained from Andy Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9510164.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at Westwood Shores, FM 356, Trinity, August 24, 1995, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9510143.

The East Texas Council of Governments Private Industry Council met at Henderson Boulevard and Kay Street, Community House, Kilgore, August 17, 1995, at 9:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9510137.

The Education Service Center, Region IV Board of Directors met in the Board Room, 7145 West Tidwell, Houston, August 15, 1995, at 11:30 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092-2096, (713) 744-6534. TRD-9510166.

The Education Service Center, Region XI Board of Directors will meet at 3001 North Freeway, Fort Worth, August 22, 1995, at Noon. Information may be obtained from Dr. Ray L. Chancellor, 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311. TRD-9510161.

The Education Service Center, Region XIV Board of Directors met at 1850 Highway 351, Abilene, August 17, 1995, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8608, (915) 675-8608. TRD-9510228.

The Education Service Center, Region XV Board of Directors met at 612 South Irene Street, San Angelo, August 17, 1995, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9510121.

The Golden Crescent Private Industry Council Oversight Committee met at 2401 Houston Highway, Victoria, August 14, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9510151.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, August 16, 1995, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9510153.

The Golden Crescent Quality Work Force Planning Full Committee met at Victoria College, Student Center, 2200 East Red River, Victoria, August 15, 1995, at 3:30 p.m. Information may be obtained from Carol Matula, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9510139.

The Gonzales County Appraisal District Board of Directors (Budget Hearing) met at 928 St. Paul, Gonzales, August 17, 1995, at 6:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879 or Fax: (210) 672-8345. TRD-9510216.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul, Gonzales, August 17, 1995, at 7:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879 or Fax: (210) 672-8345. TRD-9510215.

The Hale County Appraisal District Board of Directors will meet at 3314 Olton Road, Plainview, August 24, 1995, at 7:00 p.m. Information may be obtained from Linda Jaynes, P.O. Box 329, Plainview, Texas 79073, (806) 293-4226. TRD-9510165.

The Heart of Texas Council of Governments Solid Waste Management Council met at 300 Franklin Avenue, Waco, August 16, 1995, at 1:30 p.m. Information may be obtained from Tiffanye Thomas, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9510211.

The Johnson County Rural Water Supply Corporation Public Relations Committee met at the Corporation Office, 2849 Highway 171S, Cleburne, August 15, 1995, at 5:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9510140.

The Johnson County Rural Water Supply Corporation Board (Regular Meeting) met at the Corporation Office, 2849 Highway 171S, Cleburne, August 15, 1995, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9510141.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, August 17, 1995, at 7:00 p.m. Information may be obtained from Tommy L. Watson, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9510118.

The Leon County Central Appraisal District Board of Directors will meet at 103 North Commerce, Corner of Highway 7 and 75, Gresham Building, Leon County Central Appraisal District Office, Centerville, August 21, 1995, at 7:30 p.m. Information may be obtained from Jeff Beshears, P.O. Box 536, Centerville, Texas 75833-0536, (903) 536-2252. TRD-9510152.

The Texas Municipal Power Agency (TMPA) Board of Directors (Special Meeting) met at the Chamber of Commerce Offices, 4001 East 29th, Suite 175, Bryan, August 16, 1995, at 7:00 p.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9510160.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2-1/2 miles north of Carlos on FM-244, Carlos, August 17, 1995, at 9:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9510159.

The North Texas Municipal Water District Board of Directors will meet at the Administration Office, 505 East Brown, Wylie, August 24, 1995, at 4:00 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9510124.

The Panhandle Ground Water Conservation District Number 3 Board of Directors (Public Meeting) met at the District Office, 300 South Omohundro Street, White Deer, August 16, 1995, at 7:30 p.m. Information may be obtained from C. E. Williams, Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9510233.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, August 17, 1995, at Noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, 3007 North Richmond Road, Wharton, Texas 77488, (409) 532-3098. TRD-9510146.

The San Antonio River Authority (Revised Agenda.) Board of Directors met at 100 East Guenther Street, Boardroom, San Antonio, August 16, 1995, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9510123.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road, Fort Worth, August 18, 1995, at 10:30 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 284-0024. TRD-9510147.

The Texas Council Risk Management Fund Executive Committee will meet at the Austin Omni Hotel, The Cellar, 700 San Jacinto, Austin, August 24, 1995, at 7:00 p.m. Information may be obtained from Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 346-6921. TRD-9510148.

The Texas Council Risk Management Fund Board of Trustees and Advisory Committee will meet at the Austin Omni Hotel, 700 San Jacinto, Austin, August 25, 1995, at 8:00 a.m. Information may be obtained from Spencer McClure, Westpark Building Three, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 346-6921. TRD-9510122.

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**Meetings Filed August 14,
1995**

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, August 17, 1995, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9510267.

The Austin-Travis County MHMR Center Planning and Operations Committee will meet at 1430 Collier Street, Board Room, Austin, August 18, 1995, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9510260.

The Bastrop Central Appraisal District (Emergency Meeting.) Appraisal Review Board met at 1200 Cedar Street, Bastrop, August 17, 1995, at 8:30 a.m. (Reason for emergency: Protesters already scheduled to appear before Appraisal Review Board. Protesters cannot be rescheduled without 15 days prior notice. Need to hear protesters before approval of 1995 Appraisal Roll. Emergency to certify 1995 Appraisal Roll for school districts to set tax rates.) Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9510272.

The Bastrop Central Appraisal District Board of Directors met at 1200 Cedar Street, Bastrop, August 17, 1995, at 7:00 p.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925. TRD-9510271.

The Central Texas MHMR Center Board of Trustees will meet at 408 Mulberry Drive, Brownwood, August 21, 1995, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9510275.

The Comal Appraisal District Board of Directors will meet at 178 East Mill Street #102, New Braunfels, August 21, 1995, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9510261.

The Comal Appraisal District Board of Directors will meet at 178 East Mill Street #102, New Braunfels, August 21, 1995, at

6:00 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9510262.

The Coryell City Water Supply District Board of Directors met at FM 929, Coryell City, August 17, 1995, at 7:30 p.m. Information may be obtained from Helen Swift, Route 2, Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9510278.

The Education Service Center, Region VIII Board of Directors will meet at the Hot Biscuit Restaurant, 2502 West Ferguson, Mt. Pleasant, August 24, 1995, at 6:30 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9510264.

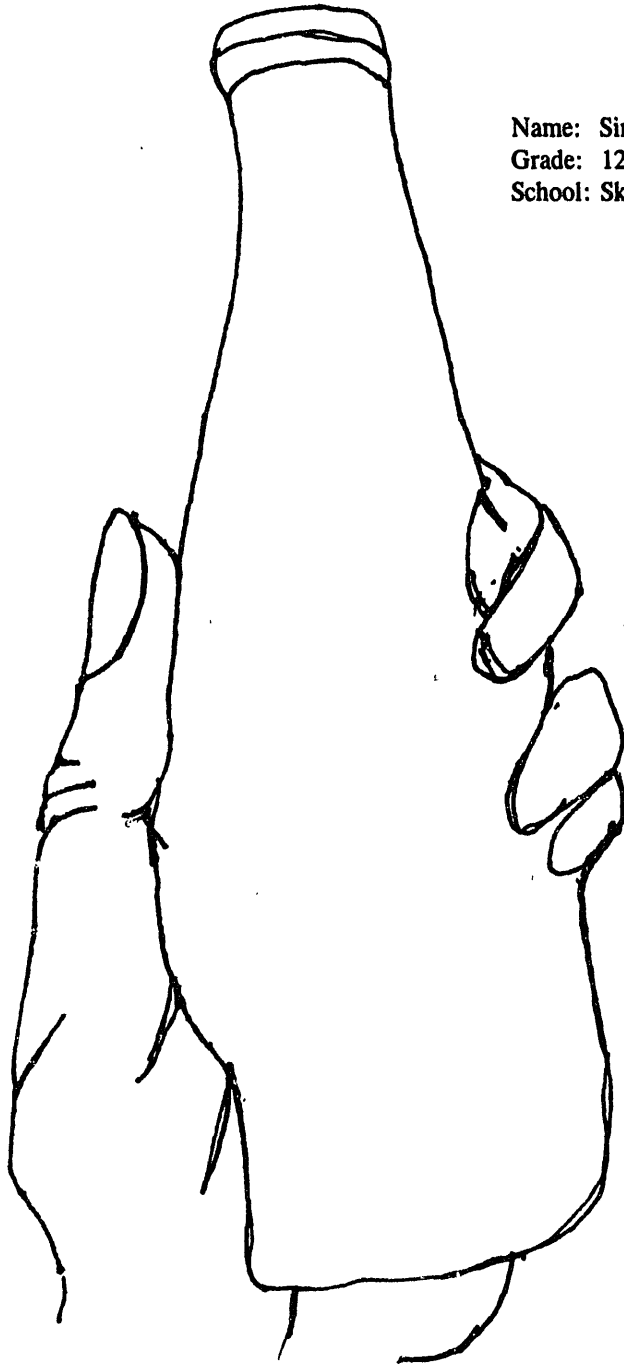
The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, Jacksboro, August 21, 1995, at 7:00 p.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9510266.

