TEXAS REGISTER

IN THIS ISSUE

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Texas Register

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POSTMASTER: Please send form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824.

How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

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

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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

Open Meetings - notices of open meetings.

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

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

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

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

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

TITLE 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.

In Addition Sections

Comptroller of Public Accounts

Texas Department of Criminal Justice

Office of the Governor, Criminal Justice Division

Texas Department of Health

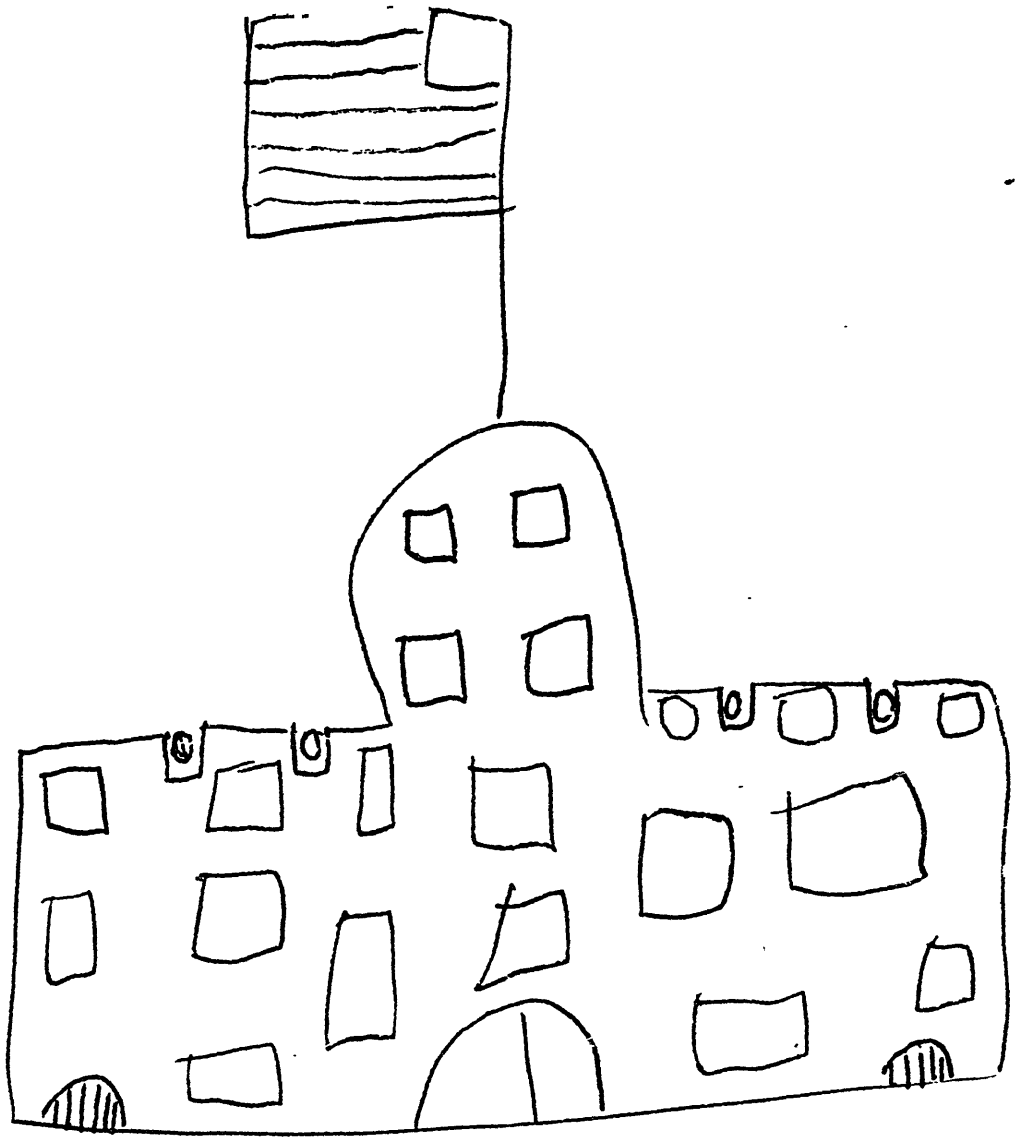
Texas Health and Human Services Commission

Texas Higher Education Coordinating Board

Texas Department of Mental Health and Mental Retardation

Texas Natural Resource Conservation Commission

Texas Racing Commission



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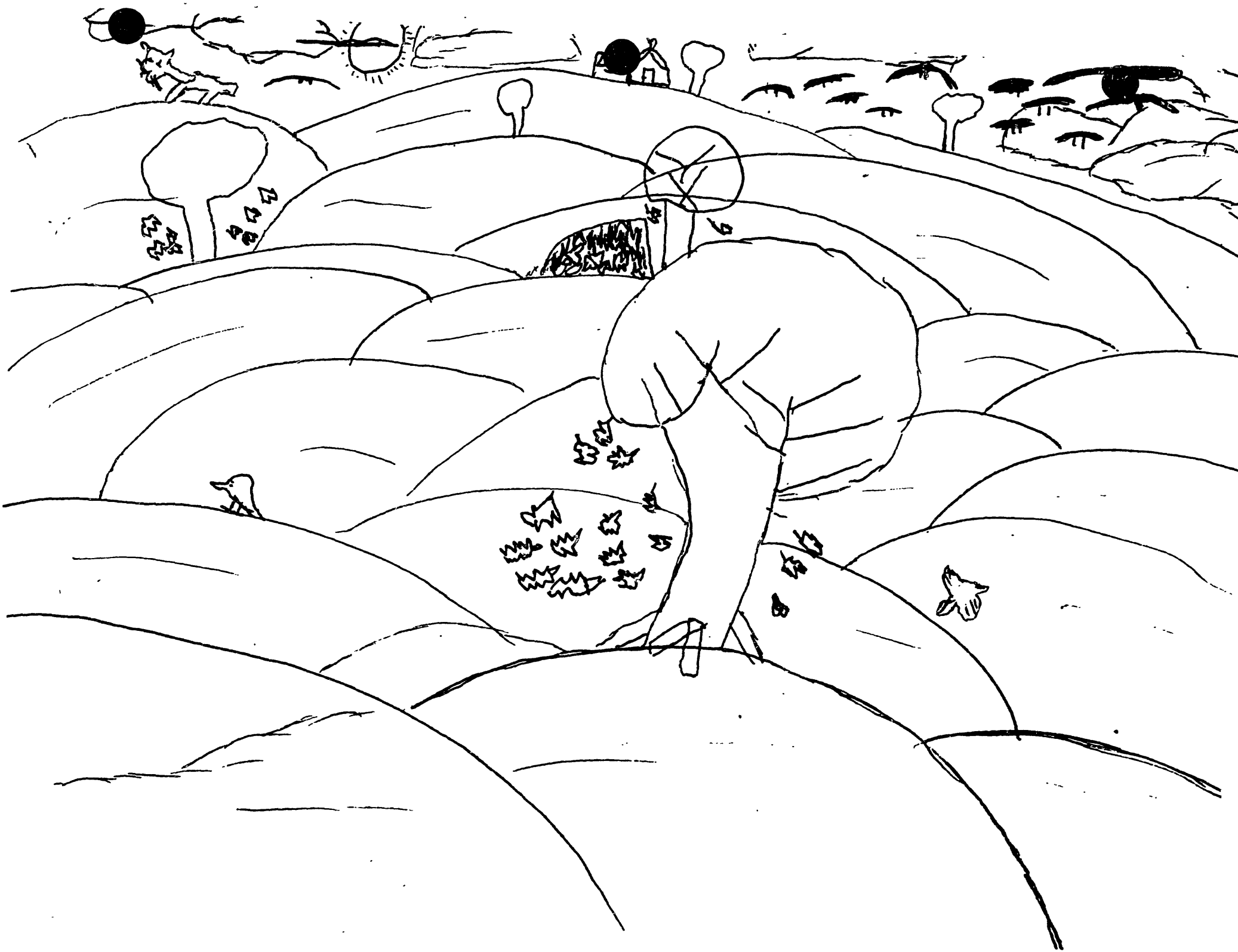

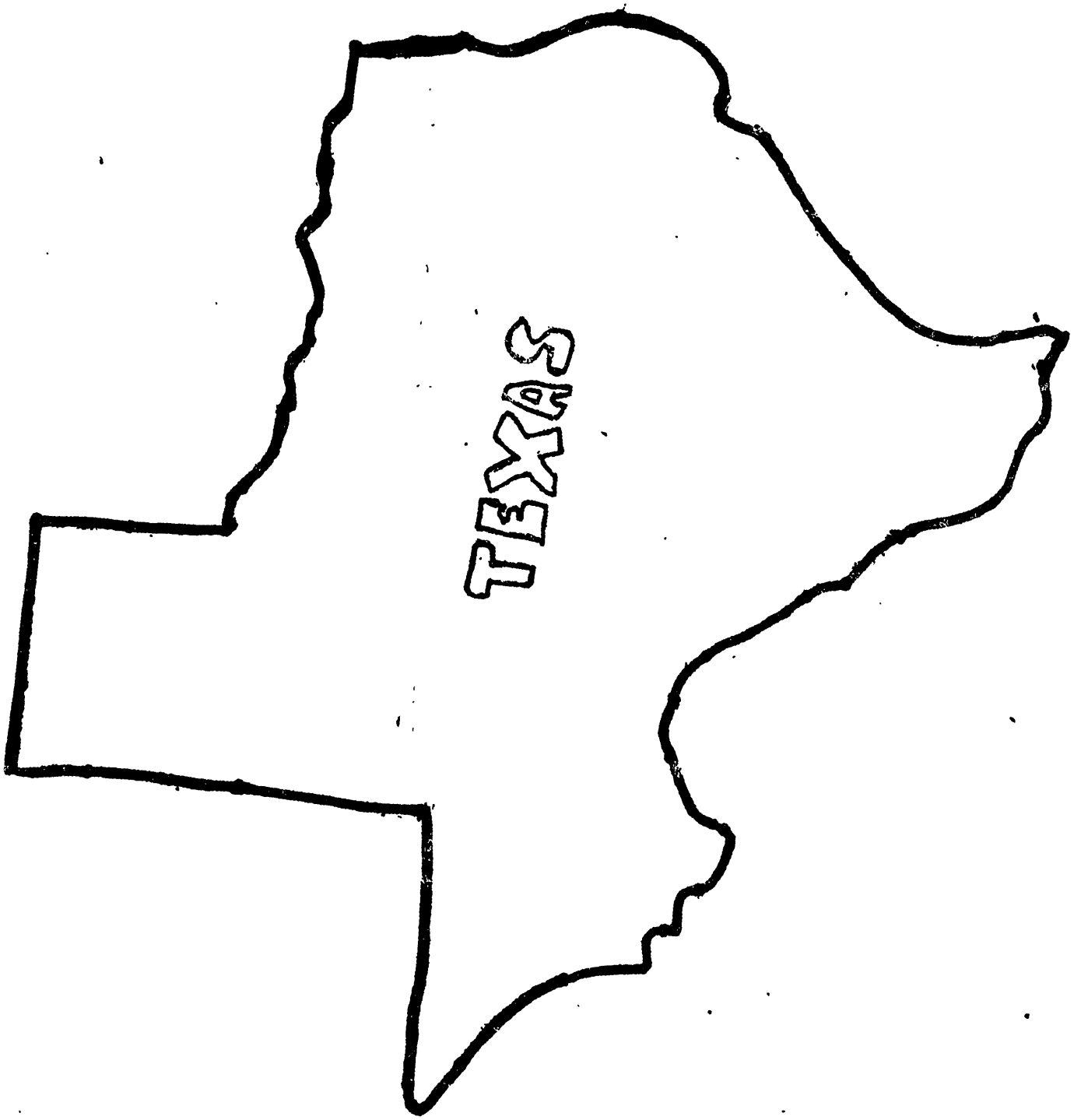
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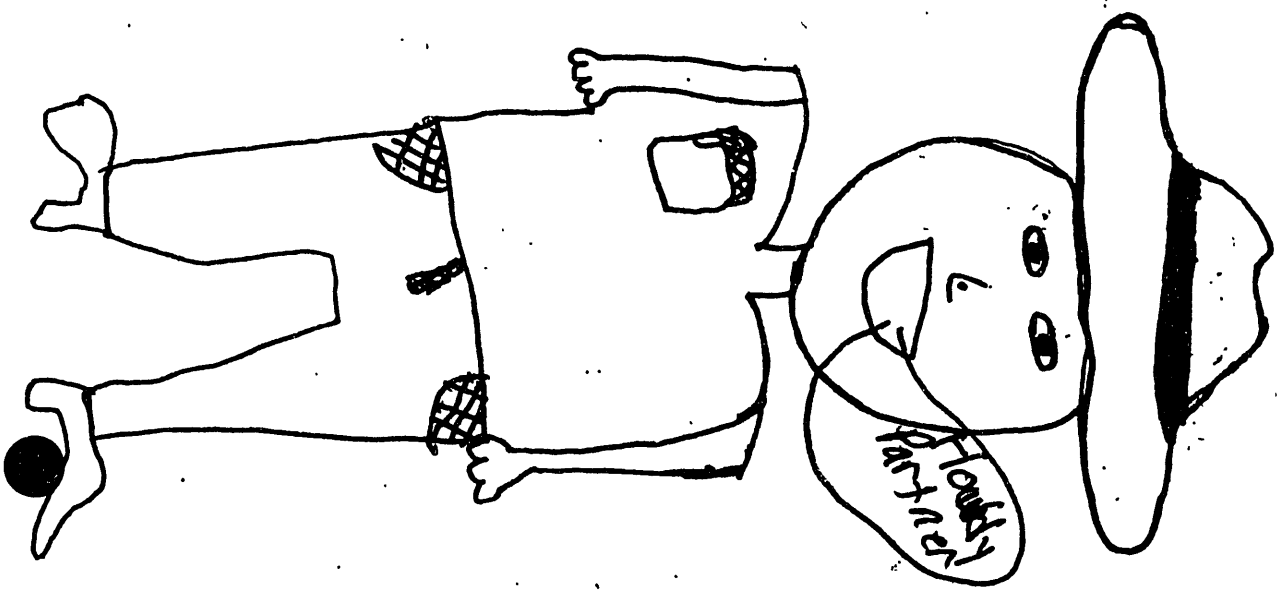