The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, Jacksboro, August 21, 1995, at 7:05 p.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9510265.

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**Meetings Filed August 15,
1995**

The Kendall Appraisal District Board of Directors will meet at 121 South Main Street, Boerne, August 24, 1995, at 5:30 p.m. Information may be obtained from Mick Mikulenska or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012 or Fax: (210) 249-3975. TRD-9510290.

*Holding
a bottle*



Name: Sini Jacobs
Grade: 12
School: Skyline High School, Dallas ISD

IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Criminal Justice Request for Qualifications

It is the intent of the Texas Department of Criminal Justice (TDCJ) to secure professional architectural and engineering services for the projects described as follows. The Engineering Directorate of TDCJ is soliciting qualifications from firms interested in providing these services. It is also the intent of the Engineering Directorate of TDCJ to procure completed Professional Services Questionnaires from those firms interested in future work, but not responding to this particular Request for Qualifications (RFQ). Parties interested in procuring a project must respond using the procedures described in the RFQ document available from TDCJ. Any questions concerning these projects, the procurement of the RFQ, or procurement of the Professional Services Questionnaire should be addressed to Bruce Swope, Planning Manager, at TDCJ Engineering Directorate, (409) 294-6901.

Project Description.

The following is a list of the anticipated project types expected to be funded during Fiscal Years 1996 and 1997. Note that a portion of this work is for the Texas Youth Commission (TYC). The scope, number, and location of some of these projects has yet to be determined. Most projects require full multi-discipline professional services while a few require only engineering. For selection purposes, the projects are separated into five basic groups, with differing qualification requirements for each. Firms wishing to be eligible for projects in more than one group must submit separately for each group. Those firms ultimately selected will have gained a position in a "pool" of approved firms and are not assured of receiving a project. In the event that other projects handled by TDCJ are identified during FY 1996 and 1997, TDCJ may assign such work to one or more firms from the approved "pool" without further issuance of a Request for Qualifications. The following is a brief description of the five groups that have been identified.

Group A—Site adaptation of a TDCJ prototype design of a high security prison housing building located at eight to eleven sites yet to be determined.

Group B—Design and/or engineering of yet to be determined projects for TDCJ.

Group C—Design and/or engineering of a new prototype housing building, site adaptation of housing prototype at each site, and other new design, renovation, and/or repairs at five Texas Youth Commission sites.

Group D—Design and/or engineering of maintenance facilities and infrastructure at two Texas Youth Commission sites.

Group E—Engineering and Coordination for replacement of HVAC and telephone system at one Texas Youth Commission site located near Pyote, Texas.

Responses to this RFQ must be received by TDCJ Engineering Directorate no later than 12:00 Noon, August 28, 1995. Any response received after that time will not be considered.

Selection Process.

Shortly after receipt of the written statements of qualifications, a Review Board shall evaluate these statements and rank them according to the total scores on the Evaluation Criteria. The top-ranked firms will comprise a Short List and will be recommended by the Review Board to make oral presentations in the second stage of the selection process. It is expected that the Short List of applicants invited to make an oral presentation will be established by the end of business on August 31, 1995. Oral presentations may begin Thursday, September 7, 1995.

The interview Board will conduct the oral presentations and make evaluations and ranking based on the qualification presented. The Interview Board then submits its final rankings to the appropriate authority for selection.

Upon selection, fee negotiations will commence with the selected firm(s) on a schedule determined by TDCJ. If an agreement cannot be reached with the first selected firm, the negotiations will pass to succeeding firms in order of ranking, until an agreement is reached.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510241 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Filed: August 14, 1995

Texas Education Agency Request for Applications Concerning Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement Grant Program, School Years 1995-1997

Filing Authority. The availability of grant funds under Request for Application (RFA) #701-95-039 is authorized by the Texas Education Code, §7. 024.

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications from public school districts on behalf of an individual school campus that has demonstrated a commitment to campus deregulation and to re-

structuring educational practices and conditions by entering into a partnership with representatives of all of the following entities: school staff; parents of students; community and business leaders; school district officers; a nonprofit, community-based organization that has a demonstrated capacity to train, develop, and organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards; and TEA. A separate application specific to the applying campus must be submitted for each campus for which the district is applying.

Description. The purpose of this initiative is to assist eligible individual public school campuses in implementing practices and procedures consistent with deregulation and school restructuring to improve student achievement and in identifying and training parents and community leaders who will hold the school and the school district accountable for achieving high academic standards. Grants must be used for the training and development of school staff, parents, and community and business leaders in order that they understand and implement the: (a) academic standards and practices necessary for high academic achievement; (b) appropriate strategies to deregulate and restructure the school to improve student achievement; and (c) effective strategies to organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards. No more than 20% of the total grant funds may be used to implement the academic standards and practices necessary for high academic achievement. No more than 25% of the total grant funds may be used to implement strategies developed by partners that are designed to enrich and extend student learning experiences outside of the regular school day. Grantees must demonstrate: (1) the responsible use of the grant to achieve campus deregulation and restructuring to improve academic performance; (2) development and implementation of a comprehensive plan to engage in on-going development and training of teachers, parents, and community leaders to (a) understand academic standards, (b) develop effective strategies to improve academic performance, and (c) organize a large constituency of parents and community leaders to hold the school and school district accountable for achieving high academic standards; (3) on-going progress in achieving higher academic performance; and (4) on-going progress in identifying, training, and organizing parents and community leaders who will hold the school and the school district accountable for achieving high academic standards.

Dates of Project. The Staff Development and Parent Training for Campus Deregulation and Restructuring to Improve Student Achievement Grant Program will be implemented during the 1995-1997 school years. Applicants should plan for a starting date of no earlier than February 1, 1996, and an ending date of no later than August 31, 1997.

Project Amount. Projects will be eligible for funding in the amount of \$15,000, \$20,000, \$25,000, or \$30,000 for the 1995-1997 school years. Applicants will be required to select one funding category when submitting the application based on the size and scope of the proposed project.

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 campuses whose total percent of identified students from low income fami-

lies is 60% or higher or campuses whose total percent of students passing all tests taken on the 1993-1994 Texas Assessment of Academic Skills (TAAS) was below the state average. Campuses meeting the "low income" or TAAS criterion will be identified by consulting printouts provided by the Agency's Division of Technology Support.

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 #701-95-039 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 Kathleen Burke, Office of Operations and Special Projects, Texas Education Agency, (512) 463-8306.

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, Friday, October 13, 1995, to be considered.

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

TRD-9510239 Criss Clout
Executive Associate Commissioner for
Policy Planning and Information
Management
Texas Education Agency

Filed: August 14, 1995

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**Advisory Commission on State
Emergency Communications**

**Notice of Execution of Consulting
Service Contract**

The Advisory Commission on State Emergency Communications (herein called "ACSEC"), files this Notice of Execution of Consulting Service Contract in accordance with provisions of the Government Code, Chapter 2254. The Request for Proposal was published in the July 18, 1995, issue of the *Texas Register* (20 TexReg 5308). The intent of the request was to solicit vendors to provide assistance to those local governments entities in Texas who need help in expediting the local addressing program in their area. Health and Safety Code, Chapter 771 authorizes the ACSEC to conduct services of this nature.

The consultant will conduct the following activities:

- (1) Develop a monitoring guide based upon state policy and rules.
- (2) Monitor addressing project progress.
- (3) Evaluate status of each program and offer technical advice on how to expedite addressing programs.
- (4) Travel throughout Texas conducting on-site reviews of programs.

The consultants' name and address are: 9-1-1 Systems Consultant, J. Ross Sherohman, P.O. Box 632911, Nacogdoches, Texas 75963.

The total value of the contract is projected to be \$77,000 for the fiscal year including fees and expenses.

The beginning date of the contract is September 1, 1995 and ending date is August 31, 1996.

Due dates for deliverables are continuous throughout the term of the contract.

Issued in Austin, Texas, on August 10, 1995.

TRD-9510008

Mary A. Boyd
Executive Director
Advisory Commission on State Emergency
Communications

Filed: August 10, 1995

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Employees Retirement System of Texas Request for Proposals (RFP) for Independent Audit Services

The Employees Retirement System of Texas (System) is requesting proposals from independent certified public accountants (Auditor) to perform a financial audit of the System for the fiscal year ended August 31, 1995. The selected Auditor will be awarded an initial contract of one year, with the System having the option to extend the contract period.

Please refer any requests for information about this RFP to DARRELL J. LESLIE, Director of Accounting, P.O. Box 13207, Austin, Texas 78711-3207, (512) 867-3224, Fax: (512) 867-3491.

The System will not be responsible for expenses incurred in preparing and submitting the proposal. Such costs will not be included in the proposal.

The Auditor will submit ten copies of the completed proposal by 5:00 p.m. on September 5, 1995, to the Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, to the attention of Jane Miller, Purchasing Officer, or delivered to ERS Building Annex, Room 11, 18th and Brazos, Austin, Texas.

If the proposal will be submitted by mail, it must be received by the System no later than the date and time set out above. Hand carried proposals may be delivered between 8:00 a.m. and 5:00 p.m. through the date set out above. All proposals will be in a sealed envelope with the proposer's name, address and RFP subject shown on the outside.

Proposals submitted by September 5, 1995, in response to this RFP, will be reviewed by the System staff. Based on this review, interviews may be scheduled with the Auditors considered to be the best qualified.

Proposals will be evaluated using three sets of criteria. The Auditors meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the selection criteria which will be considered during the evaluation process.

1. Mandatory Elements

a. The Auditor is independent and licensed to practice in Texas.

b. The Auditor's professional personnel have received adequate continuing professional education within the preceding two years.

c. The firm has no conflict of interest with regard to any other work performed by the Auditor for the System.

d. The Auditor submits a copy of its most recent external quality control review report, and the Auditor has a record of quality audit work.

e. The Auditor adheres to the instructions in this request for proposals on preparing and submitting the proposal.

2. Technical Qualifications

a. Expertise and Experience

i. Extent and quality of retirement system auditing experience, based on information provided by the Auditor as well as references of former and present clients;

ii. The Auditor's ability and willingness to meet the requirements and needs of the System with respect to the audit as outlined in this RFP and as demonstrated in the proposal; and

iii. The quality of the Auditor's professional personnel to be assigned to the engagement and the quality of the Auditor's management support personnel to be available for technical consultation.

b. Audit Approach

i. Adequacy of proposed staffing plan for various segments of the engagement;

ii. Adequacy of sampling techniques; and

iii. Adequacy of analytical procedures

3. Price

Proposed cost as evidenced by billing rates and hours budgeted for each type of position. Although a significant factor, fees charged may not be the dominant factor.

The award of any contract will be made to the Auditor which, in the opinion of the System, is best qualified based on the criteria listed above.

C. Oral Presentations

At the discretion of the System, the Auditors submitting proposals may be requested to make oral presentations as part of the evaluation process.

In all interviews held with the Auditor, the proposed audit partner and manager for the System's engagement and the individual who will have on-site responsibility for the audit (if a person other than the partner or manager) must be present.

D. Final Selection

Final selection of the Auditor will be made by the System Board of Trustees.

E. Right to Reject

Submission of a proposal indicates acceptance by the Auditor of the conditions contained in the request for proposals unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the System and the Auditor selected.

The System reserves the right to reject any and all proposals submitted without any obligation or payment for costs incurred by proposing Auditors. The System reserves the right, where it may serve the System's best interest, to

request additional information or clarification from any proposer, to allow corrections of errors or omissions, or to discuss points in the proposal before and after submission, all of which may be used in forming a recommendation. The System reserves the right to waive any and all formalities contained within the request for proposal except for the deadline for filing. Proposals received late will not be considered.

The System reserves the right to retain each proposal submitted and to use any aspect of the proposal regardless of whether that proposal is selected.

Issued in Austin, Texas on August 9, 1995.

TRD-9510236 Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: August 14, 1995

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Texas Department of Health
Notice of Intent to Revoke Certificates
of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Crystal Vet Med Clinic, Crystal City, R01493; Timothy W. Lykke, D.P.M., Houston, R07601; Downtown Minor Emergency Clinic, San Antonio, R13133; Carrier Chiropractic, Grand Prairie, R18070; Chimney Rock Chiropractic Clinic, Houston, R20337; Martin E. McGonagle, M.D., Stephenville, Z00676.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas on August 10, 1995.

TRD-9510003 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: August 10, 1995

Notice of Intent to Revoke Radioactive
Material Licenses

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: LeTourneau, Inc., Longview, L02304; Craven Laboratories, Inc., Austin, L02773.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 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 10, 1995.

TRD-9510004 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: August 10, 1995

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Notice of Revocation of a Certificate of
Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificate of registration: William L. George, D.D.S., 2135 Yale, Suite D, Houston, 77008, R09421, July 28, 1995.

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 10, 1995.

TRD-9510002 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: August 10, 1995

Texas Department of Insurance Company License

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for admission in Texas for Old Standard Life Insurance Company, a foreign life, accident and health company. The home office is in Coeur d'Alene, Idaho.

Application for a name reservation in Texas for AMERICAID Community Care, a domestic health maintenance organization. The home office is in Dallas, Texas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510227

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: August 11, 1995

Notice of Applications by Small Employer Carriers to be Risk- Assuming Carriers

Notice is given to the public of the applications of the listed small employer carriers to be risk-assuming carriers under Texas Insurance Code, Article 26.52. A small employer carrier is defined by the Texas Insurance Code, Chapter 26 as a health insurance carrier that offers, delivers or issues for delivery, or renews small employer health benefit plans subject to the chapter. A risk-assuming carrier is defined by the Texas Insurance Code, Chapter 26 as a small employer carrier that elects not to participate in the Texas Health Reinsurance System. The following small employer carriers have applied to be risk-assuming carriers:

FHP Life Insurance Company; HMO Texas, L.C.; PFL Life Insurance Company; Pacificare of Texas, Inc.; Philadelphia American Life Insurance Company; Sierra Health and Life Insurance Company

The applications are subject to public inspection at the offices of the Texas Department of Insurance, Financial Monitoring Unit, 333 Guadalupe, Hobby Tower 3, Third Floor, Austin, Texas.

If you wish to comment on these applications to be risk-assuming carriers, you must submit your written comments within 60 days after publication of this notice in the *Texas Register* to Alicia M. Fechtel, Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-91204. An additional copy of the comments must be submitted to Mike Boerner, Managing Actuary, Actuarial Division of the Financial Program, Mail Code 304-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Upon consideration of each application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to approve the application to be a risk-assuming carrier.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510218

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: August 11, 1995

Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2170 on October 6, 1995, at 9:00 a.m., in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a petition by the staff of the Texas Department of Insurance proposing amendments to the Homeowners and Farm and Ranch Owners sections of the Texas Personal Lines Manual. The petition requests consideration of a proposal to add a new rule to these two sections to provide optional large deductibles for coverage afforded under a homeowners policy and a farm and ranch owners policy. The proposed rule (Rule 7 under the General Requirements Section V, Deductibles Subsection D) provides for optional large deductibles of 1-1/2%, 2.0%, 2-1/2%, 3.0%, 4.0% or 5.0% of the limit of liability of Coverage A (Dwelling) under Texas Homeowners Policy Forms HO-A, HO-B and HO-C and Texas Farm and Ranch Owners Policy Forms FRO-A and FRO-B. The proposed rule provides that the large deductible may be selected at the option of the insured to apply to the policyholder's coverage for windstorm, hurricane and hail or to the policyholder's coverage for all other perils covered under the policy or for both of these types of coverages. The proposed rule requires the actual deductible amount in dollars and the premium credit for the optional large deductible selected to be shown on the declarations pages of the homeowners policy forms and the farm and ranch owners policy forms.

The staff petition requests that applicable premium credits for the optional large deductibles be determined at the next residential property insurance benchmark rate hearing held pursuant to the Insurance Code, Articles 5.101 and 1.33B. The petition further requests that the effective date of the new rules be the effective date of the residential property insurance benchmark rate determined at such hearing.

Currently, insureds may select deductibles of zero, \$250, \$500, \$1,000, 1/2 of 1.0% or 1.0% of the limit of liability of Coverage A (Dwelling). The proposed rules are necessary to provide insureds with the option of selecting a larger deductible for their homeowners and farm and ranch owners coverage for a reduced premium. In addition, the availability of large deductibles may encourage insurers to write homeowners insurance in areas in which such insurers have in the past restricted such writings.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35, 5.101, and 5.96.

Copies of the full text of the staff petition and the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition and proposed amendments, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number P-0895-24-D).