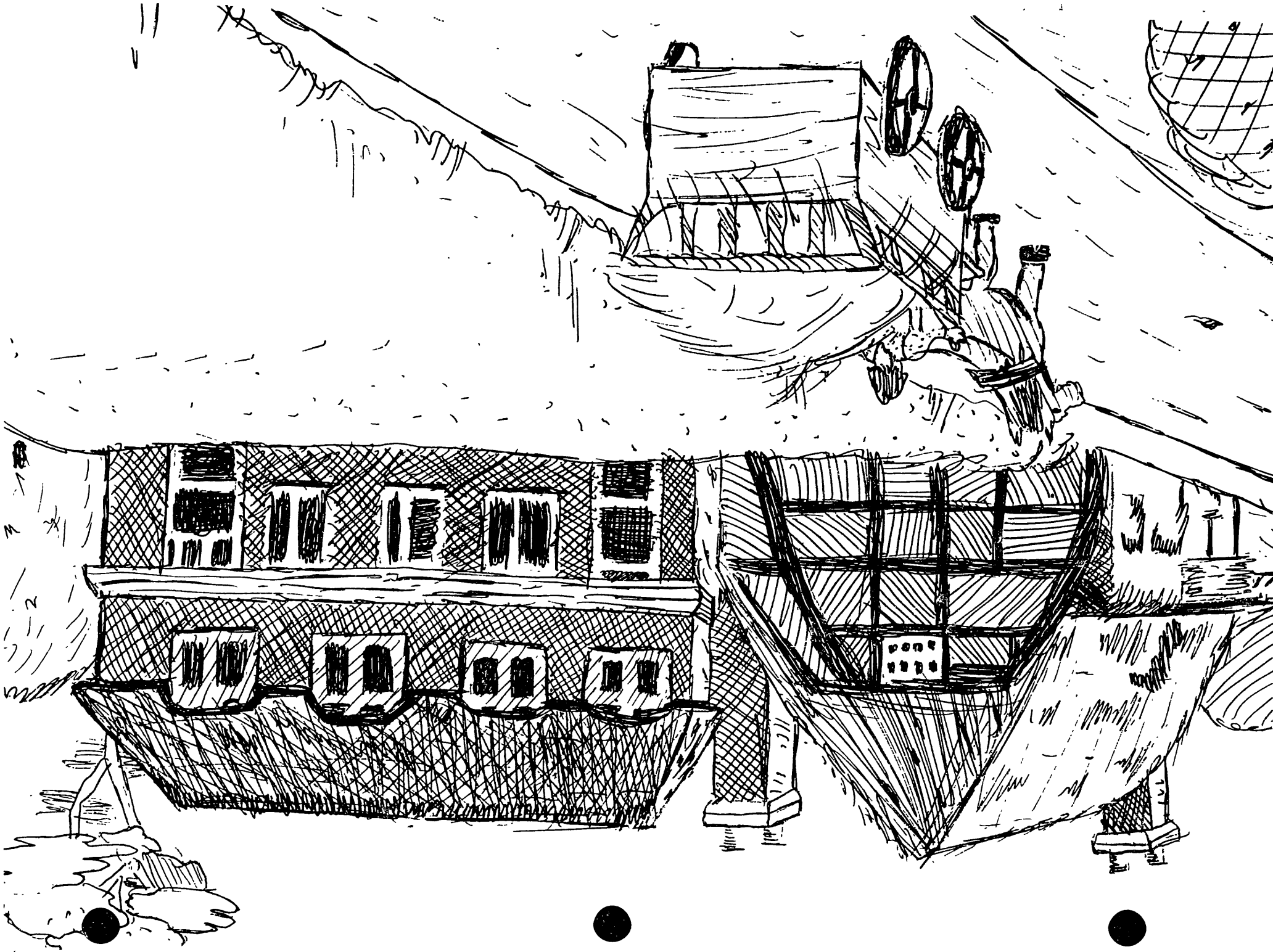

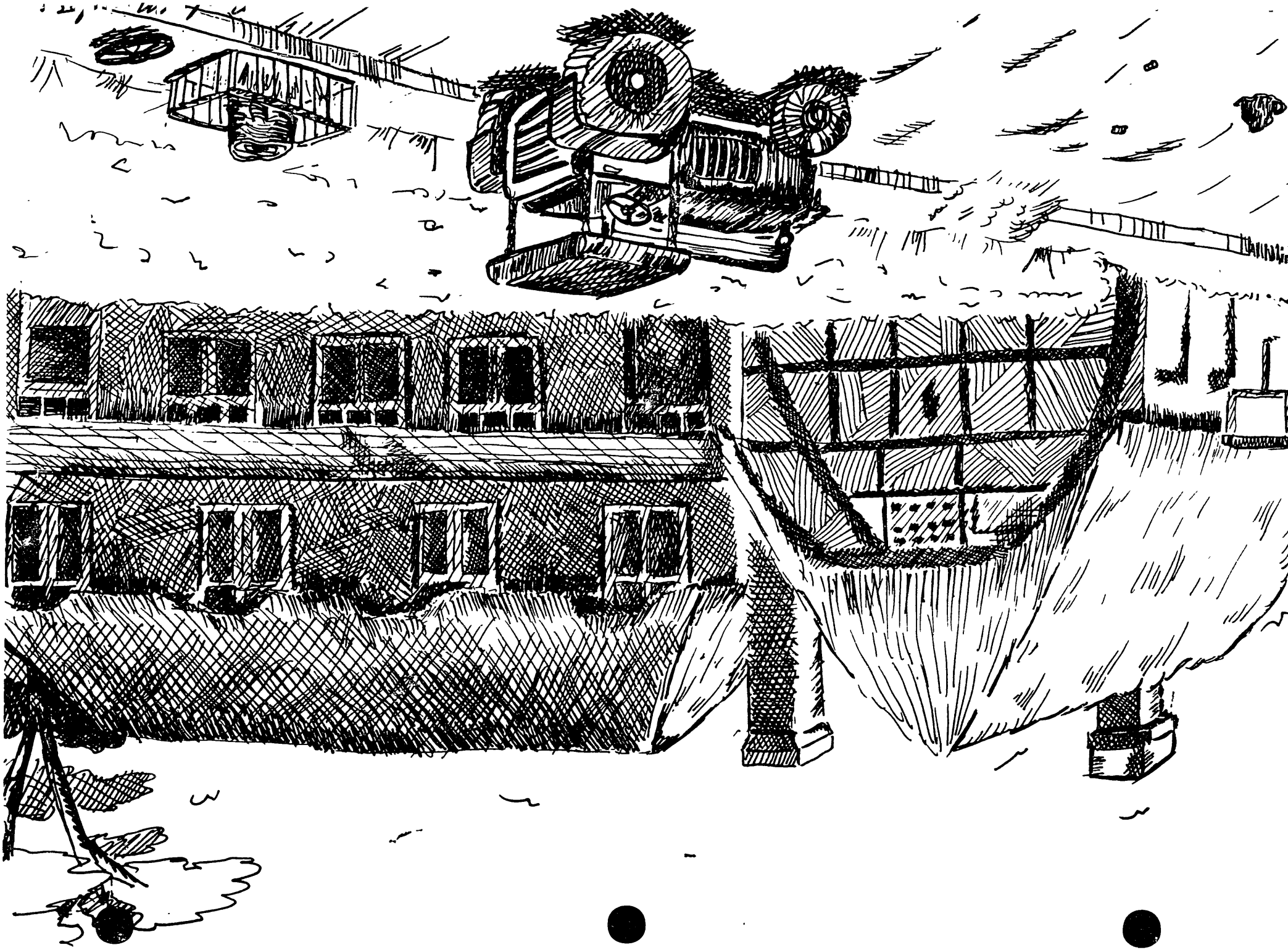

ATTORNEY GENERAL

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

Letter Opinions

(LO-94-59) (ID#-26736). Request from Michael G. Mask, Jack County Attorney Courthouse, Third Floor, Jacksboro, Texas 76458, concerning whether a county tax assessor's filing for school board trustee effects an automatic resignation from the tax assessor's office, and related questions.

Summary of Opinion. A county tax assessor with more than a year left on his term who files for school board trustee automatically resigns from and vacates the tax assessor's office. Subsequent withdrawal from the school trustee candidacy, does not undo the resignation from the tax assessor position. If, as here, the vacancy in the tax assessor's office occurs more than 65 days before the next general election, the vacancy is filled at that election for the unexpired term.

TRD-9446731

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(LO-94-60) (ID#-25244). Request from Paul Crosnoe, Bailey County Attorney, 1631 West American Boulevard, Muleshoe, Texas 79347, concerning authority of a county treasurer to pay for an autopsy performed, at the request of a justice of the peace of the county, on the body of a person killed in a traffic accident in a neighboring county.

Summary of Opinion. A justice of the peace has no authority to order the performance of an autopsy in an inquest into a death that did not occur in the county served by the justice. A county treasurer may not pay county money for the performance of an autopsy pursuant to the order of a justice of the peace in such circumstances.

TRD-9446730

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(LO-94-61) (RQ-665). Request from Mary F. Keller, Senior Associate Commissioner, Legal and Compliance, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104, concerning request for an opinion construing Texas Insurance Code, Article 1.24D.

Summary of Opinion. The Insurance Code, Article 1.24D, does not prohibit the Texas Department of Insurance from distributing the publication entitled "Health Insurance for Texans with Pre-existing Conditions" if the insurers listed in the pamphlet have expressly consented to disclosure of this information.

TRD-9446729

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(LO-94-62) (ID#-23297). Request from Jim Riley, Interim Executive Director, Texas Department of Criminal Justice, P.O. Box 13084, Austin, Texas 78711-3251, concerning whether convicted felons awaiting transfer in county jails to substance abuse felony program facilities or the state boot camp program, are within the Government Code, Chapter 499, Subchapter F, for purposes of state compensation to counties.

Summary of Opinion. Convicted felons in county jails awaiting transfer to the state boot camp program are within the provisions of the Government Code, Chapter 499, Subchapter F, requiring state payment for inmates "awaiting transfer to the institutional division" of the Texas Department of Criminal Justice. Prisoners awaiting transfer to substance abuse felony program facilities are not, however, within the scope of Subchapter F.

TRD-9446728

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Opinions

(DM-298) (RQ-559). Request from David Motley, Kerr County Attorney, Kerr County Courthouse, 700 East Main Street, Kerrville, Texas 78028-5324, concerning whether, under the Family Code, §71.04(e), a clerk of court may charge an applicant for a protective order more than $36 in certain cases and related question.

Summary of Opinion. Pursuant to the Family Code, §71.04(e), a clerk must not charge an applicant for a protective order under chapter 71 of the Family Code more than $36 total for filing the application and serving notice of the application, regardless of the number of respondents who must be served or the number of times service must be attempted before the server actually delivers the service. Although an applicant for protective order is presently receiving a governmental entitlement based on indigency, the applicant must, if he or she claims to be unable to pay the filing fee and other costs as provided in the Family Code, §71.07, file with the clerk an affidavit of inability to pay in which the applicant provides information regarding all items paragraph two of Texas Rule of Civil Procedure 145 specifies.

TRD-9446727

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Requests for Opinions

RQ-720. Request from James E. Nugent, Chairman, Texas Railroad Commission, P.O. Box 12967, Austin, Texas 78711-2967, concerning whether appointment calendars used by public officers or employees constitute public information subject to the Texas Open Records Act, and related questions.

RQ-721. Request from John Pouland, Executive Director, General Services Commission, P.O. Box 13047, Austin, Texas

78711-3047, concerning whether a "historically underutilized business" described in Texas Civil Statutes, Article 601b, includes a business owned by a person with disabilities, and related questions.

RQ-722. Request from Warren Chisum, Chair, Committee on Environmental Regulation, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a entity that contracts with an independent school district to provide services pursuant to Education Code, §23.24, must comply with various requirements imposed on school districts.

RQ-723. Request from Mike Driscoll, Harris County Attorney, 1001 Preston, Suite 634, Houston, Texas 77002-1891, concerning whether an interpreter for a hearing impaired or deaf juror may or must be present during a jury deliberation.

RQ-724. Request from Kenny Marchant, Chair, Committee on Investments and Banking, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether certain subordinated debt of a pawnshop must be included within the definition of "applicable liabilities" for purposes of determining eligibility for a pawnshop license under the Texas Pawnshop Act, Article 5069-51.01 et seq.

TRD-9448732

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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.

Texas Ethics Commission

Opinions

AOR-251. The Texas Ethics Commission has been asked to consider whether the policyholder-members of a Texas farm mutual insurance company are "members" of the insurance company for purposes of §253.093 and §253.098 of the Election Code. The commission has also been asked to consider whether communications to members made in accordance with §253.098 must bear any kind of disclosure or notice.

AOR-252. The commission has been asked to consider the scope of the term "member" in §253.098 of the Election Code. The commission has also been asked to consider several questions about the application of §253.098 and §253.100 of the Election Code to members of a "membership corporation."

AOR-253. The Texas Ethics Commission has been asked to consider whether §36.07 of the Penal Code prohibits a local government employee from accepting a cash prize from a private organization in recognition of outstanding job performance.

The Texas Ethics Commission is authorized by §1.29 of Subchapter D of Chapter 571 of the Government Code, to issue advisory opinions in regard to the following statutes: (1) Subchapter D of Chapter 572 of the Government Code; (2) Chapter 302, Government Code; (1) Chapter 305, Government Code; (3) Title 15, Election Code; (5) Chapter 36, Penal Code; and (6) Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on August 15, 1994.

TRD-9446696 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: August 16, 1994

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EAO-220 (AOR-238). Application of §572.054 of the Government Code to a proposed grant from a state agency to an organization whose project director is a former member of the agency's governing board.

Summary of Opinion. The revolving door provision, Government Code, §572.054, does not restrict a former member of the governing board of a state agency from communicating with or appearing before the agency with the intent to influence agency action on behalf of a nonprofit organization.

The Texas Ethics Commission is authorized by §1.29 of Subchapter D of Chapter 571 of the Government Code, to issue advisory opinions in regard to the following statutes: (1) Subchapter D of Chapter 572 of the Government Code; (2) Chapter 302, Government Code; (1) Chapter 305, Government Code; (3) Title 15, Election Code; (5) Chapter 36, Penal Code; and (6) Chapter 39, Penal Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on August 15, 1994.