Comments on the proposed changes must be submitted in writing within 30 days after publication of the proposal in

the *Texas Register* to the Office of the Chief Clerk, P.O. Box 149104, MC113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner for Property and Casualty Division, P.O. Box 149104, MC103-1A, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Issued in Austin, Texas, on August 11, 1995.

TRD-9510223 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: August 11, 1995

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

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Texas Commission on Jail Standards Consultant Proposal Request

Pursuant to the Texas Civil Statutes, Article 6252-11C, the Commission on Jail Standards invites proposals for consulting services from qualified individuals to advise and assist TCJS in a survey of jails across the state under the terms of the Juvenile Justice and Delinquency Prevention Act, Public Law 93-415, as amended.

The individual selected will conduct on-site analyses of records and facilities at approximately 60 county and municipal jails and prepare required documentation and reports to verify compliance information regarding the removal of juveniles from the facilities. The selected consultant shall report directly to the Texas Commission on Jail Standards, executive director.

All work performed under this contract shall be reimbursed on an hourly basis and is expected to be completed by March 1, 1996.

Travel expenses shall be reimbursed based upon state per diem rates with direct operating expenses provided by TCJS.

Detailed specifications are contained in the Consultant Proposal Request available August 18, 1995, from the Texas Commission on Jail Standards, 300 West 15th Street, Suite 503, Austin, Texas between the hours of 8:30 a.m. and 4:30 p.m., Monday-Friday. For detailed information, contact Rhonda Long, Planner, (512) 463-5505.

Responses will be accepted only if actually received in writing in the Texas Commission on Jail Standards office no later than September 18, 1995, no later than 5:00 p.m., Central Daylight Time on this date. The Texas Commission on Jail Standards reserves the right to reject any or all proposals.

All proposals submitted by the deadline will be reviewed by the executive director. The executive director may request interviews with the top rated proposers. Based on proposers response, availability, experience, qualifications and demonstrated ability to work independently, the executive director will select the individual most qualified to provide services.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510156 Jack E. Crump
Executive Director
Texas Commission on Jail Standards

Filed: August 11, 1995

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Texas Natural Resource Conservation Commission Enforcement Order

An agreed enforcement order was entered regarding MONTY WILLIAMS, Docket Number 95-1073-SLG-E (Registration Number 20127) on August 2, 1995, assessing \$810 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Merrilee Roberts, Enforcement Coordinator, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4490.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510171 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 11, 1995

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Notices of Application for Municipal Solid Waste Management Facilities for the Week Ending August 11, 1995

APPLICATION BY SANIFILL OF TEXAS, INC., Proposed Permit Amendment Number MSW208-A, authorizing an amendment to their existing Type I (landfill) municipal solid waste facility. The proposed amendment authorizes an additional 26 acres, increases the height of fill and upgrades the site to Subtitle D standards. The facility is located on 105.2 acres at 7797 Confederate Park Road in Fort Worth, Tarrant County, Texas.

APPLICATION BY BROWNING-FERRIS, INC., Proposed Permit Amendment Number MSW1558-A, authorizing operation of a Type I (landfill) municipal solid waste facility to receive, process and dispose of municipal solid waste. The existing facility is located on 143 acres of land on LCR 460, approximately 1.2 miles east-southeast of the intersection of State Highway 14 and Farm to Market Road 2705, southwest of the city of Mexia in Limestone County, Texas.

This application is subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application

number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the TNRCC, Chief Clerk's Office, P.O. Box 13087, Mail Code 105, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510187

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 11, 1995

Notice of Applications for Waste Disposal Permits

Notices of Applications for waste disposal permits issued during the period of August 7-11, 1995.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may

do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

CROSS ROADS INDEPENDENT SCHOOL DISTRICT; the wastewater treatment plant is approximately 940 feet northeast of the intersection of FM Road 3441 and FM Road 59 in Henderson County, Texas; new; 13789-01.

DON HINTON; the dairy is on the east side of State Highway 154. The site is approximately two miles south of the intersection of State Highway 11 and State Highway 154 in Hopkins County, Texas; amendment; 02521.

CITY OF IOWA PARK; the wastewater treatment plant is southwest of the City of Iowa Park, approximately 0.25 mile west of FM Road 368 and one mile north of FM Road 367 in Wichita County, Texas; renewal; 10691-02.

JOHNSON COUNTY FRESH WATER SUPPLY DISTRICT NUMBER 1; the Johnson County FWSD Number 1 Wastewater Treatment Facilities are approximately 3.6 miles southeast of the City of Burleson at a location approximately one mile upstream of the crossing of Village Creek and FM Road 731 in Johnson County, Texas; amendment; 10532-01.

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 15; The Gleneagles Subdivision Wastewater Treatment Facilities are on Gleneagles Drive, approximately 5,000 feet north of Needham Road in Montgomery County, Texas; amendment; 11395-01.

CITY OF MOUNT PLEASANT; the Southside Wastewater Treatment Facilities; the facilities are approximately 5,000 feet east of U.S. Highway 271 and approximately 11,000 feet north of the intersection of U.S. Highway 271 and Big Cypress Creek in Titus County, Texas; renewal; 10575-04.

RON MUNDAY; a sales and distribution facility for packing and shipping supplies; the plant site is at 13601 Spencer Road (FM 529) about three miles west of the intersection of FM 529 and U.S. Highway 290, Harris County, Texas; renewal; 01222.

NUECES COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER 5; the wastewater treatment facilities are at the crossing of Banquete Creek and County Road 40, which is approximately 1-1/4 miles east of FM Road 666 and 1/2 mile south of State Highway 44 near Banquete in Nueces County, Texas; renewal; 11583-01.

RED RIVER AUTHORITY OF TEXAS; the Arrowhead Ranch Estates Wastewater Treatment Facilities. The facilities are on Arrowhead Ranch Estates property, approximately 2,300 feet east of FM Road 1954 and 5.4 miles southeast of the intersection of U.S. Highway 281 and FM Road 1954 in Clay County, Texas; renewal; 11445-01.

REDWOOD UTILITIES, INC.; the wastewater treatment facilities are at 11400 Green River Drive on the northeast

corner of the crossing of Greens Bayou by Green River Drive in Harris County, Texas; renewal; 12996-01.

TEJAS FINANCIAL CORPORATION; the wastewater treatment facilities are approximately 1500 feet north of FM Road 356, approximately 1.5 miles east of the intersection of FM Road 356 and FM Road 355 in Trinity County, Texas; new; 12324-02.

CITY OF TEXARKANA; the wastewater treatment facilities are approximately 2,300 feet west of Spur 151 and 3,300 feet south of State Highway 82 in Bowie County, Texas; renewal; 10374-07.

PARKS AND WILDLIFE DEPARTMENT; the Bentson Rio Grande Valley State Park Wastewater Treatment Facilities; the facilities are within Bentson Rio Grande Valley State Park; adjacent of State Park Loop 43; approximately 3.5 miles south of the intersection of State Highway Loop 374 and FM Road 2062 in Hidalgo County, Texas; renewal; 11098-01.

TEXAS PARKS AND WILDLIFE DEPARTMENT; the wastewater treatment facilities are approximately three miles east of FM Road 762 and 1.3 miles north of FM Road 1462 and approximately 2,700 feet south of the Park Interpretive Building in Brazos State Park in Fort Bend County, Texas; renewal; 12234-02.

JAMES TRAWEEK; a dairy; the dairy is on the south side of FM Road 8, approximately 2.5 miles east of the intersection of FM Road 8 and FM Road 219, in Erath County, Texas; amendment; 03217.

COGEMA MINING, INC.; for renewal of and amendment to underground injection control Permit Number WDW-195 which authorizes subsurface disposal of non-hazardous waste streams generated by the facility's uranium mining operations and groundwater restoration projects; the proposed permit will be renewed and amended to increase the maximum injection rate and maximum volume of wastewater injected into the well; the well is used to dispose of non-commercial, non-hazardous wastewaters generated on-site at the West Cole Facility; the facility is an in-situ uranium leaching mine located approximately 42 miles east of Laredo and two miles north of Bruni, Texas; renewal of and amendment to; WDW195.

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

TRD-9510170 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 11, 1995

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**Notice of Opportunity to Comment on
Permitting Actions for the Week
Ending August 11, 1995**

The following applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mail Code 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

Consideration of the Application of Davenport Ranch Municipal Utility District Number 1, to Obtain a Water CCN and to Decertificate a portion of CCN Number 10306 issued to the Travis County Water Control and Improvement District (WCID) Number 10 in Travis County, Texas (Application #30580-C, Darrell Nichols).

Consideration of the Application of Davenport Ranch Municipal Utility District Number 1, to Obtain a Sewer CCN in Travis County, Texas (Application #30581-C, Darrell Nichols).

CITY OF CARRIZO SPRINGS for a minor amendment to Permit Number 10145-01 in order to decrease the discharge of treated domestic wastewater effluent from 990,000 gallons per day to 950,000 gallons per day from the Carrizo Springs Wastewater Treatment Facilities. The plant site is approximately 0.5 mile northeast of the intersection of U.S. Highway 83 and State Highway 85 in the City of Carrizo Springs in Dimmit County, Texas.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510169 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 11, 1995

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**Notice of Opportunity to Comment on
Settlement Agreements of
Administrative Actions**

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs)

pursuant to §382.096 of the Texas Clean Air Act (the Act), Health and Safety Code, Chapter 382. The Act, §382.096 requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is September 16, 1995. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, Third Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed below. Written comments about these AOs should be sent to the Staff Attorney designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on September 16, 1995. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 239-3434. The TNRCC Staff Attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1)COMPANY: A & R Pre-Owned Automobiles; DOCKET NUMBER: 95-1254-AIR-E; ACCOUNT NUMBER: FG-0455-F; LOCATION: Rosenberg, Fort Bend County; TYPE OF FACILITY: motor vehicle sales facility; RULE VIOLATED: TNRCC Rule 30 TAC §114.1(c)(1) and the Texas Clean Air Act, §382.085(b) by offering for sale in the State of Texas a motor vehicle with faulty or missing emission control systems or devices with which the vehicle was originally equipped. PENALTY: \$0.00; STAFF ATTORNEY: Peter Gregg, (512) 239-3408; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(2)COMPANY: All Saints Health System; DOCKET NUMBER: 95-1239-AIR-E; ACCOUNT NUMBER: TA-0010-Q; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: hospital; RULE VIOLATED: (a) Alleged to have violated TNRCC Rule 30 TAC §116.115 and the Texas Clean Air Act, §382.085(b) by: (1) failing to maintain the temperature in the secondary chamber of the medical waste incinerator at or above 1,800 Fahrenheit in violation of TNRCC Permit Number C-19560, Special Provision Number 5; (2) failing to span and zero the continuous emissions monitoring system for oxygen on a daily basis in violation of TNRCC Permit Number C-19560, Special Provision Number 9B; and (3) failing to reduce the monitoring data to hourly averages in violation of TNRCC Permit Number C-19560, Special Provision Number 9C; and (b) Alleged to have violated TNRCC Rule 30 TAC §111.129(1) and the Texas Clean Air Act, §382.085(b) by operating the medical waste incinerator at times other than the hours from one hour after sunrise to one hour before sunset. PENALTY: \$4,500; STAFF ATTORNEY: Greg Warmink, 239-0612; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(3)COMPANY: Belco Manufacturing Company; DOCKET NUMBER: 95-1240-AIR-E; ACCOUNT NUMBER: BF-0104-B; LOCATION: Belton, Bell County; TYPE OF FACILITY: fiberglass tank manufacturing plant; RULE VIOLATED: Alleged to have violated TNRCC Rule 30 TAC §116.110(a), and the Texas Clean Air Act, §382.0518(a) and §382.085(b) by exceeding the emission levels of TNRCC Special Exemption Number X-1094. Specifically, TNRCC Special Exemption Number X-1094 authorized emissions of up to 12 tons per year. From January 1, 1994 to September 24, 1994, the Plant emitted 17 tons. PENALTY: \$0.00; STAFF ATTORNEY: Greg Warmink, 239-0612; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7807, (817) 751-0335.

(4)COMPANY: The Celotex Corporation; DOCKET NUMBER: 95-1255-AIR-E; ACCOUNT NUMBER: HG-0128-M; LOCATION: Houston, Harris County; TYPE OF FACILITY: an asphalt roofing manufacturing plant; RULES VIOLATED: Paragraph 8(e) of Texas Air Control Board (TACB) Agreed Board Order (ABO) Number 93-02(a) and the Act, §382.085(b) by failing to have in use combustion analysis equipment and a fire box temperature recorder for the Cutlar Heater; Paragraph 8(h) of TACB ABO Number 93-02(a) and the Act, §382.085(b) by failing to repair, replace, or close openings in doors and windows to reduce cross drafts through the south side of the plant; and Paragraph 8(i) of TACB ABO Number 93-02(a) and the Act, §382.085(b) by failing to implement a complete and current inspection reporting system for the entire plant that addresses the frequency of inspections. PENALTY: \$0.00; STAFF ATTORNEY: Lisa Uselton Dyar, (512) 239-5692; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(5)COMPANY: Chief Auto Sales; DOCKET NUMBER: 95-1241-AIR-E; ACCOUNT NUMBER: MQ-0464-A; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: motor vehicle sales business; RULE VIOLATED: TNRCC Rule 30 TAC §114.1(c)(1) and the Texas Clean Air Act, §382.085(b) by offering for sale in the State of Texas a motor vehicle with faulty or missing emission control systems or devices with which the vehicle was originally equipped. PENALTY: \$250; STAFF ATTORNEY: Peter Gregg, (512) 239-0450; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4996, (806) 353-9251.

(6)COMPANY: East End Auto Parts, Inc.; DOCKET NUMBER: 95-1256-AIR-E; ACCOUNT NUMBER: HG-9817-L; LOCATION: Houston, Harris County; TYPE OF FACILITY: motor vehicle sales business; RULE VIOLATED: TNRCC Rule 30 TAC §114.1(c)(2) and the Texas Clean Air Act, §382.085(b) by offering for sale in the State of Texas a motor vehicle with faulty or missing emission control systems or devices with which the vehicle was originally equipped. PENALTY: \$0.00; STAFF ATTORNEY: Peter Gregg, (512) 239-0450; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(7)COMPANY: F. C. Schmidt Gin; DOCKET NUMBER: 95-1242-AIR-E; ACCOUNT NUMBER: FA-0023-M; LOCATION: Rosebud, Falls County; TYPE OF FACILITY: cotton gin; RULE VIOLATED: Alleged to have violated TNRCC Rule 30 TAC §101.4 and the Texas Clean Air Act, §382.085(a) and (b) by emitting one or more air contaminants, or combinations thereof (dust), in such concentration and of such duration as were or tended to be injurious to or to adversely affect human health or welfare.

animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property on October 1, 1990 and October 21, 1991. PENALTY: \$0.00; STAFF ATTORNEY: Thomas Corwin, (512) 239-5915; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7807, (817) 751-0335.

(8)COMPANY: KMCO, Incorporated; DOCKET NUMBER: 95-1243-AIR-E; ACCOUNT NUMBER: HG-0426-B; LOCATION: Crosby, Harris County; TYPE OF FACILITY: a batch distillation and reaction plant; RULE VIOLATED: TNRCC Rule 30 TAC §101.20(1) and §116.115 and the Act, §382.085(b) (and Agreed Final Judgment #87-33, 130), by violating applicable federal NSPS regulations: §60.482-2(a)(1) and (2) by failure to perform monthly monitoring on pumps in light liquid service for leaks using methods specified in §60.485(b) or demonstrate an exemption, and failure to perform weekly visual inspections for indications of liquid dripping from pump seals; §60.482-4(a) by failure to operate each pressure relief device in gas/vapor service with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background [using methods specified in §60.485(c)]; §60.482-7 by failure to perform monthly monitoring of valves in gas/vapor service in light liquid service—using EPA Method 21—to detect leaks; §60.485(b) and (c) by failure to properly conduct EPA Method 21 tests to determine compliance with standards found in §60.482 and to determine background level; §60.486(a) by failure to comply with recordkeeping requirements of this section; §60.486(b) by failure to tag leaking components and re-monitor valves for two successive months after a leak is detected; §60.486(c) by failure to keep a log of leaking components for two years, and failure to record repair methods applied or repair dates; §60.486(e) by failure to keep the following information in a log which is readily accessible—dates, background level, and maximum instrument reading measured during each compliance test [as required by §§60.482-2(e), 60.482-3(i), 60.482-4, and 60.482-7(f)]—and a list of identification numbers for equipment in vacuum service. Section 60.486(g) by failure to record the percent of valves leaking during each monitoring period (ie., valves complying with §60.483-2); and §60.487 by failure to submit semiannual reports beginning six months after the initial start-up date since 1984. TNRCC Rule 30 TAC §115.126 and the Act, §382.085(b) by failing to maintain records to demonstrate that all vent streams are exempt from the control requirements of TNRCC Rule 30 TAC §115.112 in accordance with TNRCC Rule 30 TAC §115.127(a) . TNRCC Rule 30 TAC §115.334 and the Act, §382.085(b) (and Agreed Final Judgment #87-33,130) by failing to conduct quarterly monitoring of all pipeline valves using a hydrocarbon gas analyzer. TNRCC Rule 30 TAC §115.335 and the Act, §382.085(b) by failing to apply EPA Method 21 for determining volatile organic compound (VOC) leaks. TNRCC Rule 30 TAC §115.336 and the Act, §382.085(b) (and Agreed Final Judgment #87-33,130) by failing to maintain a leaking components monitoring log, and maintain monitoring records for two years. TNRCC Rule 30 TAC §116.115 and the Act, §382.085(b) (and Agreed Final Judgment #87-33,130) by: (1) valves in the J-3 and J-4 units were monitored for fugitive emissions annually instead of quarterly; (2) not keeping complete records of the fugitive monitoring program (specifically, the records do not indicate what corrective actions were taken); (3) Company exceeded its permitted operating rate of 6,552 hours/year by operating the J-3 distillation unit 7,311