TRD-9446695 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: August 16, 1994

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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 XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans-Standards

• 1 TAC §251.2

(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 Advisory Commission on State Emergency Communications or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Advisory Commission on State Emergency Communications (ACSEC) proposes the repeal of §251.2, regarding guidelines to govern amendments to approved regional plans and establish a process for modifying plans. The guidelines allow a Council of Government more latitude to make 9-1-1 implementation decisions in its region and allow for enhancements where technically and financially feasible. This also clarifies that the equalization surcharge fund may be used to implement both regional and district plans.

Mary A. Boyd, executive director for ACSEC, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. In addition, it has been determined that there will be no fiscal effect on local employment or the local economy.

Ms. Boyd also has determined that the public benefit of this repeal will help clarify and streamline the amendment process, delegating some functions and actions to the Council's of Governments and the Commission staff. 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 Mary Boyd, Executive Director, ACSEC, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746.

The repeal is proposed under the Health and Safety Code, Chapter 771, §§771.055-771.057, and 771.072, which provides the ACSEC with the authority for developing and amending a regional plan for the establishment and operations of 9-1-1 service in accordance with Commission standards and procedures. The guidelines for regional plan amendments are incorporated in proposed §251.6, published in the August 5, 1994, issue of the *Texas Register* (19 TexReg 6078).

The proposed repeal affects the Health and Safety Code, Chapter 771.

§251.2. Guidelines for Regional Plan Amendments.

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 15, 1994.

TRD-9446739 Mary A Boyd
Executive Director
Advisory Commission on State Emergency Communications

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 327-1911

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Chapter 252. Administration

• 1 TAC §252.2

(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 Advisory Commission on State Emergency Communications or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin)

The Advisory Commission on State Emergency Communications (ACSEC) proposes the repeal of §252.2, concerning authorizing the planning, implementation, and financing of 9-1-1 state emergency communications. This section will provide for monitoring of the progress of the 9-1-1 Regional Plans and the financial impact on the 9-1-1 equalization surcharge and 9-1-1 service fee funds

Mary A. Boyd, executive director for ACSEC, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. Ms. Boyd also has determined that there will be no fiscal effect on local employment or the local economy.

Ms. Boyd also has determined that the public benefit anticipated as a result of enforcing the repeal will provide for the monitoring of the progress of the 9-1-1 Regional Plans and the financial impact on the 9-1-1 equalization surcharge and 9-1-1 service fee funds.

Comments on the proposal may be submitted to Mary Boyd, Executive Director, ACSEC, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746.

The repeal is proposed under the Health and Safety Code, Chapter 771, Subchapters C and D, which provides ACSEC with the authority for the planning, implementation, and financing of 9-1-1 state emergency communications, and the use of 9-1-1 revenue. The reporting mechanism for 9-1-1 implementation is incorporated in proposed §251.6, published in the August 5, 1994, issue of the *Texas Register* (19 TexReg 6078).

The proposed rule affects the Health and Safety Code, Chapter 771.

§252.2. Reporting Mechanism for 9-1-1 Planning and Implementation.

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 17, 1994.

TRD-9446738 Mary A. Boyd
Executive Director
Advisory Commission on State Emergency Communications

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 327-1911

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TITLE 10. COMMUNITY DEVELOPMENT

Part VII. Texas Council on Workforce and Economic Competitiveness

Chapter 252. Local Workforce Development Boards

- **10 TAC §252.2**

The Council on Workforce and Economic Competitiveness proposes new §252. 2, concerning the standards and procedures for obtaining waivers from the statutory provisions requiring independent staffing of a local workforce development board and prohibiting provision of training services by a local workforce development board.

The Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, requires the council to receive and consider requests for waivers from the statutory provisions requiring independent staffing of a local workforce development board and prohibiting provision of training services by a local workforce development board. The council has determined that it is appropriate to adopt a rule establishing a policy for the consideration of waivers to insure that they are handled in a consistent manner and so that the requirements for a waiver will be known to the public.

Joe Thrash, General Counsel, has determined, for the first five years the section as proposed will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. There will not be fiscal implications for state government as a result of enforcing or administering the rule. There will be fiscal impact on local government for the first five-year period the rule will be in effect. Depending on how local workforce development boards are organized at the local level, there may be costs for the administration that could be borne by units of local government participating in the board. Since the formation and organization of the local workforce development boards are within the control of the local elected officials, the fiscal impact can not be estimated. There will be fiscal implications for small business as a result of enforcing or administering the rule. Those businesses providing services in competition with the local workforce development boards could be impacted by the granting of a waiver to allow the local workforce development board to provide these services. The amount of this impact cannot be estimated

Mr. Thrash also has determined, for the first five years the section as proposed will be in effect the public benefit anticipated as a result of enforcing the section will be an orderly and objective process for determining whether waivers should be given for local workforce development boards to provide workforce training and services or for not having an independent staff for the board. There will be no cost of compliance with this section for small businesses There will be no economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to John Fuller, Texas Council on Workforce and Economic Competitiveness, P.O. Box 2241, Austin, Texas 78768.

The new section is proposed under the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, which requires the Council on Workforce and Economic Competitiveness to develop standards for the granting of waivers to local workforce development boards.

The section could also have an impact on Texas Civil Statutes, Article 4413(52), Texas Job Training Partnership Act.

§252.2. Waivers for Independent Staffing and Separate Service Provider Requirements for Local Workforce Development Boards.

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

(1) Detailed justification-Objective evidence of circumstances beyond the control of the applicant that affect the factors to be considered in granting a waiver.

(2) Qualified alternative-In the case of delivery of workforce training and services, individuals or organizations with one or more years of experience in workforce education or workforce training and services and having any state license or other authorization required to perform the services proposed to be provided.

(3) Workforce services-All services related to workforce development, including those activities that are necessary to find and place qualified individuals in workforce education and workforce training programs and courses, including outreach, intake, assessment, placement, case management, counseling, and evaluation, workforce education, and workforce training and services.

(b) Independent Staffing Requirement.

(1) The Workforce and Economic Competitiveness Act, §4.08(a), requires that a local workforce development board's staff shall be separate from and independent of any organization providing workforce education or workforce training and services in the workforce development area unless a waiver has been granted by the council.

(2) What the waiver allows and requires.

(A) A local workforce development board may designate a qualified person or organization that is a provider of workforce education or workforce training and services to provide staff services to the board if a waiver is granted.

(B) The board must arrange for independent evaluation of any workforce services provided by the staffing person or organization.

(C) The council, at the time the waiver is requested, will require a plan for obtaining staff services and independent evaluation consistent with separation of the planning and evaluation functions from the operation of the programs in the local workforce development area.

(D) A waiver may require the board to make a bona fide effort to find and employ independent staff to eliminate the need for the waiver in the future.

(3) Justification for waiver. The request for the waiver must contain a detailed justification based on consideration of the following factors or other appropriate factors:

(A) cost effectiveness;

(B) prior experience;

(C) geographic considerations;

(D) budgetary considerations; and

(E) availability of qualified applicants.

(4) Type of evidence required. The type of evidence required for justification will vary with each factor. The following examples are intended as a guide to applicants for waiver:

(A) cost effectiveness. A comparison of the cost of hiring independent staff with the cost of administration by a person who is a provider of workforce education or workforce training and services or a provider organization that would provide the level and quality of services to the board;

(B) prior experience. In the case of a board that is already in existence, this could include a summary of the board's experience in maintaining an independent staff;

(C) geographic considerations. Does the geography of the local workforce development area affect the availability of independent staff? If so, how?

(D) budgetary considerations. What funds are available to hire an independent staff? What funds would be available for other methods of providing staff to the board?

(E) availability of qualified applicants. Sufficient evidence must be submitted that would show that the group requesting the waiver had solicited applications for independent staff and was not able to find qualified applicants.

(5) Standards for evaluating requests for waiver. In considering requests for waiver, the Council will consider each of the factors presented by the applicant and consider whether the application, taken as a whole, establishes the need for a waiver. The primary consideration for determining the waiver policy is to establish LWDBs that are able to do the most effective job possible. Where that can be done with independent staffing, it is the intent of the law that it should be. When there are conditions that present a significant burden in finding and maintaining an independent staff for the LWDB, a waiver should be granted to allow the board to function effectively.

(c) Separate Service Provider Requirement.

(1) The Workforce and Economic Competitiveness Act, §4.10(a), requires that a local workforce development board may not be a direct provider of workforce training and services unless it obtains a waiver from the Council.

(2) What the waiver allows and requires.

(A) The waiver allows the board to be a direct provider of workforce training and services.

(B) If a board receives a waiver, the responsibility for evaluation of results and outcomes in the local workforce development area rests with the council.

(C) A waiver will be granted by the council for those specific services that the council determines are appropriate for the local workforce development board to provide.

(3) Justification for waiver. The request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of workforce training and services in the workforce development area.

(4) Type of evidence required: availability of qualified alternative for delivery of service. Sufficient evidence must be submitted that would show that the group requesting the waiver had solicited alternative service providers and was not able to find another qualified provider. In addition, the applicant must submit sufficient evidence of its qualifications to provide the services that it proposes to provide. Selection of service providers for programs funded under the Job Training Partnership Act must be consistent with section 107 of that act and the Governor's coordination and special services plan. Service providers for other programs must also comply with all applicable federal and state laws and regulations.

(5) Standards for evaluating requests for waiver. In considering requests for waiver, the Council will consider whether the application, taken as a whole, establishes the need for a waiver. The primary consideration for determining the waiver policy in this case is to ensure that there are adequate qualified service providers to give the workforce training and services that are necessary in the local area. Where that can be done without the board providing services, it should be. When adequate qualified service providers do not exist, a waiver should be granted to allow the board to fill this role at least until such time as other providers can do it.

(d) Procedures for Requesting a Waiver.

(1) A request for a waiver may be submitted with the application to form a local workforce development board or at any subsequent date. The request must be submitted in writing to the council at its offices in Austin, Texas.

(2) The request should contain all of the material detailed in this section. Failure to address one or more of the factors may result in denial of a waiver.

(3) Council staff will review the application upon receipt. Staff may request additional information from the applicant if this is considered necessary.

(4) An application for a waiver must be received 30 days prior to a regularly scheduled meeting of the council to be eligible to be placed on the agenda for the meeting. Applications that are not complete or are not received 30 days prior to the next regularly scheduled meeting of the council will be placed on the agenda of the next succeeding meeting of the council.

(5) The application shall be heard as an action item by the council in accordance with the law and bylaws governing the actions of the council. The application may be heard in a subcommittee prior to being heard by the council, at the discretion of the presiding officer.

(6) The applicant shall be notified in writing of the action of the council within seven days of the date of the action.

(e) Duration of Waiver.

(1) A waiver may be granted:

(A) for a period of time, after which, the applicant may be required to present evidence that the conditions justifying the waiver continue to exist; or

(B) for a period of time, on the condition that the applicant take steps defined by the council to eliminate the need for the waiver.

(2) The Council, in its sole discretion, shall determine the duration of any waiver granted.

(3) The applicant shall, in its detailed justification for the waiver, provide evidence and argument concerning the duration of the waiver.

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 15, 1994.

TRD-9446630

Joe H. Thrash
General Counsel
Texas Council on Workforce and Economic Competitiveness

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 305-7007

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• 10 TAC §252.3

The Council on Workforce and Economic Competitiveness proposes new §252. 3, concerning the process for establishing local workforce development boards. This rule provides guidance for the formation of local workforce development boards. The chief elected officials in each designated local workforce development area must submit an application and provide the information required to the Council. Upon approval by the Council, the application will be submitted to the Governor. This rule will apply to local workforce development boards to be formed on or after January 1, 1995.

The Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, requires the Council to issue rules for the formation of local workforce development boards to plan, oversee, and evaluate the delivery of all workforce training and services programs in the local workforce development areas.

Joe Thrash, General Counsel, has determined, for the first five years the section as proposed will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. There will be no fiscal implications for state government as a result of enforcing or administering the rule. Effect on

local government for the first five-year period the rule will be in effect: Application for a waiver to establish a local workforce development board is a voluntary process, and no local government is required to comply. There will be some costs to local governments choosing to create a local workforce development board, but those costs are entirely within the control of the local government and cannot be estimated. There will be no fiscal implications for small business as a result of enforcing or administering the rule.

Mr. Thrash also has determined, for the first five years the section as proposed will be in effect the public benefit anticipated as a result of enforcing the section will be improved coordination of and access to job training services at the local level. There will be no cost of compliance with this section for small businesses. There will be no economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Barbara Cigainero, Texas Council on Workforce and Economic Competitiveness, P.O. Box 2241, Austin, Texas 78768.

The new section is proposed under the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, which requires the Council on Workforce and Economic Competitiveness to issue rules for the formation of local workforce development boards.

The section could also have an impact on Texas Civil Statutes, Article 4413(52), Texas Job Training Partnership Act.

§252.3. Requirements for Formation of Local Workforce Development Boards.

(a) Purpose of Rule.

(1) Upon application by the chief elected officials and approval of the Council on Workforce and Economic Competitiveness, the council will forward an application to form a local workforce development board to the governor.

(2) Before an application may be submitted to the governor, all requirements of this section must be met.

(b) State and Federal Law. The formation of local workforce development boards is governed by the following federal statutes and regulations and state statutes:

(1) The Job Training Partnership Act, as amended, 29 U.S.C. 1501, et seq;

(2) 20 Code of Federal Regulations, Part 628; and

(3) The Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, Regular Session, 1993.

(c) Chief Elected Officials. The following officials are designated as the chief elected officials for the purposes of establishing agreements to form local workforce development boards:

(1) The mayor of each city with a population of 100,000 or more according to the last federal census in a workforce development area; and

(2) The county judge of each county included in a workforce development area as designated by the Governor.

(3) The chief elected officials may, and are encouraged to, consult with local officials other than the ones listed above.

(d) Time of Application. Chief elected officials in an area may not establish a local board until the Governor has designated that area as a local workforce development area as provided in the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993.

(e) Criteria for approval of application.

(1) All requirements of this section must be met.

(2) An applicant must demonstrate commitment to the formation of the local workforce development board, through such things as commitment of resources, staff, materials, funds, joint use of facilities and staff, and other similar proposals.

(f) Procedure for Formation of a Local Workforce Development Board. The following procedures must be followed to apply for the formation of a local workforce development board.

(1) Pre-application procedure. If a majority of the chief elected officials agree to initiate procedures to review the possibility of establishing a local workforce development board, a letter should be sent to the Executive Director of the Council requesting pre-application status. The Council staff will be available to work with local officials during the development of the application to make the process as uncomplicated as possible. During the pre-application process and prior to applying to the Council for approval, the chief elected officials must perform the following acts.