hours from October 1992-September 1993; (4) quarterly monitoring is not routinely conducted on the K-7 unit; (5) not identifying leaking components by tagging so that valves may be re-monitored to insure compliance; (6) not indicating in Company records what corrective actions were taken in the required fugitive monitoring program; and (7) Special Provision 2 of TNRCC Permit Number S-16943 requires the Company to comply with NSPS Subparts A and VV. PENALTY: \$48,500; STAFF ATTORNEY: Walter Ehresman, (512) 239-0573; REGIONAL OFFICE: 4150 Westheimer, Houston, Texas 77027-4417, (713) 625-7900.

(9)COMPANY: La Gloria Oil and Gas Company; DOCKET NUMBER: 95-1244-AIR-E; ACCOUNT NUMBER: SK-0022-A; LOCATION: Tyler, Smith County; TYPE OF FACILITY: an oil refinery; RULES VIOLATED: TNRCC Rule 30 TAC §101.4, the Act, §382.085(a) and (b) and Texas Air Control Board (TACB) Agreed Board Order (ABO) Number 93-09(m), by emitting one or more air contaminants, or combinations thereof, in such concentration and of such duration as were or tended to be injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property. PENALTY: \$20,000; STAFF ATTORNEY: Lisa Uselton Dyar, (512) 239-5692; REGIONAL OFFICE: 1304 South Vine Avenue, Tyler, Texas 75701, (903) 595-2639.

(10)COMPANY: Star Enterprise; DOCKET NUMBER: 95-1260-AIR-E; ACCOUNT NUMBER: JE-0095-D; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: a petroleum refinery; RULE VIOLATED: TNRCC Agreed Order Number 94-0555-AIR-E and the Act, §382.085(b) by failing to complete the SEP described in Attachment A of that Order by the required deadline of April 1, 1995. This new Order also modifies that Order by extending the SEP completion deadline to December 31, 1995, and adds more detailed accounting requirements concerning documentation of the costs of that SEP. PENALTY: \$0.00; STAFF ATTORNEY: Walter Ehresman, (512) 239-0573; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1830, (409) 732-5531.

(11)COMPANY: T.T.L., Inc.; DOCKET NUMBER: 95-1262-AIR-E; ACCOUNT NUMBER: JI-0079-D; LOCATION: Anson and Radium, Jones County; TYPE OF FACILITY: anhydrous ammonia tank; RULE VIOLATED: Alleged to have violated TNRCC Rule 30 §116.110(a) and the Texas Clean Air Act, §382.0518(a) and §382.085(b) by constructing and operating an anhydrous ammonia tank which may emit air contaminants into the air of the state without first obtaining a permit or qualifying for a standard exemption. PENALTY: \$0.00; STAFF ATTORNEY: Thomas Corwin, 239-5915; REGIONAL OFFICE: 209 South Danville, Suite 200B, Abilene, Texas 79605, (915) 698-9674.

(12)COMPANY: Timbercreek Manufacturing, Inc.; DOCKET NUMBER: 95-1261-AIR-E; ACCOUNT NUMBER: HV-0123-F; LOCATION: Commerce, Hunt County; TYPE OF FACILITY: woodworking operation; RULE VIOLATED: TNRCC Rule 30 TAC §116.110(a) and the Texas Clean Air Act, §382.0518(a) and §382.085(b) by operating a woodworking operation, which may emit air contaminants into the air of the state without first obtaining a permit or qualifying for a standard exemption. PENALTY: \$500; STAFF ATTORNEY: Aaron Deepest, (512) 239-3408; REGIONAL OFFICE: 6421 Camp Bowie

Boulevard, Suite 312, Fort Worth, Texas, 76116, (817) 732-5531.

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

TRD-9510243

Lydia Gonzales Gromatzky
Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: August 14, 1995

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**Notices of Receipt of Application and
Declaration of Administrative
Completeness for Municipal Solid
Waste Management Facilities for the
Week Ending August 11, 1995**

APPLICATION BY ANGELINA COUNTY WASTE MANAGEMENT CENTER; Proposed Permit Amendment Number MSW2105-A, authorizing an amendment to their Type I (Landfill) municipal solid waste facility permit. The proposed site covers approximately 122 acres of land and is located just east of the intersection of F.M. Highway Number 58 and County Road 228A, approximately 4.8 miles south of U.S. Loop 287 at Lufkin, in Angelina County, Texas.

APPLICATION BY WESTERN WASTE INDUSTRIES, INC., Proposed Permit Amendment Number MSW576A, amending the existing permit Number 576 which authorizes a Type I (Landfill) municipal solid waste facility. The site covers approximately 95.0 acres of land and is located 1,500 feet east of the intersection of Interstate Highway 30 and U.S. Highway 82, one mile west of the city of New Boston in Bowie County, Texas.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F,

Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on August 9, 1995.

TRD-9510168

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 11, 1995

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**Provisionally-Issued Temporary Permits
to Appropriate State Water**

Listed below are permits issued during the period of August 2-3, 1995.

Application Number TA-7507 by Florida Gas Transmission Company for diversion of one acre-feet in a six-month period for industrial use. Water may be diverted from the Neches River at the SH 373 crossing, approximately 20 miles south of Beaumont, Orange County, Texas, Neches River Basin.

Application Number TA-7509 by Colonial Pipeline Company for diversion of eight acre-feet in a six-month period for industrial use. Water may be diverted from the Colonial Pipeline right-of-way crossing of the San Jacinto River, approximately five miles north of Houston, Harris County, Texas, San Jacinto River Basin.

Application Number TA-7512 by Capital Excavation Company for diversion of one acre-foot in a two-month period for industrial use. Water may be diverted from the Frio River at the 135 crossing, approximately 18 miles south of Pearsall, Frio County, Texas, Neches River Basin.

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

TRD-9510242

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: August 14, 1995

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**Texas State Occupational Information
Coordinating Committee**

**Notice of Invitations for Proposals for
Employer Follow-Up Survey**

The Texas State Occupational Coordinating Committee (TSOICC) invites proposals for conducting a survey and analyzing data gathered therefrom commencing September 1, 1995 and ending June 30, 1996.

Anyone wishing to submit a proposal should contact the following for additional information: Richard Froeche, Executive Director, TSOICC, Travis Building, Suite 205, 3520 Executive Center Drive, Austin, Texas 78731, (512) 502-3750 or Marc Anderberg, Project Director, TSOICC, Travis Building, Suite 205, 3520 Executive Center Drive, Austin, Texas 78731, (512) 502-3754.

All proposals must be received at the TSOICC offices at the previously listed address no later than the close of business at 5:00 p.m. on August 31, 1995.

Award of contract will be made based on the analysis of competitive bids. A copy of the proposal evaluation instru-

ment is available from either Mr. Froeschle or Mr. Anderberg at the listed address. Within ten days after contracting, TSOICC will file with the *Texas Register* a notice of award of contract.

Based on prior experience and expertise, it is our intent to award this contract to Jim Reed's Student Information Systems of Corsicana, Texas, unless another organization can demonstrate superior knowledge and expertise in the field of community college student follow-up.

Project Summary

The Texas State Occupational Information Coordinating Committee (SOICC) requests the submission of proposals for a survey of Texas employers to determine the occupational employment status of former students and adult learners from public institutions of higher education, from Job Training Partnership Act (JTPA) programs, and from secondary vocational/technical education. The SOICC is under contract with the Texas Employment Commission (TEC) through June 30, 1996, to develop a comprehensive and integrated statewide student and adult learner follow-up system. The purpose of the follow-up system will be to obtain data to demonstrate the successful outcomes of various education and training programs, to compare institutional and program performance against core standards and measures, to help guide program improvements, and to provide information essential to students and adult learners as they form career expectations and chose from among related education and training options.

The Coordinating Board, Texas Education Agency, Texas Department of Human Services, and the Texas Department of Commerce will submit to the SOICC "seed files" containing background information on former students and participants who have received occupationally-specific training. These seed files will be matched by Social Security numbers to the Coordinating Board's master enrollment files to identify those students continuing to pursue their training at a public institution of higher education. Secondly, the seed files will be matched by Social Security numbers to the TEC's Unemployment Insurance (UI) wage-records to identify labor market outcomes. The SOICC, in collaboration with the employer follow-up subcontractor and program representatives, will analyze the data obtained through this matching process and will prepare reports and recommendations accordingly.

The data obtained through these matching processes are not sufficient to address a key concern outlined in the state's Master Plan for Career and Technical Education and echoed in the secondary and post-secondary core standards and measures, JTPA performance evaluation guidelines, the Workforce and Economic Competitiveness Act (Senate Bill 642), and various state agency rules and regulations. Namely, the labor market outcomes data obtained through the UI wage-record match are not sufficiently detailed to permit a determination of training-relatedness for job placements. The purpose of this RFP is to engage a subcontractor to conduct an employer survey to obtain occupational title, work-site location, and conditions of employment (full time/full quarter) for former students and adult learners located in the Texas labor market through the UI wage-record match.

Employer surveys were conducted by the Texas Student Information System (TEXSIS) under subcontracts to the SOICC during the 1992-1993, 1993-1994, and 1994-1995 contract years. The TEXSIS has consistently achieved an 80% or better response rate. The successful bidder must demonstrate to the satisfaction of the SOICC that persis-

tence effort will produce at least an 80% response rate. Because of TEXSIS's successful performance under prior employer survey subcontracts and because of the experience and expertise exhibited by Dr. Jim Reed, it is the intention of the SOICC to award the 1995-1996 employer survey subcontract to TEXSIS unless an alternative proposal gives clear indication of comparable expertise and capacity to provide expected services at a significantly lower cost.

Scope of the Employer Survey

No later than September 15, 1995, the SOICC will deliver a seed file to the employer survey subcontractor. The seed file will contain the matched records for no more than 101,000 former students and adult learners from selected high schools, JTPA service delivery areas, and institutions of higher education. The seed files will include each former student or adult learner's name and Social Security number. The seed file also will contain a TEC identification number, firm name and firm address for the employer of record for the fourth quarter of 1994 as identified through the automated matching against the UI wage-records.

The subcontractor will sort the former students and adult learners by employer identification number and prepare survey instruments for mailing to those employers. Some firms may employ more than one person whose records are a part of the seed file. Each firm is to receive one survey instrument containing the names and Social Security numbers of all former students and adult learners from the seed file identified as in its employment. The subcontractor will request that the employers supply an occupational title, work site location zip code, and designation of full time/full quarter employment (Yes/No) for each former student or adult learners identified on the survey instrument.

No later than February 15, 1996, the subcontractor will close out the employer survey file. In the interim between the initial mailing of the survey instrument and the close-out deadline, the subcontractor will persist through such activities and techniques as are necessary to obtain responses from at least 80% of the employers surveyed. The subcontractor will be responsible for coding all data received in response to the survey and will append that information in machine readable form in a format consistent with the original seed files. The seed files with information obtained through the employer follow-up survey appended will be returned to the SOICC no later than April 15, 1996.

During the 1995-1996 program year, the SOICC will forward approximately 101,000 student records to the survey subcontractor. Based on the ratio of student records to employer surveys realized in prior years, that number of student records should necessitate mailing approximately 36,807 employer surveys.

Employer Survey Data Analysis

The subcontractor will be responsible for analysis of data obtained through the employer survey. That analysis will include but not be limited to descriptive statistics concerning patterns of employment and wage earning by institution, program type, student/adult learner demographics, and region. In addition, the subcontractor will use a cross-walk matrix table supplied by the SOICC to automatically code the degree of training-relatedness for job placements of each former student/adult learner for whom a valid occupational title was obtained.

A written final report containing comprehensive statement of methodology and procedures will be delivered to the SOICC no later than 15 days after the close of the contract period. The subcontractor also will be required to make periodic presentations to workshops, relevant committees, etc. concerning the progress of and preliminary results of the employer survey.

Terms and Conditions

The successful bidder will be allowed to invoice the SOICC for 25% of the contract amount at the beginning of the contract period for start-up expenses. The SOICC will withhold 5.0% of the contract amount for payment upon satisfactory completion of all deliverables.

Proposal Submission

All proposals are due at the SOICC's office no later than the close of business at 5:00 p.m. Central Daylight Time, August 31, 1995. The SOICC's address is: The Texas SOICC, 3520 Executive Center Drive, Travis Building, Room 205, Austin, Texas 78731.

Two copies of each proposal should be submitted. All proposals submitted should contain the following information in the order requested:

1) Cover Page

The cover page should include the name of the party submitting the proposal, contact name, address, and phone number. The cover page should also bear the original signature of the person authorized to contractually obligate the entity submitting the proposal.

2) Statement of Work

The statement of work must address the proposer's plans for accomplishing the following:

- a) Survey research project design in collaboration with the SOICC.
- b) Survey instrument design and persistence techniques for maximizing response rate.
- c) Software development for receiving, maintaining, and processing data.
- d) Initial survey mail-out and follow-up including non-respondent tracking.
- e) Data entry and maintenance including specifications of techniques used to code the data particularly with reference to employer supplied job titles that do not match those title listed in either the Dictionary of Occupational Titles or the Occupational Employment Statistic systems.
- f) Monitoring and reporting project progress.
- g) Interpretation of data and documentation to assure compliance with the project's objectives.
- h) Information dissemination to institutions required to facilitate their reporting of the labor market outcomes of their graduates and leavers.
- i) Documentation of recommended standard operating procedures and an evaluation report that assures that funds were used in a manner consistent with the goals of this project.
- j) Recommendations and final report. The final report will include findings and recommendations regarding:
 - response rates

- industrial distribution of occupational employment outcomes by program;
- geographic mobility analysis of labor market outcomes;
- training-relatedness of job placements; and
- techniques for improving the efficiency and effectiveness of employer follow-up.

3) Qualifications

Explain the qualifications of those persons and of the organization that would enable the proposing party to meet its contractual obligations; include references pertaining to the conduct of prior surveys of comparable design with specific reference to response rate and cost per response.

Identify personnel who will provide services outlined in the statement of work. Indicate the qualification of (that) person(s) with respect to:

- prior experience and familiarity with survey research methods and statistical analysis techniques;
- prior experience and familiarity with application software development;
- prior experience and familiarity with record keeping and data coding formats used by the Texas Higher Education Coordinating Board;
- prior experience and familiarity with record keeping and data coding formats used by the Texas Employment Commission;
- prior experience and familiarity with record keeping and data coding formats used by the Texas Education Agency.
- prior experience and familiarity with record keeping and data coding formats used by the Workforce Development Division (JTPA) of the Texas Department of Commerce.
- prior experience and familiarity with standardized occupational, industrial, and instructional classification systems.
- prior experience and familiarity with techniques for assessing the degree of training-relatedness of job placements.

4) Debarment Certificate and Miscellaneous Declarations

Provide assurances that the principals and the organization proposing to conduct the employer survey have not been debarred from entering into contracts with the State of Texas and/or federal agencies. Provide assurances that there would be no conflict of interest in contracting with the SOICC, the State of Texas, or the United States Department of Labor.

Optional declarations such as certification as a female-owned, minority-owned, or Texas-owned business may be attached.

5) Calendar

Provide a calendar of activities, services, and submission of deliverables.

6) Budget

Submit a line item budget indicating proposed expenditures.

Provide a brief explanation justifying the proposed costs for the following:

- a) Developing and conducting the survey and required reports;
- b) Additional personnel costs associated with technical development effort, workshops, data maintenance, and report production;
- c) Travel and related support costs; and
- sa d) Administrative costs.

Party awarded this contract may anticipate an initial payment to cover start-up costs and periodic payments thereafter upon submission of progress report documenting percentage of project completion. Final payment will be withheld pending satisfactory completion of all obligations under terms of the contract awarded.

The SOICC reserves the right to reject all bids. Incomplete proposals and proposals received after the submission deadline will be declared non-responsive and will be rejected without further evaluation. Award of contract will be based on a competitive evaluation of all proposals submitted by the deadline by parties not debarred from doing business with the federal government or the State of Texas. Award of contract need not be made to the lowest bidder; rather, contract will be awarded to the proposal receiving the highest average score from three persons selected by the SOICC to read all proposals. Award of contract will be dependent upon the evaluation team's determination of the soundness of the proposal, capacity of the proposer to meet contractual obligations, and the reasonableness of the expenditures proposed. A copy of the proposal evaluation instrument is available upon written request from the SOICC.