(A) The chief elected officials must conduct a process to consider the views of all affected local organizations, including private industry councils, quality workforce planning committees, and other affected organizations before making a final decision to apply for a waiver for the early formation of a local workforce development board.

(B) Prior to the submission of the application, the chief elected officials must hold a public meeting to discuss and gather information concerning the establishment of a local workforce development board.

(2) Application procedure.

(A) The chief elected officials must submit an application to the Council on Workforce and Economic Competitiveness. The application will be reviewed by the Council staff according to criteria established by the Council in this section and forwarded to the Governor with a recommendation for final action. Each application must include:

(i) an agreement in writing signed by the chief elected officials in the local workforce development area, delineating:

(I) the purpose of the agreement;

(II) the process that will be used to select the chief elected official who will act on behalf of the other chief elected officials and the name of such chief elected official if the person has been selected;

(III) the initial size of the local workforce development board;

(IV) the process to be used to appoint the board members, which must be consistent with applicable federal and state laws; and

(V) the terms of office of the members of the board;

(ii) evidence that the chief elected officials have considered the views of all affected local organizations, including consideration prior to deciding to form a local board;

(iii) evidence that the chief elected officials in the area have agreed to the establishment of a local board;

(iv) evidence that the local board can meet the legislative requirement that they establish workforce development centers within 180 days;

(v) evidence that the board is prepared to develop a single plan for addressing the workforce development needs in their area that is consistent with the State's strategic plan;

(vi) evidence that the board is prepared to assume the functions and responsibilities of local workforce development advisory boards, councils, and committees including private industry councils, quality workforce planning committees, job service employer committees, and local general vocational program advisory committees;

(vii) a plan for independent staffing for the board and methods to be utilized to procure any services that have previously been offered directly (A waiver of this requirement may be granted.); and

(viii) a statement concerning how the operation of the board will be financed, including sources of funding, additional costs to be incurred over existing resources, and any savings from current operations.

(B) Evidence for the items in the application may consist of written documents, written agreements, minutes of public meetings, copies of correspondence, and such other documentation as may be appropriate.

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

Issued in Austin, Texas, on August 15, 1994.

TRD-9446631 Joe H. Thrash
General Counsel
Texas Council on Workforce and Economic Competitiveness

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 305-7007

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TITLE 16. ECONOMIC REGULATION

Part IX. Texas Lottery Commission

Chapter 401. Administration of the State Lottery Act

Subchapter C. Practice and Procedure

- **16 TAC §§401.201, 401.203, 401.204, 401.209, 401.211, 401.214, 401.219, 401.220, 401.223, 401.226-401.228**

The Texas Lottery Commission proposes amendments to §§401.201, 401.203, 401.204, 401.209, 401.211, 401.214, 401.219, 401.220, 401.223, 401.226, 401.227 and new §401.228, concerning practice and procedure before the Texas Lottery Commission.

Ernest Pereyra, Financial Operations Supervisor, has determined that there will not be fiscal implications as a result of enforcing or administering the sections, there will be no effect on state or local government for the first five-year period the section will be in effect.

Mr. Pereyra also has determined that for each of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be to provide clear guidance to persons as to the practice and procedure relating to contested cases before the Texas Lottery Commission. There will be no effect on small businesses. There will be no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Kimberly Kiplin, General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas, 78711-6630.

The amendments and new section are proposed under the Texas Government Code, §467.102, which provides the Texas Lottery Commission with authority to adopt rules for the enforcement and administration of the laws under the Texas Lottery Commission's jurisdiction.

The amendments and new section implement the Government Code, §467.102 and Bingo Enabling Act.

§401.201. Intent and Scope of Rules. The rules of practice and procedure are intended to provide fair methods for hearing and resolving an applicant's or licensee's disagreement with certain official actions of the **Texas Lottery Commission, Executive Director, or Lottery Director, as applicable** [Comptroller of Public Accounts]. These rules govern all contested case proceedings before the administrative law judges regarding the State Lottery Act **and the Bingo Enabling Act.**

§401.203. Contested Cases.

(a) A contested case is a proceeding in which the legal rights, duties, or privileges of an applicant or licensee are to be determined by the agency after an opportunity for adjudicative hearing. It includes a request for relief from actions initiated by the agency to deny, revoke, or suspend licenses administered by the agency [regarding the state lottery] with the exception of summary suspension proceedings described in subsection (b) of this section. Contested cases are within the jurisdiction of the administrative law judges.

(b) If the **Lottery Operations Director** [comptroller] summarily suspends a license:

(1) the **Lottery Operations Director** [comptroller] will notify the licensee in writing by registered or certified mail, return receipt requested, that the license has been summarily suspended and will state the reasons for the action. That notification shall also state the date, time, and place for a preliminary hearing on the summary suspension, which date shall not be later than ten days after the date of the summary suspension, unless the parties agree to a later;

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

§401.204. Representation and Participation. A party may represent himself at any stage of a contested case or may be represented by an authorized representative, such as an attorney or other person of his choice. [Hearings on contested cases are not open to the public. Any person desiring to observe or participate at any stage of a contested case who is not a party, not employed by a party, or not called as a witness, must obtain the permission of the assigned administrative law judge and the agreement of all parties.]

§401.209. Motion To Dismiss; Request for Extended Hearing.

[(a)] The agency may move to dismiss the hearing [on the ground that the request for hearing was not timely filed or] on the ground that it did not comply with the requirements of the sections of this subchapter.

[(b) An applicant or licensee that believes it will require more than two hours for a hearing must file a written request for an extended hearing at the time the request for hearing is filed, and state the reasons why more time will be required; however, any party may later request an extended hearing for good cause shown.]

§401.211. Administrative Law Judge To Hear Case. Hearings will be conducted by an assigned administrative law judge who has authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence. The administrative law judge has the authority to continue or recess any hearing, to control the record, and to propose decisions to the **Texas Lottery Commission, Executive Director, Lottery Operations Director, as applicable** [Comptroller of Public Accounts]. If for any reason the assigned administrative law judge cannot continue on a contested case, another administrative law judge will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.

§401.214. Conduct of Hearing. The hearing will be convened by the assigned administrative law judge, appearances will be noted, any motions or preliminary matters will be taken up, and then each party will have the opportunity to present its case, generally on an issue-by-issue basis, by calling and examining witnesses, offering documentary evidence, and making legal arguments. Each party will have the opportunity to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in direct

examination. Any objection to testimony or evidentiary offers must be stated timely, along with the basis for the objection. The administrative law judge may question any party or any witness. The parties may agree to the order of proceeding or the administrative law judge may establish it, but in all cases, an applicant or licensee is entitled to conclude in presenting evidence and argument. [The length of each hearing is limited to two hours, each party may use one hour to present its case. Upon a showing of good cause, the administrative law judge may schedule a hearing for a period longer than two hours.] The administrative law judge is responsible for closing the record and may hold it open for stated purposes. Parties may submit proposed findings of fact and conclusions of law at any time after notice of setting and prior to the closing of the record. In an oral hearing, the administrative law judge may hold the record open to allow the parties to file proposed findings of fact and conclusions of law.

§401.215. Rules of Evidence. The rules of evidence promulgated by the Supreme Court of Texas apply to all oral hearings, except as provided by Texas Government Code, Chapter 2001 [Texas Civil Statutes, Article 6252-13a,] Administrative Procedure Act [Administrative Procedure and Texas Register Act, §14].

*§401.219. **Texas Lottery Commission, Executive Director, or Lottery Operations Director [Comptroller's] Decision.*** The proposed decision of the assigned administrative law judge must be approved by the **Texas Lottery Commission, Executive Director, or Lottery Operations Director, as applicable** [Comptroller of Public Accounts] before it is given effect. The [comptroller's] decision will be sent to the applicant or licensee and any authorized representative. It is final 20 days from the date mailed, unless a motion for rehearing is filed on or before midnight of the 20th day. If the motion for rehearing is granted, the decision is vacated pending a subsequent decision upon rehearing. If the motion for rehearing is overruled, whether by order or operation of law, the decision is final on the date it is overruled.

§401.220. Motion for Rehearing. A motion for rehearing may be filed by any party with the assigned administrative law judge within 20 days from the date the [comptroller's] decision is mailed. The motion must state each specific ground upon which the party believes the [comptroller's] decision is erroneous. Any reply to a motion for rehearing must be filed within 30 days after the date the decision is mailed. The motion will be acted on within 45 days after the date the decision is mailed, or the motion will be overruled by operation of law. These times may be varied as provided by **Texas Government Code, Chapter 2001, Administrative Procedure Act** [Civil Statutes, Article 6252-13a, Administrative Procedure and Texas Register Act, §16(e) and (f)]. If a rehearing is granted, a notice will be issued to the parties setting out all pertinent information.

§401.223. Discovery.

(a) Discovery. **Texas Government Code, Chapter 2001** [Texas Civil Statutes, Article 6252.13a], Administrative Procedure [and Texas Register] Act, as amended, applies to matters of discovery.

(b)-(c) (No change.)

(d) Objections. On or prior to the date on which a response to a discovery request is due, a party may serve written objections to a specific request or portions thereof. Objections served after the date on which the response to a discovery request is due are waived unless an extension of time has been obtained by agreement or order of the assigned administrative law judge for good cause shown for failure to object within such period; however, objections by the agency [comptroller] to discovery requests requiring the disclosure of confidential information cannot be waived. Responses only to those discovery requests or portions thereof to which objection is made are deferred until the objections are ruled upon, and for such additional time thereafter as the administrative law judge may direct. Either party may request a hearing on objections at the earliest possible time.

(e) (No change.)

(f) Admissions. At any time after the commencement of a contested case, a party may serve upon any other party a written request for admissions in accordance with the provisions of Texas Rules of Civil Procedure, Rule 169.

(g)[(f)] Subpoenas, depositions, and orders to allow entry. The assigned administrative law judge, acting independently or on motion by any party, may:

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

§401.226. Burden of Proof. In all contested cases, **except cases involving the denial of an application or renewal application and** [not including] preliminary hearings described in §401. 205 of this title (relating to Initiation of a Hearing), the agency has the burden of proving a prima facie case; the burden of proof then shifts to the applicant or licensee, with the standard of proof being by a preponderance of the evidence.

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

Administrative law judge–An individual appointed [by the comptroller] to conduct hearings on matters within the agency's [comptroller's] jurisdiction and to prepare proposed decisions to properly resolve such matters.

Agency–The administrative entity created by House Bill 1586, 73rd Legislature, Regular Session [office of the Comptroller of Public Accounts].

Applicant–A party seeking a lottery, bingo manufacturer, bingo distributor, bingo commercial lessor, or bingo conductor's license.

Hearings attorney–An attorney assigned to represent an agency [the lottery] division in a contested case or a preliminary hearing.

License–The whole or any part of a license, permit, certificate, approval, registration, or similar form of permission, the issuance, renewal, amendment, suspension, or revocation of which is within the jurisdiction of the agency [regarding the operation of the lottery].

Licensee–A person who has been issued a license by the agency [lottery division].

Party–Any person who has filed a request for hearing, or a [the lottery] division of the agency's office.

Request for hearing–A request by an applicant or licensee for official action by the agency regarding the denial, revocation, or suspension of its license under the lottery or bingo laws of this state.

§401.228. Oral Argument before the Commission. Any party may request oral argument before the commission prior to the final disposition of any proceeding. Oral argument may be allowed at the discretion of the commission. Any motion for oral argument may be made by separate pleading or may be included in a party's exceptions, replies, brief, or motion for rehearing. Failure of the commission to grant oral argument shall be deemed denial of the motion for oral argument. If granted, the order of oral argument shall be as determined by the commission.

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 17, 1994.

TRD-9446749 **Kimberly L. Kiplin**
General Counsel
Texas Lottery Commission

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 323-3791

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TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 291. Pharmacies

Institutional Pharmacies

(Class A)

• 22 TAC §§291.31, 291.33, 291.36

The following proposed rules submitted by the Texas State Board of Pharmacy will be serialized beginning in the August 23, 1994, issue of the Texas Register. The proposed date of adoption is October 25, 1994.

§291.31. Definitions.

§291.33. Operational Standards.

§291.36. Class A Pharmacies Compounding Sterile Pharmaceuticals

Institutional Pharmacy (Class C)

• 22 TAC §§291.71-291.75

The Texas State Board of Pharmacy proposes amendments to §§291.71-291. 75, concerning Purpose, Definitions, Personnel, Operational Standards, and Records in a Class C Pharmacy.

The amendments implement the recommendations of the Board's Task Force on Class C Pharmacy Practice; provide a method for a Class C Pharmacy to operate a Class F Pharmacy without obtaining a separate license; add the language from Chapter 291 regarding the possession of samples by a Class C Pharmacy to the Class C rules; and amend definitions to incorporate the changes passed during the 73rd Legislative session.

The Task Force on Class C Pharmacy Practice was appointed by the Board to assist the Board in their review of the Class C Pharmacy rules. The committee was charged with the following goals: reviewing the current Class C Pharmacy rules; reviewing standards of practice of the American Society of Hospital Pharmacy and the recommendations of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); and making recommendations to the Board for any additions or changes to the Class C rules. The task force met four times, January, February, March, and May. The Task Force used the following documents in their review: Class C Pharmacy Rules; Class A Pharmacies Compounding Sterile Pharmaceuticals; American Society of Hospital Pharmacist's (ASHP) Technical Assistance Bulletin on Quality Assurance for Pharmacy-Prepared Sterile Products; and Joint Commission on Accreditation of Healthcare Organizations 1994 Accreditation Manual for Hospitals. The proposed rule language incorporates the material from the ASHP's Technical Assistance Bulletin on Quality Assurance for Pharmacy-Prepared Sterile Products, the current rules for Class A Pharmacies Compounding Sterile Pharmaceuticals, and some material from the JCAHO Accreditation Standards.

Fred S. Brinkley, Jr. R.Ph., MBA, executive director/secretary, has determined that there will not be fiscal implications to state or local governments as a result of enforcing these sections.

Mr. Brinkley also has determined that the public benefit anticipated as a result of the sections as proposed is the protection of the health and safety of the public through the establishment of standards for the operation of a Class C Pharmacy. The cost for compliance with these sections on small businesses will be the same as the cost for compliance on large businesses. The cost to persons required to comply with the rules as proposed will vary depending on what modifications are required as a result of implementing the rules. Most of these costs will result from implementing the requirements for the compounding of sterile pharmaceutical in a Class C Pharmacy. It is anticipated that most pharmacies are currently compounding Risk Level 1 products and will not have to modify their existing sterile compounding area to comply with these rules and, thus, will not incur any costs. However, if a pharmacy is required to upgrade the compounding area to a clean room status because the products they compound are Risk Level 3, this cost could be substantial and could be in excess of $25,000. Comments may be submitted to Gay Dodson, R.Ph., Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594. A public hearing on the proposed rules will be held at 9:00 a.m., October 25, 1994, at 1812 Centre Creek Dr, Room 203, Austin, Texas 78754. The amendments are adopted under the Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, §(4), which specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; §16(a), which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; §17(b) (2) and (3), which gives the Board the authority to specify minimum standards for professional environment, technical equipment, and security in the prescription dispensing area, procedures for the delivery, dispensing in a suitable container appropriately labeled, providing of prescription drugs or devices, monitoring of drug therapy, and counseling of patients on proper use of prescription drugs and devices within the practice of pharmacy; and §17(o) , which gives the Board the authority to establish rules for the use of supportive personnel and the duties of those personnel in pharmacies licensed by the Board.

The rules affect Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1.

§291.71. Purpose. The purpose of these sections is to provide standards in the conduct, practice activities, and operation of a pharmacy located in a hospital or other inpatient facility that is licensed under the Texas Hospital Licensing Law, the Health and Safety Code, Chapter 241, or the Texas Mental Health Code, Chapter 6, Texas Civil Statutes, Article 5547-1 et seq, or a pharmacy located in a hospital maintained or operated by the state. **The intent of these standards is to establish a minimum acceptable level of pharmaceutical care to the patient so that the patient's health is protected while contributing to positive patient outcomes.**

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

Airborne particulate cleanliness class-The level of cleanliness specified by the maximum allowable number of particles per cubic foot of air as specified in Federal Standard 209E et seq. For example:

(A) Class 100 is an atmospheric environment which contains less than 100 particles 0.5 microns in diameter per cubic foot of air;

(B) Class 10,000 is an atmospheric environment which contains less than 10,000 particles 0.5 microns in diameter per cubic foot of air; and

(C) Class 100,000 is an atmospheric environment which contains less than 100,000 particles 0.5 microns in diameter per cubic foot of air.

Administer-The direct application of a prescription drug by injection, inhalation, ingestion, or any other means to the body of a patient by:

(A) a practitioner, an authorized agent under his supervision, or other person authorized by law; or

(B) the patient at the direction of a practitioner.

Automated compounding or drug dispensing system-An automated device that compounds, measures, counts and/or packages a specified quantity of dosage units for a designated drug product.

Aseptic preparation-The technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

Batch preparation-Compounding of multiple sterile-product units, in a single discrete process, by the same individual(s), carried out during one limited time period.

Biological Safety Cabinet-Con-

tainment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, according to National Sanitation Foundation (NSF) Standard 49.

Clean-room-A room in which the concentration of airborne particles is controlled and there are one or more clean zones according to Federal Standard 209E et seq.

Clean zone-A defined space in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class.

Closed-system transfer-The movement of sterile pharmaceuticals from one container to another in which the container-closure system and transfer devices remain intact throughout the entire transfer process, compromised only by the penetration of a sterile, pyrogen-free needle or cannula through a designated stopper or port to effect transfer, withdrawal, or delivery. Any transfer system that does not meet this definition shall be considered an open transfer system.

Compounding-The preparation, mixing, assembling, packaging, or labeling of a drug or device:

(A) as the result of a practitioner's prescription drug or medication order or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice;

(B) in anticipation of prescription drug or medication orders based on routine, regularly observed prescribing patterns; or

(C) for the purpose of, or as an incident to research, teaching, or chemical analysis and not for sale or dispensing.

Controlled area-A controlled area is the area designated for preparing sterile pharmaceuticals.

Critical areas-Any area in the controlled area where products or containers are exposed to the environment.

Cytotoxic-A pharmaceutical that has the capability of killing living cells.

Device-An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

Expiration date-The date (and time, when applicable) beyond which a product should not be used.

Formulary-List of drugs approved for use in the facility by the [Pharmacy and Therapeutics committee of the facility] committee which performs the pharmacy and therapeutics function for the facility.

Part-time pharmacist-A pharmacist either employed or under contract, who routinely works less than full-time.

Pharmaceutical care-The provision of drug therapy and other pharmaceutical services intended to assist in the cure or prevention of a disease, elimination or reduction of patient symptoms, or arresting or slowing of a disease process.

Pharmacy and therapeutics function [committee] -Committee of the medical staff in the facility which assists in the formulation of broad professional policies regarding the evaluation, selection, [appraisal, storage,] distribution, handling, use, and administration, [safety procedures,] and all other matters relating to the use of drugs and devices in the facility. container into unit-dose packaging or a multiple dose container for distribution within the facility.

Process validation-Documented evidence providing a high degree of assurance that a specific process will consistently produce a product meeting its pre-determined specifications and quality attributes.

Quality assurance-The set of activities used to assure that the process used in the preparation of sterile drug products lead to products that meet predetermined standards of quality.

Quality control-The set of testing activities used to determine that the ingredients, components (e.g., containers), and final sterile pharmaceuticals prepared meet predetermined requirements with respect to identity, purity, nonpyrogenicity, and sterility.

Risk level 1-Risk level 1 applies to compounded sterile pharmaceuticals that exhibit characteristics listed in subparagraph (A)-(C) of this paragraph. All risk level 1 products should be compounded with sterile equipment (e.g., syringes, vials), sterile ingredients and solutions, and sterile contact surfaces for the final product. Risk level 1 includes the following:

(A) products:

(i) stored at room temperature and completely administered within 28 hours from preparation; or

(ii) stored under refrigeration for seven days or less before complete administration to a patient over a period not to exceed 24 hours; or

(iii) frozen for 30 days or less before complete administration to a patient over a period not to exceed 24 hours.

(B) unpreserved sterile pharmaceuticals compounded for administration to one patient, or batch-prepared products containing suitable preservatives prepared for administration to more than one patient; and

(C) products compounded by closed-system aseptic transfer of sterile, non-pyrogenic, finished pharmaceuticals obtained from licensed manufacturers into sterile final containers (e.g., syringe, minibag, portable infusion-device cassette) obtained from licensed manufacturers.

Risk level 2-Risk level 2 sterile pharmaceuticals exhibit characteristics listed in subparagraph (A), (B), or (C) of this paragraph. All risk level 2 products should be compounded with sterile equipment, sterile ingredients and solutions, and sterile contact surfaces for the final product and by using closed system transfer methods. Risk level 2 includes:

(A) products stored beyond seven days under refrigeration, or stored beyond 30 days frozen, or administered beyond 28 hours after preparation and storage at room temperature; or

(B) batch-prepared products without preservatives that are intended for use by more than one patient; or

(C) products compounded by combining multiple sterile ingredients, obtained from licensed manufacturers, in a sterile reservoir, obtained from a licensed manufacturer, by using closed-system aseptic transfer before subdivision into multiple units to be distributed to patients.

Risk level 3-Risk level 3 sterile pharmaceuticals exhibit either of the characteristics listed in subparagraph (A) or (B) of this paragraph. Risk level 3 includes:

(A) products compounded from non-sterile ingredients or compounded with non-sterile components, containers, or equipment; or

(B) products compounded by combining multiple ingredients, sterile or non-sterile, by using an open-system transfer or open reservoir before terminal sterilization or subdivision into multiple units to be distributed.

Sample-A prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

Sterile pharmaceutical-A dosage form free from living micro-organisms.

Supportive personnel/pharmacy technicians–Those individuals utilized in institutional pharmacies whose responsibility it shall be to provide [nonjudgmental] technical services **that do not require professional judgement** concerned with the preparation and distribution of drugs under the direct supervision of and responsible to a pharmacist.

Unit-dose packaging–The ordered amount of drug in a dosage form ready for administration to a particular patient, by the prescribed route at the prescribed time, and properly labeled with name, strength, and expiration date of the drug.

Unusable drugs–Drugs or devices that are unusable for reasons such as, they are adulterated, misbranded, expired, defective, or recalled.

§291.73. Personnel.

(a) Requirements for pharmacist services.

(1)-(2) (No change.)

(3) A pharmacist shall be accessible at all times to respond to other health professional's questions and needs. Such access may be through a telephone which is answered 24 hours a day, e.g., answering or paging service, or through a list of phone numbers where the pharmacist may be reached.

(b) Pharmacist-in-charge.

(1) General.

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

(C) The pharmacist-in-charge shall be assisted by additional pharmacists and pharmacy supportive personnel commensurate with the scope of services provided.

(D) If the pharmacist-in-charge is employed on a part-time or consulting basis, a written agreement shall exist between the facility and the pharmacist, and a copy of the written agreement shall be made available to the board upon request.

(2) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(A) providing the appropriate level of pharmaceutical care services to patients of the facility; [preparation and sterilization of parenteral medications compounded within the institutional pharmacy;]

(B) developing a system to assure that drugs and/or devices are dispensed and distributed safely and accurately to the patient for whom they are prescribed; [admixture of parenteral products, including education and training of nursing personnel concerning incompatibility and provision of proper incompatibility information when the admixture of parenteral products is not performed within the institutional pharmacy;]

(C) developing a system for the compounding, sterility assurance, quality assurance and quality control of sterile pharmaceuticals compounded within the institutional pharmacy;

(D) developing a system to assure that all pharmacy personnel responsible for compounding and/or supervising the compounding of sterile pharmaceuticals within the pharmacy receive appropriate education and training and competency evaluation;

(E) providing written guidelines and approval of the procedure to assure that all pharmaceutical requirements are met when any part of preparing, sterilizing, and labeling of sterile pharmaceuticals is not performed under direct pharmacy supervision;

(F)[(C)] **developing a system for bulk compounding or batch preparation of drugs;**

(G)[(D)] **establishing** [establishment of] specifications for procurement and storage of all **pharmaceutical materials including pharmaceuticals, components used in the compounding of pharmaceuticals, and drug delivery devices;** [materials, including drugs, chemicals and biologicals;]

(H)[(E)] **participating** [participating] **in the development of a formulary for the facility, subject to the approval of the appropriate committee of the facility;**

(I)[(F)] **developing a system to assure that** [distribution of] drugs to be administered to inpatients are **distributed** pursuant to an original or direct copy of the practitioner's medication order;

(J)[(G)] **developing a system for the filling and labeling of all containers from which drugs are to be distributed or dispensed;**

(K) [(H)] maintaining and making available a sufficient inventory of antidotes and other emergency drugs [, both in the institutional pharmacy and inpatient care areas,] as well as current antidote information, telephone numbers of regional poison control center and other emergency assistance organizations, and such other materials and information as may be deemed necessary by the appropriate committee of the facility;

(L)[(I)] **maintaining** records of all transactions of the institutional pharmacy as may be required by applicable law, state and federal, and as may be necessary to maintain accurate control over and accountability for all pharmaceutical materials **including pharmaceuticals, components used in the compounding of pharmaceuticals, and drug delivery devices;**

(M) [(J)] **participating** [participation] in those aspects of the facility's patient care evaluation program which relate to pharmaceutical [material] utilization and effectiveness;

(N)[(K)] **participating** [participation] in teaching and/or research programs in the facility;

(O)[(L)] **implementing** [implementation of] the policies and decisions of the appropriate committee(s) relating to pharmaceutical services of the facility;

(P)[(M)] **providing** effective and efficient messenger or [and] delivery service to connect the institutional pharmacy with appropriate areas of the facility on a regular basis throughout the normal workday of the facility;

(Q)[(N)] **developing a system for the labeling, storage, and distribution of investigational new drugs, including maintenance of information in the pharmacy and nursing station where such drugs are being administered, concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions and symptoms of toxicity of investigational new drugs;**

(R)[(O)] **assuring that** [maintenance of] records in a data processing system **are maintained such that the data processing system is in compliance with Class C (Institutional) pharmacy requirements;**

(S)[(P)] assuring that a reasonable effort is made to obtain, record, and maintain patient medication records; and

(T)[(Q)] **assuring the legal operation of the pharmacy, including** meeting all inspection and other require-

ments of all state and federal laws or rules governing the practice of pharmacy. [the Texas Pharmacy Act and these sections.]

(c) (No change.)

(d) Pharmacists.

(1) (No change.)

(2) Duties. Duties of [the pharmacist-in-charge and] all [other] pharmacists shall include, but need not be limited to the following:

(A) providing those acts or services necessary to provide pharmaceutical care;

(B)[(A)] receiving, [and] interpreting, and evaluating prescription drug orders, and reducing verbal [oral] medication orders [and reducing these orders] to writing either manually or electronically;

(C)[(B)] participating in drug and/or device selection as authorized by law, drug and/or device supplier selection, drug administration, drug regimen review, or drug or drug-related research; [selection of prescription drugs and/or devices and/or suppliers;]

[(C) [interpreting patient medication records and performing drug regimen reviews.]

(D) accepting the responsibility for:

(i) distributing drugs and devices pursuant to medication orders;

(ii) compounding and labeling of drugs and devices;

(iii) proper and safe storage of drugs and devices; and

(iv) maintaining proper records for drugs and devices.

[(3) Special requirements. All pharmacists who compound sterile parenteral and/or enteral products shall meet minimal standards of training and experience in the preparation, sterilization, and admixture of parenteral and/or enteral products. Such standards of training and experience may be evidenced by either:

[(A) documentation of completion of a minimum of 20 hours of on-the-job training in the preparation, sterilization, and admixture of parenteral and/or enteral products; or

[(B) documentation of completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider. The course must provide a minimum of 20 hours of education or experience in the preparation, sterilization, and admixture of parenteral and/or enteral products.]

(e) Supportive personnel/pharmacy technicians.

(1) (No change.)

(2) Duties. Duties may include, but need not be limited to, the following functions under the direct supervision of and responsible to a pharmacist:

(A) pre-packing and labeling unit and multiple dose packages, provided a pharmacist supervises and conducts in-process and final checks and affixes his or her signature (first initial and last name or full signature) or electronic signature to the appropriate quality control records;

(B) (No change.)