The SOICC reserves the right, contingent upon funding, to negotiate the terms of the final contract with the party submitting the proposal receiving the highest average points during the evaluation process.

Issued in Austin, Texas, on August 9, 1995.

TRD-9509985 Richard C. Froeschle
 Executive Director
 Texas State Occupational Information
 Coordinating Committee

Filed: August 9, 1995

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Texas Parks and Wildlife Department
Notice of Application for a Permit to
Remove Sand, Gravel or Marl from
the Brazos River

Notice is hereby given that Sand Supply, Inc., P.O. Box 1127, Richmond, Texas 77469, as of August 7, 1995, filed an administratively complete application with the Texas Parks and Wildlife Department for a revenue permit to: remove up to 40,000 cubic yards (54,000 tons) of sand and 10,000 cubic yards (13,500 tons) of gravel per month from the Brazos River, Fort Bend County, at a site located approximately 5.0 miles southeast of the Alternate Highway 90 bridge and 2.5 miles north of the U.S. Highway 59 bridge and extending north along the south side of the U.S. Highway 59 bridge and extending north along the south side of the Brazos River for a distance of approximately 3,000 feet adjacent to the properties of the R. E. Smith Estate and J.C. Wessendorff; and to remove up to 40,000 cubic yards (54,000 tons) of sand and 10,000 cubic yards (13,500 tons) of gravel per month from the Brazos River,

Fort Bend County, at a site located approximately 7.5 miles southeast of the Alternate Highway 90 bridge and 1,200 feet north of the Highway 59 bridge and extending north along the south side of the Brazos River for a distance of approximately 2,500 feet adjacent to the properties of Ervin and Gilbert Vallet and the Texas Department of Corrections.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in Chapter 86 of the Parks and Wildlife Code and will not authorize the crossing of any private property.

The hearing to receive public comment on this application will be conducted Tuesday, September 12, 1995 at 3:00 p.m., in Conference Room A-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin. All interested persons may appear and be heard. Comments may be mailed to the Department at the following address, or presented orally or in writing at the hearing. Comments sent by mail should be received by the Department prior to the public comment hearing and should refer to Permit Number SR90-001.

In addition, any person who can demonstrate a justiciable interest may request a formal contested case hearing pursuant to Government Code, §2001. 054. Any person wishing to request such a hearing should submit a written request to Catherine Livingston at the following address. Such a request should include a short statement of the nature of any objections to the requested permit and a description of the potential adverse impact that may be suffered by the requestor. Requests for formal contested case hearings must be received by the Department no later than 30 days after the date of issuance of this notice as listed below or by the close of the public comment hearing, whichever is later.

Further information concerning any aspect of the application or hearing may be obtained by contacting Catherine Livingston, Resource Protection Attorney, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin 78744, (512) 389-8006, Fax: (512) 389-4482.

Issued in Austin, Texas, on August 9, 1995.

TRD-9509981 Paul M. Shinkawa
 Acting General Counsel
 Texas Parks and Wildlife Department

Filed: August 9, 1995

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Public Utility Commission of Texas
Notices of Applications to Amend
Certificate of Convenience and
Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on June 22, 1995, to amend a Certificate of Convenience and Necessity pursuant to §§1.101, 2.101(e), 2.252, 2.251, 2.253, and 2.255 of the Public Utility Regulatory Act of 1995. A summary of the application follows.

Docket Title and Number: APPLICATION OF SOUTHWESTERN ELECTRIC SERVICE COMPANY TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY FOR A PROPOSED TRANSMISSION LINE WITHIN CHEROKEE COUNTY, Docket Number 14352 before the Public Utility Commission of Texas.

The Application: In Docket Number 14352, Southwestern Electric Service Company requests approval of its application to construct approximately 1.04 miles of 69-kV transmission line in Cherokee County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on August 10, 1995.

TRD-9510032 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 10, 1995



Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on July 31, 1995, to amend a Certificate of Convenience and Necessity pursuant to §§1.101, 2.101(e), 2.252, 2.251, 2.253, and 2.255 of the Public Utility Regulatory Act of 1995. A summary of the application follows.

Docket Title and Number: APPLICATION OF BRAZOS ELECTRIC POWER COOPERATIVE, INC. TO AMEND CERTIFICATE OF CONVENIENCE AND NECESSITY FOR PROPOSED TRANSMISSION LINE WITHIN ELLIS COUNTY, Docket Number 14484 before the Public Utility Commission of Texas.

The Application: In Docket Number 14484, Brazos Electric Power Cooperative, Inc. requests approval of its application to construct approximately three miles of 138-kV transmission line within Ellis County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on August 10, 1995.

TRD-9510033 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 10, 1995



Notices 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 Aldine ISD, Houston, Texas.

Docket Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Aldine ISD pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 13601.

The Application. Southwestern Bell Telephone Company is requesting approval of a 155-station addition to the existing PLEXAR-Custom service for Aldine ISD. The geographic service market for this specific service is the Houston, 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 9, 1995.

TRD-9509968 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 9, 1995



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 Austin Community College, Austin, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Austin Community College pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 14496.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Austin Community College. The geographic service market for this specific service is the Austin, 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 9, 1995.

TRD-9509969 Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas

Filed: August 9, 1995



Texas Department of Transportation Public Hearing Notice

The Texas Department of Transportation, Aviation Division will hold a public hearing on Tuesday, August 29, 1995, beginning at 9:00 a.m., at 150 East Riverside Drive, South Tower Conference Room 309C, Austin, Texas. The public hearing will be held pursuant to House Bill 2180, 74th Legislature, 1995, which amended Texas Civil Statutes, Article 46c-6, §10, to receive comments from interested parties concerning the following 1995 aviation facilities development projects and financial assistance.

A. Proposed approval of State-Funded Aviation Facilities Development Grants: County of Panola-Panola County-Sharpe Field; City of Cisco-Cisco Municipal Airport; City of Corsicana-C. David Campbell Field; City of Cuero-Cuero Municipal Airport; County of Terrell-Terrell

County Airport; County of Moore-Moore County Airport; City of Gonzales-Gonzales Municipal Airport; City of Hearne-Hearne Municipal Airport; City of Huntsville-Huntsville Municipal Airport; County of San Patricio-T. P. McCampbell Airport; County of Jasper-Jasper County-Bell Field; County of Kimble-Kimble County Airport; City of Kerrville-Kerrville Municipal-Louis Schreiner Field; County of Fayette-Fayette Regional Air Center; City of Munday-Munday Municipal Airport; City of Palestine-Palestine Municipal Airport; City of Paris-Cox Field; County of Yoakum-Yoakum County Airport; Willacy County Navigational District-Charles R. Johnson Airport; City of Sherman-Sherman Municipal Airport; City of Wills Point-Wills Point Municipal Airport; City of Alice-Alice International Airport; City of Colorado City-Colorado City Airport; County of Comanche/City of Comanche-Comanche County/City Airport; City of Edinburg-Edinburg International Airport; County of Brooks-Brooks County Airport; City of Floydada-Floydada Municipal Airport; Brazos River Authority-Possum Kingdom Airport; County of Jim Hogg-Jim Hogg County Airport; County of Cherokee-Cherokee County Airport; City of Livingston-Livingston Municipal Airport; City of Llano-Llano Municipal Airport; County of Harrison-Harrison County Airport; County of Starr-Starr County Airport;

County of Nueces-Nueces County Airport; County of Aransas-Aransas County Airport; County of San Patricio-San Patricio County Airport; City of Sulphur Springs-Sulphur Springs Municipal Airport; City of Sweetwater-Avenger Field.

B. Proposed approval of Federal/State-Funded Aviation Facilities Development Grants: City of Bridgeport-Bridgeport Municipal Airport; City of Smithville-Smithville Municipal Airport; County of Crockett-Ozona Municipal Airport; City of Brady-Curtis Field; City of Granbury-Granbury Municipal Airport; County of Fayette-Fayette Regional Air Center; City of Taylor-Taylor Municipal Airport; City of Pleasanton-Pleasanton Municipal Airport; City of Castroville-Castroville Municipal Airport.

For additional information, contact Suetta Murray, 150 East Riverside Drive, Austin, Texas 78704, (512) 416-4504.

Issued in Austin, Texas, on August 11, 1995.

TRD-9510142

Robert E. Shaddock
General Counsel
Texas Department of Transportation

Filed: August 11, 1995