(C) compounding sterile pharmaceuticals [mixing drugs with parenteral fluids] pursuant to medication orders providing a pharmacist supervises and conducts in-process and final checks and affixes his or her initials to the label or if batch prepared, to the appropriate quality control records (The initials are not required on the label if it is maintained in a permanent record of the pharmacy); [the preparation];

(D) bulk compounding or batch preparation provided a pharmacist supervises and conducts in-process and final checks and affixes his or her initials to the appropriate quality control records;

(E)-(F) (No change.)

(G) loading bulk unlabeled drugs into an automated compounding or drug dispensing system provided a pharmacist supervises, verifies that the system was properly loaded prior to use, and affixes his or her signature (first initial and last name or full signature) or electronic signature to the appropriate quality control records.

(3) (No change.)

(4) Training.

(A) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge and described in the policy and procedure manual or training manual which includes on-the-job training and related education commensurate with the tasks they are to perform, prior to the regular performance of those tasks.

[(B) Supportive personnel who prepare sterile parenteral and/or enteral products shall complete an additional 40 hours of on-the-job training in the preparation, sterilization, and admixture of parenteral and/or enteral products.]

(B)[(C)] The pharmacist-in-charge shall assure continuing competency of supportive personnel through in-service education and training to supplement initial training.

(C)[(D)] A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(i)-(v) (No change.)

(f) Special education, training, and evaluation requirements for pharmacy personnel compounding or responsible for the direct supervision of pharmacy personnel compounding sterile pharmaceuticals.

(1) General.

(A) All pharmacy personnel preparing sterile pharmaceuticals shall receive didactic and experiential training and competency evaluation through demonstration, testing (written or practical) as outlined by the pharmacist-in-charge and described in the policy and procedure or training manual. Such training shall include instruction and experience in the following areas:

(i) aseptic technique;

(ii) critical area contamination factors;

(iii) environmental monitoring;

(iv) facilities;

(v) equipment and supplies;

(vi) sterile pharmaceutical calculations and terminology;

(vii) sterile pharmaceutical compounding documentation;

(viii) quality assurance procedures;

(ix) aseptic preparation procedures including proper gowning and gloving technique; and

*(x)*general conduct in the controlled area.

(B) The aseptic technique of each person compounding or responsi-

ble for the direct supervision of personnel compounding sterile pharmaceuticals shall be observed and evaluated as satisfactory through written or practical tests and process validation and such evaluation documented.

(C) No product intended for patient use shall be compounded by an individual until the process validation test indicates that the individual can competently perform aseptic procedures.

(D) Process validation procedures for assessing the preparation of a specific risk level sterile pharmaceuticals shall be representative of all types of manipulations, products, and batch sizes that personnel preparing that risk level are likely to encounter.

(E) The pharmacist-in-charge shall assure continuing competency of pharmacy personnel through in-service education, training, and process validation to supplement initial training. Personnel competency shall be evaluated:

(i) during orientation and training prior to the regular performance of those tasks;

(ii) whenever the quality assurance program yields an unacceptable result;

(iii) whenever unacceptable techniques are observed; and

(iv) at least on an annual basis.

(2) Pharmacists.

(A) All pharmacists who compound sterile pharmaceuticals or supervise supportive personnel compounding sterile pharmaceuticals shall:

(i) complete a minimum 20 hours of instruction and experience in the areas listed in paragraph (1) of this subsection. Such training may be through the:

(I) completion of a minimum of 20 hours of on-the-job training in the preparation, sterilization, and admixture of sterile products; or

(II) completion of a recognized course in an accredited college of pharmacy or a course sponsored by an ACPE approved provider; and

(ii) complete 4 hours of continuing education related to sterile pharmaceuticals or their preparation which is sponsored by an American Council on Pharmaceutical Education approved provider each year.

(B) In addition to the items listed in subparagraph (A) of this paragraph, pharmacist compounding sterile pharmaceuticals or directly supervising supportive personnel compounding sterile pharmaceuticals shall be responsible for the following.

(i) Risk level 1 and 2 sterile pharmaceuticals. Pharmacists shall possess knowledge about:

(I) aseptic processing;

(II) quality control and quality assurance as related to environmental, component, and end-product testing;

(III) chemical, pharmaceutical, and clinical properties of drugs;

(IV) container, equipment, and closure system selection; and

(V) the principles of Current Good Manufacturing Practices.

(ii) Risk level 3 sterile pharmaceuticals. In addition to those items listed in clause (i) of this subparagraph, pharmacist shall possess knowledge in sterilization techniques.

(3) Supportive personnel. All supportive personnel who compound sterile pharmaceuticals shall:

(A) have a high school or equivalent education;

(B) complete a minimum 40 hours of instruction and experience in the areas listed in paragraph (1) of this subsection. Such training may be obtained through the:

(i) completion of a minimum 40 hours of on the job instruction and experience in the areas listed in paragraph (1) of this subsection; or

(ii) completion of a training program which is accredited by the American Society of Hospital Pharmacists; and

(C) complete 6 hours of continuing education related to sterile pharmaceuticals or their preparation which is sponsored by an American Council on Pharmaceutical Education approved provider each year.

(4) Documentation of Training. A written record of initial and in-service training and the results of written or practical testing and process validation of pharmacy personnel shall be maintained and contain the following information:

(A) name of the person receiving the training or completing the testing or process validation;

(B) date(s) of the training, testing, or process validation;

(C) general description of the topics covered in the training or testing or of the process validated;

(D) name of the person supervising the training, testing, or process validation; and

(E) signature (first initial and last name or full signature) of the person receiving the training or completing the testing or process validation and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or process validation of personnel.

(5) Cleaning.

(A) General.

(i) All pharmacy personnel involved in cleaning and maintenance of the controlled area should be knowledgeable about clean-room design (if applicable), the basic concepts of aseptic compounding, and critical-area contamination factors.

(ii) Non-pharmacy personnel (e.g., housekeeping staff) involved in the cleaning or maintenance of the controlled areas should receive training on applicable procedures.

(B) Risk level 3 sterile pharmaceuticals. All pharmacy personnel involved in the cleaning and maintenance of the controlled area for risk level 3 sterile pharmaceuticals shall be specially trained and thoroughly knowledgeable in the special requirements of Class 100 critical-area technology and design.

(g)[(f)] Identification of pharmacy personnel. [Pharmacy personnel shall be identified as follows.

[(1) Supportive personnel.] All pharmacy [supportive] personnel shall wear an identification tag or badge which bears the person's name and identifies him or her by title or function. [as a supportive

person.

[(2) Pharmacist interns. All pharmacist interns shall wear an identification tag or badge which bears the person's name and identifies him or her as a pharmacist intern.]

§291.74. Operational Standards.

(a) Licensing requirements.

(1)-(8) (No change.)

(9) A Class C pharmacy, licensed under the Act, §29(b)(3), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §29(b)(1), (Community Pharmacy (Class A)) or the Act, §29(b)(2)(Nuclear Pharmacy (Class B)), is not required to secure a license for the such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), §291.35 of this title (relating to Triplicate Prescription Records), and §291.36 of this title (relating to Class A Pharmacies **Compounding** [Dispensing] Sterile **Pharmaceuticals**), [Compounded Sterile Parenteral and/or Enteral Products),] contained in Community Pharmacy (Class A), or §291.51 of this title (relating to Definitions), §291.52 of this title (relating to Personnel), §291.53 of this title (relating to Operational Standards), and §291.54 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such rules are applicable to the operation of the pharmacy.

(10) A Class C pharmacy engaged in non-sterile compounding of drug products for inpatients of the hospital shall comply with the provisions of §§291.31-291.34 of this title (relating to Definitions, Personnel, Operational Standards, and Records for Class A (Community) Pharmacies) to the extent such rules are applicable to non-sterile compounding of drug products.

(11) A Class C Pharmacy, licensed under the provisions of the Act, §29(b)(3), which would otherwise be required to be licensed under the Act, §29(b)(6), (relating to Class F Pharmacy), is not required to secure a license for such other type of pharmacy; provided, however:

(A) such licensee is required to comply with the provisions of §291.111 of this title (relating to Purpose), §291.112 of this title (relating to Definitions), §291.113 of this title (relating to Personnel), §291.114 of this title (relating to Operational Standards), and §291.115 of this title (relating to Records), contained in Home and Community Support Services Pharmacy (Class F), to the extent such rules are applicable to the operation of the pharmacy;

(B) the Class C Pharmacy and the Home and Community Support Services Agency licensed under Health and Safety Code, Chapter 142, whose patients the Class F Pharmacy provides services, are at the same location and under common control and ownership; and

(C) the pre-labeled drugs for the Class F Pharmacy are maintained in such a manner that a person accessing these pre-labeled drugs does not have access to other drugs in the Class C Pharmacy.

(b) Environment.

(1) General requirements.

(A)-(F) (No change.)

[(2) Special Requirements.

[(A) The institutional pharmacy shall have locked storage for Schedule II controlled substances and other controlled drugs requiring additional security.]

(G)[(B)] If the institutional pharmacy **has flammable materials, the pharmacy** shall have a designated area for the storage of flammable materials. Such area shall meet the requirements set by local and state fire laws

[(C) If the institutional pharmacy prepares sterile products, the institutional pharmacy shall have a designated area for the laminar air flow hood for the preparation of sterile products, which shall:

[(i) be designed to avoid outside traffic and air flow;

[(ii) have cleanable surfaces, walls, and floors;

[(iii) be ventilated in a manner not interfering with laminar flow hood conditions; and

[(iv) not be used for bulk storage for supplies and materials.]

(H)[(D)] The institutional pharmacy shall **store** [have a designated area for the storage of] **antiseptics, other drugs for external use, and disinfectants separately from internal and injectable medications.** [poisons and externals.]

(2) Special requirements for the compounding of sterile pharmaceuticals in the institutional pharmacy.

(A) Risk level 1 sterile pharmaceuticals. If the institutional pharmacy compounds risk level 1 sterile pharmaceuticals, the following is applicable.

***(i)* Aseptic environment control device(s). The institutional pharmacy shall prepare sterile pharmaceuticals in an appropriate aseptic environmental control device(s), such as a laminar air-flow hood or biological safety cabinet, which is capable of maintaining at least Class-100 conditions during normal activity. Such aseptic environmental control device(s) shall:**

(I) be certified by an independent contractor according to Federal Standard 209E et.seq. for operational efficiency at least every six months or when it is relocated; and

(II) have pre-filters replaced periodically, in accordance with written policies and procedures, and the replacement date documented.

***(ii)* Controlled area. The institutional pharmacy shall have a designated controlled area for the compounding of sterile pharmaceuticals that is functionally separate from areas for the preparation of non-sterile pharmaceuticals and is constructed to minimize the opportunities for particulate and microbial contamination. This controlled area for the preparation of sterile pharmaceuticals shall:**

(I) have a controlled environment that is aseptic or contains an aseptic environmental control device(s);

(II) be clean, well lighted, and of sufficient size to support sterile compounding activities;

(III) be used only for the compounding of sterile pharmaceuticals;

(IV) be designed to avoid outside traffic and air flow and be ventilated in a manner not interfering with aseptic environmental control conditions;

(V) have drugs and supplies stored on shelving areas above the floor to permit adequate floor cleaning;

(VI) have non-porous and washable floors to enable regular disinfection; and

(VII) contain only the appropriate compounding supplies and not be used for bulk storage for supplies and materials.

(iii) End-product evaluation. The responsible pharmacist shall verify that the sterile pharmaceutical was compounded accurately with respect to the use of correct ingredients, quantities, containers, and reservoirs.

(iv) Automated compounding device(s). If automated compounding device(s) are used, the pharmacy shall have a method to calibrate and verify the accuracy of automated compounding devices used in aseptic processing and document the calibration and verification on a routine basis.

(B) Risk level 2 sterile pharmaceuticals. In addition to all requirements for risk level 1, if the institutional pharmacy prepares risk level 2 sterile pharmaceuticals, the following is applicable.

(i) Controlled area. The controlled area shall:

(I) meet Class 100,000 conditions for acceptable airborne particle levels;

(II) have hard, cleanable walls and ceilings; and

(III) be separated from an adjacent support area of high cleanliness (e.g., anteroom) by a barrier (e.g., plastic curtain, partition, or wall).

(ii) End product evaluation.

(I) End product sterility testing according to policies and procedures which include a statistically valid sampling plan and acceptance criteria for the sampling and testing shall be performed on risk level 2 sterile products.

(II) The pharmacist-in-charge shall establish a mechanism for recalling all products of a specific batch if end-product testing procedures yield unacceptable results.

(C) Risk level 3 sterile pharmaceuticals. In addition to all requirements for risk level 2, if the institutional pharmacy prepares risk level 3 sterile pharmaceuticals, the following is applicable.

(i) General.

(I) All non-sterile equipment that will come into contact with the sterilized final product shall be properly sterilized before introduction into the controlled area.

(II) All personnel involved in the preparation of risk level 3 sterile products shall wear protective apparel including gown or coverall with tight cuffs made of low-shedding material, head cover, face mask, shoe cover, and gloves.

(ii) Aseptic environment control device(s). Risk level 3 sterile pharmaceuticals shall be prepared:

(I) in a Class 100 laminar air-flow hood that is properly situated in a controlled area that meets Class 10,000 conditions for acceptable airborne particle levels or in a properly maintained and monitored Class 100 clean-room without a hood; or

(II) if the solution is to be terminally sterilized the product may be prepared in a Class 100 laminar air-flow hood located inside a controlled area that meets Class 100,000 conditions.

(iii) Controlled Area. The controlled area shall:

(I) have non-porous walls and ceilings;

(II) be separated from an adjacent support area (e.g., anteroom) which meets at least Class 100,000 requirements by a barrier (e.g., plastic curtain, partition, or wall); and

(III) have a positive pressure differential relative to adjacent, less clean areas of at least 0.05 inch of water.

(iv) End product evaluation.

(I) Appropriate laboratory determination of conformity with established written specifications and policies shall be conducted on each preparation of a risk level 3 pharmaceutical or batch of risk level 3 pharmaceuticals.

(II) Risk level 3 pharmaceuticals compounded from non-sterile components shall be quarantined pending the results of end-product testing.

(D) Cytotoxic drugs. In addition to the appropriate requirements for a risk level 1, 2 or 3 product, if the product is also cytotoxic, the following is applicable.

(i) General.

(I) All personnel involved in the compounding of cytotoxic products shall wear appropriate protective apparel such as masks, gloves, and gowns or coveralls with tight cuffs.

(II) Appropriate safety and containment techniques for compounding cytotoxic drugs shall be used in conjunction with aseptic techniques required for preparing sterile pharmaceuticals.

(III) Disposal of cytotoxic waste shall comply with all applicable local, state, and federal requirements.

(IV) Prepared doses of cytotoxic drugs must be dispensed, labeled with proper precautions inside and outside, and distributed in a manner to minimize contact with cytotoxic agents.

(ii) Aseptic environment control device(s). The institutional pharmacy shall have a vertical flow biological safety cabinet in which only cytotoxic products may be compounded.

(3) Security requirements.

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

(C) The institutional pharmacy shall have locked storage for Schedule II controlled substances and other drugs requiring additional security.

(c) Equipment and supplies.

(1) Institutional pharmacies distributing medication orders shall have the following equipment:

(A) typewriter or comparable equipment; and

(B) refrigerator with a system to monitor the temperature daily to ensure that proper storage requirements are met.[; and

[(C) metric-apothecary weight and conversion charts.]

[(2) Institutional pharmacies dispensing prescription drug orders shall

have the following equipment:

[(A) adequate supply of child-resistant, moisture-proof, and light-proof containers; and

[(B) adequate supply of prescription, poison, and other applicable identification labels.

[(3) Special equipment according to the requirements set out in subparagraphs (A) and (B) of this paragraph shall be maintained:]

(2)[(A)] If the institutional pharmacy compounds prescriptions or medication orders **which require the use of a balance**, a Class A prescription balance or analytical balance with weights. Such balance shall be properly maintained and inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

[(B) If the institutional pharmacy prepares sterile products, an annually certified laminar air flow hood and other equipment necessary for manipulation of sterile products.]

(3) If the institutional pharmacy compounds sterile pharmaceuticals, the pharmacy shall have the following equipment.

(A) appropriate disposal containers for used needles, syringes, etc., and if applicable, cytotoxic waste from the preparation of chemotherapeutic agents, cytotoxic waste;

(B) infusion devices, if applicable;

(C) all necessary supplies, including:

(i) **disposable needles, syringes, and other supplies for aseptic mixing;**

(ii) **disinfectant cleaning solutions;**

(iii) **hand washing agents with bacteriocidal action;**

(iv) **disposable, lint-free towels or wipes;**

(v) appropriate filters and filtration equipment;

(vi) **cytotoxic spill kits, if applicable; and**

(vii) **masks, caps, coveralls or gowns with tight cuffs, shoe covers, and gloves, as applicable.**

(d) Library. A reference library shall be maintained which includes the following **in hard-copy or electronic format:**

(1) (No change.)

(2) at least one current or updated reference from each of the following categories:

(A) Drug interactions. A reference text on drug interactions, such as [Phillip D.] Hansten's **and Horn's** Drug Interactions.

(B) General information.

(i)-(ii) (No change.)

(iii) American Hospital Formulary Service with current supplements; [or]

(iv) Remington's Pharmaceutical Sciences; **or**

(v) **Micromedex.**

(3)-(4) (No change.)

(5) If the pharmacy compounds sterile pharmaceuticals:

(A) American Society of Hospital Pharmacists' Technical Assistance Bulletin on Quality Assurance for Pharmacy-Prepared Sterile Products;

(B) specialty reference appropriate for the scope of services provided by the pharmacy, e.g., if the pharmacy prepares cytotoxic drugs, a reference text on the preparation of cytotoxic drugs, such as Procedures for Handling Cytotoxic Drugs; and

(C) Current Good Manufacturing Practices for Finished Pharmaceuticals (21CFR, Chapter 1, Part 211).

(6) Metric-apothecary weight and measure conversion charts.

(e) Absence of a pharmacist.

(1) Medication orders.

(A) In facilities with a full-time pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacy is closed, the following is applicable.

(i)-(ii) (No change.)

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices. The record shall contain the following information:

(I)-(V) (No change.)

(VI) signature **(first initial and last name or full signature)** or electronic signature of person making withdrawal.

(iv) (No change.)

(v) The pharmacist shall verify the withdrawal and perform a drug regimen review as specified in subsection **(g)(1)(B)** [(f)(5)(B)] of this section as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(B) In facilities with a part-time or consultant pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacist is not on duty, or when the pharmacy is closed, the following is applicable.

(i)-(iii) (No change.)

(iv) The pharmacist shall verify the withdrawal and perform a drug regimen review as specified in subsection **(g)(1)(B)**[(f)(5)(B)] of this section after a reasonable interval, but in no event may such interval exceed seven days.

(2) Floor stock. In facilities using a floor stock method of drug distribution, the following is applicable.

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

(C) A record shall be made at the time of withdrawal by the authorized person removing the drug or device; the record shall contain the following information:

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

(v) signature **(first initial and last name or full signature)** or electronic signature of person making the withdrawal.

(D) The pharmacist shall verify the withdrawal after a reasonable interval, but in no event may such interval exceed seven days.

(f) Drugs.

(1) Procurement, preparation and storage.

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

(C) Institutional pharmacies may not sell, purchase, trade or possess prescription drug samples, unless the pharmacy meets all of the following conditions:

(i) **the pharmacy is**

owned by a charitable organization described in the Internal Revenue Code of 1986, or by a city, state or county government;

(ii) the pharmacy is a part of a health care entity which provides health care primarily to indigent or low income patients at no or reduced cost;

(iii) the samples are for dispensing or provision at no charge to patients of such health care entity; and

(iv) the samples are possessed in compliance with the federal Prescription Drug Marketing Act of 1986.

(D)[(C)] All drugs shall be stored at the proper temperatures, as defined by the following:

(i) cold-Any temperature not exceeding 8 degrees Centigrade (46 degrees Fahrenheit). A refrigerator is a cold place in which the temperature is maintained thermostatically between 2 and 8 degrees Centigrade (36 and 46 degrees Fahrenheit). A freezer is a cold place in which the temperature is maintained thermostatically between -20 and -10 degrees Centigrade (-4 and -14 degrees Fahrenheit).

*(ii)*cool-Any temperature between 8 and 15 degrees Centigrade (46 and 59 degrees Fahrenheit), An article for which storage in a cool place is directed may, alternatively, be stored in a refrigerator unless otherwise specified in the labeling.

(iii) room temperature-The temperature prevailing in a working area. controlled room temperature is a temperature thermostatically between 15 and 30 degrees Centigrade (59 and 86 degrees Fahrenheit).

(iv) warm-Any temperature between 30 and 40 degrees Centigrade (86 and 104 degrees Fahrenheit).

(v) excessive heat-Any temperature above 40 degrees Centigrade (104 degrees Fahrenheit).

(vi) protection from freezing-where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to destructive alteration of the dosage form, the container label bears an appropriate instruction to protect the product from freezing. [room temperature - temperature maintained between 15 C (59 F) and 30 C (86 F).

[(ii) cool-temperature between 8 C (46 F) and 15 C (59 F) which may, alternatively, be stored in a refrigerator unless otherwise specified on the labeling.

[(iii) refrigerate-temperature that is thermostatically maintained between 2 C (36 F) and 8 C (46 F).

[(iv) freeze-temperature that is thermostatically maintained between -20 C (-4 F) and -10 C (14 F).]

(E)[(D)] Any drug bearing an expiration date may not be [dispensed or] distributed beyond the expiration date of the drug.

(F)[(E)] Outdated and other unusable drugs shall be removed from [dispensing] stock and shall be quarantined together until such drugs are disposed of properly.

(2) Formulary.

(A) A formulary shall [may] be developed by the facility committee performing the pharmacy and therapeutics function for [Committee of] the facility.

(B) The pharmacist-in-charge or [consultant] pharmacist designated by the pharmacist-in-charge shall be a full voting member of the committee performing the pharmacy and therapeutics function [committee] for the facility, when such committee is performing the pharmacy and therapeutics function.

(3) Prepackaging of drugs and loading bulk or unlabeled drugs into automated compounding or drug dispensing systems.

(A) Pre-packaging of drugs.

(i) (No change.)

(ii) The label of a prepackaged unit shall indicate:

(I) (No change.)

(II) unique facility's lot number;

(III) expiration date based on currently available literature; and

(IV) (No change.)

(iii) Records of prepackaging shall be maintained to show:

(I) (No change.)

(II) unique facility's lot number;

(III)-(IX) (No change.)

(X) name, initials, [signature] or electronic signature of the responsible pharmacist.

(iv) (No change.)

(B) Loading bulk or unlabeled drugs into automated compounding or drug dispensing systems.

(i) Automated compounding or drug dispensing systems may be loaded with bulk or unlabeled drugs only by a pharmacist or by supportive personnel under the direction and direct supervision of a pharmacist.

(ii) The label of an automated compounding or drug dispensing system contained shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor.

(iii) Records of loading bulk or unlabeled drugs into an automated compounding or drug dispensing system shall be maintained to show:

(I)-(IV) (No change.)

(V) quantity added to the automated drug compounding or dispensing system;

(VI) (No change.)

(VII) name, initials, or electronic signature of the person loading the automated compounding or drug dispensing system; and

(VIII) name, initials, [signature] or electronic signature of the responsible pharmacist.

(iv) The automated compounding or drug dispensing system shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature (first initial and last name or full signature) or electronic signature to the record specified in clause (iii) of this subparagraph.

(4) Sterile pharmaceuticals compounded in the pharmacy. [IV admixtures.]

(A) Batch preparation. [The pharmacist-in-charge shall have the responsibility for preparation and sterility

assurance of products compounded within the facility.

[(B) The pharmacist-in-charge shall have the responsibility for admixture of parenteral products, including education and training of personnel concerning incompatibility and provision of proper incompatibility and stability information.

[(C) When any part of these processes is not under direct pharmacy supervision, the pharmacist-in- charge shall have the responsibility for providing written guidelines and for approving the procedure to assure that all pharmaceutical requirements are met.]

(i) Master work sheet. A master work sheet shall be developed and approved by a pharmacist for each batch of risk level 1, 2 and 3 sterile pharmaceuticals to be prepared. Once approved, a duplicate of the master work sheet shall be used as the preparation work sheet from which each batch is prepared and on which all documentation for that batch occurs. The master work sheet shall include the following information.

(I) For risk level 1 and 2, the master work sheet shall contain at a minimum:

(-a-) the formula;

(-b-) the components;

(-c-) the compounding directions;

(-d-) a sample label; and

(-e-) evaluation and testing requirements.

(II) For risk level 3, the master work sheet shall contain all of the items listed in subclause (I) of this clause and the following:

(-a-) comparison of actual with anticipated yield;

(-b-) sterilization method(s); and

(-c-) quarantine specifications.

(ii) Preparation work sheet. The preparation work sheet for each batch of risk level 1, 2 and 3 sterile pharmaceuticals shall document the following;

(I) identity of all solutions and ingredients and their corresponding amounts, concentrations, or volumes;

(II) manufacturer lot number for each component;

(III) component manufacturer or suitable identifying number;

(IV) container specifications (e.g., syringe, pump cassette);

(V) unique lot or control number assigned to batch;

(VI) expiration date of batch-prepared products;

(VII) date of preparation;

(VIII) name, initials, or electronic signature of the person(s) involved in the preparation;

(IX) name, initials, or electronic signature of the responsible pharmacist;

(X) end-product evaluation and testing specifications;

(XI) storage requirements;

(XII) specific equipment used during aseptic preparation (e.g., specific automated compounding device); and

(XIII) comparison of actual yield to anticipated yield, when appropriate.

(B) Labeling. The label of each sterile pharmaceutical shall bear at a minimum:

(i) for patient-specific products, the patient's name and location or identification number;

(ii) for batch prepared products, the unique lot or control number assigned to the batch;

(iii) all solution and ingredient names, amounts, strengths, and concentrations, when applicable;

(iv) expiration date and time, when applicable;

(v) directions for use, including infusion rate, when appropriate;

(vi) name or initials of the person preparing the product and if prepared by supportive personnel the name or initials of the pharmacist who checked and released the final product. (This information is not required on the label if it is maintained in a permanent record of the pharmacy);

(vii) appropriate ancillary instructions such as storage instructions or cautionary statements, including cytotoxic warning labels where appropriate; and

(viii) device-specific instructions, when appropriate.

(C) Expiration date.

(i) The expiration date assigned shall be based on currently available drug stability information and sterility considerations or appropriate in house or contract service stability testing.

(ii) Sources of drug stability information shall include the following:

(I) references (e.g., Remington's Pharmaceutical Sciences, Handbook on Injectable Drugs);

(II) manufacturer recommendations; and

(III) reliable, published research.

(iii) When interpreting published drug stability information, the pharmacist shall consider all aspects of the final sterile product being prepared (e.g., drug reservoir, drug concentration, storage conditions).

(iv) Methods used for establishing expiration dates shall be documented.

(D) Quality control. There shall be a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities. Procedures shall be in place to assure that the pharmacy is capable of consistently preparing pharmaceuticals which are sterile and stable. Quality control procedures shall include, but are not limited to, the following:

(i) recall procedures;

(ii) storage and dating; and

(iii) documentation of appropriate functioning of refrigerator, freezer and other equipment.

(iv) documentation of aseptic environmental control device(s)

certification at least every six months and the regular replacement of pre-filters;

(v) **a process to evaluate and confirm the quality of the prepared pharmaceutical product; and**

(vi) **if risk level 3 sterile pharmaceuticals are prepared, extensive end product testing, as referenced in Remington's Pharmaceutical Sciences and ASHP technical assistance bulletin on quality assurance for pharmacy-prepared sterile products, must be documented prior to the release of the product from quarantine. This process must include appropriate tests for particulate matter and testing for pyrogens.**

(E) Quality assurance.

(i) **There shall be a documented, ongoing quality assurance program for monitoring and evaluating personnel performance and patient outcomes to assure an efficient drug delivery process, patient safety, and positive clinical outcomes.**

(ii) **There shall be documentation of quality assurance audits at regular, planned intervals including infection control, sterile technique, delivery systems/times, order transcription accuracy, drug administration systems, adverse drug reactions and drug therapy appropriateness, as applicable.**

(iii) **A plan for corrective action of problems identified by quality assurance audits shall be developed which includes procedures for documentation of identified problems and action taken.**

(iv) **A periodic evaluation of the effectiveness of the quality assurance activities shall be completed and documented.**

(5) Sterile pharmaceuticals prepared in a location other than the pharmacy.

[(D)] A distinctive supplementary label shall be affixed to the container of any admixture. The label shall bear at a minimum:

(A)[(i)] patient's name and location;

(B) [(ii)] name and amount of drug(s) added;

(C)[(iii)] name of the basic solution;

(D)[(iv)] name or identifying code of person who prepared admixture; and

(E)[(v)] expiration date of solution.

(6)[(5)] Distribution.

(A) Medication orders.

(i)-(ii) (No change.)

[(iii) Only a registered pharmacist may receive, certify, and dispense prescription drug orders.

(iii)[(iv)] Supportive personnel may not receive verbal [oral] medication orders.

(iv) [(v)] Institutional pharmacies shall be exempt from the labeling provisions and patient notification requirements of subsections (d) and (f) of the Act, §40, as respects drugs distributed pursuant to medication orders.

[(B) Drug regimen review.

[(i) For the purpose of promoting therapeutic appropriateness, a pharmacist shall evaluate medication orders and patient medication records for:

[(I) known allergies;

[[(II) rational therapy-contraindications;

[(III) reasonable dose and route of administration;

[(IV) reasonable directions for use;

[(V) duplication of therapy;

[(VI) drug-drug interactions;

[(VII) drug-food interactions;

[(VIII) drug-disease interactions;

[(IX) adverse drug reactions; and

[(X) proper utilization, including overutilization or underutilization.

[(ii) The drug regimen review shall be conducted on a prospective basis when a pharmacist is on duty and on a retrospective basis as specified in subsection (e)(1) of this section when a pharmacist is not on duty.

[(iii) Any questions regarding the order must be resolved with the prescriber and a written notation of these discussions made in the patient's medication record or chart.]

(B) [(C)] Procedures.

(i) Written policies and procedures for a drug distribution system (best suited for the particular institutional pharmacy) shall be developed and implemented by the pharmacist-in-charge, with the advice of the committee performing the pharmacy and therapeutics function for the facility. [Committee.]

(ii) The written policies and procedures for the drug distribution system shall include, but not be limited to, procedures regarding the following:

(I) pharmaceutical care services;

(II) handling, storage and disposal of cytotoxic drugs and waste;

(III) disposal of unusable drugs and supplies;

(IV) security;

(V) equipment;

(VI) sanitation;

(VII) reference materials;

(VIII) drug selection and procurement;

(IX) drug storage;

(X)[(I)] controlled substances;

(XI)[(II)] investigational drugs, **including the obtaining of protocols from the principal investigator;**

(XII)[(III)] prepackaging and manufacturing;

(XIII)[(IV) stop orders;

(XIV)[(V)] **reporting of medication errors, adverse drug reactions/events, and drug product defects;**

(XV)[(VI)] physician orders;

(XVI)[(VII)] floor stocks;

[(VIII) adverse reaction reports;]

(XVII)[(IX)] drugs brought into the facility;

(XVIII)[(X)] furlough medications;

(XIX)[(XI)] self-administration;

(XX)[(XII)] emergency drug supply; [tray;]

(XXI)[(XIII)] formulary;

(XXII)[(XIV)] monthly inspections of nursing stations and other areas where drugs are stored, distributed, administered or dispensed;

(XXIII)[(XV)] control of drug samples;

[(XVI) drug product defect reports;]

[(XVII) drug recall;]

(XXIV)[(XVIII)] outdated and other unusable drugs;

(XXV)[(XIX)] routine distribution of inpatient medication;

(XXVI)[(XX)] preparation and distribution of sterile pharmaceuticals; [IV admixtures;]

(XXVII)[(XXI)] handling of medication orders when a pharmacist is not on duty;

(XXVIII)[(XXII)] use of automated compounding or drug dispensing systems;

(XXIX)[(XXIII)] use of data processing and direct imaging systems; [and]

[(XXIV) clinical services.]

(XXX) drug administration to include infusion devices, drug delivery systems, and first dose monitoring;

(XXXI) drug labeling;

(XXXII) recordkeeping;

(XXXIII) quality assurance/quality control;

(XXXIV) duties for professional and nnprofessional staff; and

(XXXV) emergency preparedness plan, to include continuity of patient therapy and public safety.

(g) Pharmaceutical care services. [Clinical services.]

(1) The pharmacist-in-charge shall assure that at least the following pharmaceutical care services are provided to patients of the facility.

(A) Drug utilization review.

(i)[(1)] A systematic ongoing process of drug utilization [regimen] review shall be developed in conjunction with the medical staff to increase the probability of desired patient outcomes and decrease the probability of undesired outcomes from drug therapy.

[(2) There must be documentation of ongoing drug therapy monitoring and evaluation, including assessment of:

[(A) the therapeutic appropriateness of the patient's drug regimen;

[(B) therapeutic duplication in the patient's drug regimen;

[(C) the appropriateness of the delivery device, dose, frequency, and route of administration;

[(D) potential drug, food, or diagnostic test interactions or disease limitations on drug use (or any combination of these); and]

(B) Drug regimen review.

(i) For the purpose of promoting therapeutic appropriateness, a pharmacist shall evaluate medication orders and patient medication records for:

(I) known allergies;

(II) rational therapy-contraindications;

(III) reasonable dose and route of administration;

(IV) reasonable directions for use;

(V) duplication of therapy;

(VI) drug-drug interactions;

(VII) drug-food interactions;

(VIII) drug-disease interactions;

(IX) adverse drug reactions;

(X) proper utilization, including overutilization or underutilization; and

(XI) clinical laboratory or clinical monitoring methods to monitor and evaluate drug effectiveness, side effects, toxicity, or adverse effects, and appropriateness to continued use of the drug in its current regimen.

(ii) The drug regimen review shall be conducted on a prospective basis when a pharmacist is on duty, except for an emergency order, and on a retrospective basis as specified in subsection (e)(1) of this section when a pharmacist is not on duty.

(iii) Any questions regarding the order must be resolved with the prescriber and a written notation of these discussions made and maintained.

(C) Education. The pharmacist-in-charge in cooperation with appropriate multi-disciplinary staff of the facility shall develop policies that assure that:

(i) the patient and/or patient's caregiver receives information regarding drugs and their safe and appropriate use; and

(ii) health care providers are provided with patient specific drug information.

(D) Patient monitoring. The pharmacist-in-charge in cooperation with appropriate multi-disciplinary staff of the facility shall develop policies to ensure that the patient's response to drug therapy is monitored and conveyed to the appropriate health care provider.

(2) Other pharmaceutical care services which may be provided by pharmacists in the facility include, but are not

limited to, the following:

(A) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practices Act, (Article 4495b, Vernon's Texas Civil Statutes);

(B) managing patient compliance programs;

(C) providing preventative health care services; and

(D) providing case management of patients who are being treated with high-risk or high-cost drugs, or who are considered "high risk" due to their age, medical condition, family history, or related concern.

(h) Emergency rooms.

(1) (No change.)

(2) When a pharmacist is not on duty in the facility **and,** [, the following is applicable for supplying prescription drugs from the emergency room.

[(A) If] the patient has been admitted to the emergency room and assessed by a practitioner at the hospital, the following procedures shall be observed in supplying prescription drugs from the emergency room.

(A)[(i)] Dangerous drugs and/or controlled substances may only be supplied in accordance with the system of control and accountability for dangerous drugs and/or controlled substances administered or supplied from the emergency room; such system shall be developed and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(B) [(ii)] Only dangerous drugs and/or controlled substances listed on the emergency room drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the facility's emergency department committee (or like group or person responsible for policy in that department) and shall consist of dangerous drugs and/or controlled substances of the nature and type to meet the immediate needs of emergency room patients.

(C) [(iii)] Dangerous drugs and/or controlled substances may only be supplied in prepackaged quantities not to exceed a 72-hour supply in suitable containers and appropriately pre-labeled (including necessary auxiliary labels) by the institutional pharmacy.

(D)[(iv)] At the time of delivery of the dangerous drugs and/or controlled substances, the practitioner or licensed nurse under the supervision of a practitioner shall appropriately complete the label with at least the following information:

(i) [(I)] name, address and phone number of the facility;

(ii) [(II)] date supplied;

(iii)[(III)] name of the practitioner;

(iv)[(IV)] name of the patient;

(v)[(V)] directions for use;

(vi)[(VI)] brand name and strength of the dangerous drug or controlled substance; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the dangerous drug or controlled substance;

(vii)[(VII)] quantity supplied; and

(viii) [(VIII)] unique identification number.

(E)[(v)] The practitioner or a licensed nurse under the supervision of the practitioner, shall give the appropriately labeled, prepackaged drug to the patient and explain the correct use of the drug.

(F)[(vi)] A perpetual record of dangerous drugs and/or controlled substances supplied from the emergency room shall be maintained in the emergency room. Such record shall include the following:

(i)[(I)] date supplied;

(ii)[(II)] practitioner's name;

(iii)[(III)] patient's name;

(iv)[(IV)] brand name and strength of the dangerous drug or controlled substance; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the dangerous drug or controlled substance;

(v)[(V)] quantity supplied; and

(vi)[(VI)] unique identification number.

(G)[(vii)] The pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.

[(B) If the patient has been admitted to the emergency room of a hospital and a practitioner telephones an order for a dangerous drug to be supplied, the following is applicable.

[(i) Dangerous drugs may only be supplied to patients of hospitals after the normal business hours of local pharmacies and when pharmacy services are not reasonably available to the patient.

[(ii) The practitioner shall cosign any order for a dangerous drug which is telephoned to the hospital emergency room within 72 hours.

[(iii) The practitioner shall have a previous patient/physician relationship with the patient admitted to the emergency room.

[(iv) The dangerous drugs may only be supplied in accordance with the system of control and accountability for drugs administered or supplied from the emergency room; such system shall be developed and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

[(v) Only dangerous drugs listed on the emergency room drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the facilities emergency department committee (or like group or person responsible for policy in that department) and shall consist of dangerous drugs of the nature and type to meet the immediate needs of emergency room patients.

[(vi) The dangerous drugs may only be supplied in prepackaged quantities not to exceed a 72-hour supply in suitable containers and appropriately prelabeled (including necessary auxiliary labels) by the institutional pharmacy.

[(vii) At the time of delivery of the dangerous drugs, a licensed nurse shall complete the label with at least the following information:

[(I) name, address and phone number of the facility;

[(II) date supplied;

[(III) name of the practitioner;

[(IV) name of the patient;

[(V) directions for use;

[(VI) brand name and strength of the dangerous drug; or if no brand name, then the generic name,

strength, and the name of the manufacturer or distributor of the dangerous drug;

[(VII) quantity supplied; and (VIII) unique identification number.

[(viii) A licensed nurse shall give the appropriately labeled, prepackaged dangerous drug to the patient and explain the correct use of the drug.

[(ix) A perpetual record of dangerous drugs supplied from the emergency room shall be maintained in the emergency room. Such record shall include the following:

[(I) date supplied;

[(II) practitioner's name;

[(III) patient's name;

[(IV) brand name and strength of the dangerous drug; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the dangerous drug;

[(V) quantity supplied; and

[(VI) unique identification number.

[(x) The pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.

[(C) Prior to implementing the procedures for supplying dangerous drugs to emergency room patients of a hospital on the telephone order of a practitioner, as specified in subparagraph

[(B) of this paragraph, the hospital shall notify the board of its intent to implement this policy. Such notification shall be signed by the hospital administrator, medical director and pharmacist-in-charge and contain the following information:

[(i) the hours the hospital pharmacy is open for pharmacy services; and

[(ii) documentation of the lack of pharmacy services after normal business hours of the hospital pharmacy.]

(i) (No change.)

§291.75. Records.

(a) (No change.)

(b) Outpatient records.

(1) Outpatient records shall be maintained as provided in §291.34 of this title (relating to Records), §291.35 of this title (relating to Triplicate Prescription Records), and §291.36 of this title (relating to Class A Pharmacies **Compounding** [Dispensing Compounded] Sterile **Pharmaceuticals**), [Parenteral and/or Enteral Products),] contained in Community Pharmacy (Class A).

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

(c) Inpatient records.

(1) Original medication orders.

(A) Each original medication order shall bear the following information:

(i) patient name and room number **or identification number;**

(ii)-(iv) (No change.)

(v) signature **(first initial and last name or full signature)** or electronic signature of the practitioner or that of his or her authorized agent.

(B) (No change.)

(2) (No change.)

(3) **Controlled substances records.**Controlled substances records shall be maintained as follows.

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

(4) **Schedule II controlled substances records.**Records of controlled substances listed in Schedule II shall be maintained as follows.

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

(C) Distribution records for controlled substances listed in Schedule II shall bear the following information:

(i) (No change.)

(ii) **prescribing or attending practitioner;** [physician who ordered controlled substance;]

(iii) -(iv) (No change.)

(v) signature **(first initial and last name or full signature)** or electronic signature of the individual administering the controlled substance;

(vi)-(vii) (No change.)

(5) Floor stock records.

(A) Distribution records for Schedule II-V controlled substances floor stock shall include the following information:

(i) (No change.)

(ii) **prescribing or attending practitioner;** [physician who ordered controlled substance;]

(iii)-(v) (No change.)

(vi) signature **(first initial and last name or full signature)** or electronic signature of the individual administering drug;

(vii)-(viii) (No change.)

(B) -(C) (No change.)

(6) General requirements for records maintained in a data processing system.

(A) (No change.)

(B) **Non-compliance with data processing requirements.**If a hospital pharmacy's data processing system is not in compliance with the Board's requirements, the pharmacy must maintain a manual recordkeeping system.

(C) (No change.)

(D) Change or discontinuance of a data processing system.

(i) Records of distribution and return for all controlled substances, and butorphanol (e.g., Stadol), nalbuphine (e.g., Nubain), [and] tripelennamine (e.g., PBZ) **and carisoprodol (e.g., Soma).** A pharmacy that changes or discontinues use of a data processing system must:

(I)-(II) (No change.)

(ii)-(iii) (No change.)

(E) (No change.)

(7) Data processing system maintenance of records for the distribution and return of all controlled substances, and butorphanol (e.g., Stadol), nalbuphine (e.g., Nubain), [and] tripelennamine (e.g., PBZ), **and carisoprodol (e.g., Soma) to the pharmacy.**

(A) Each time a controlled substance, and/or butorphanol (e.g., Stadol), nalbuphine (e.g., Nubain), [or] tripelennamine (e.g., PBZ), or carisoprodol (e.g., Soma) is distributed from or returned to the pharmacy, a record of such distribution or return shall be entered into the data processing system.

(B)-(D) (No change.)

(8)-(9) (No change.)

(d) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy or other registrant, without being registered to distribute, under the following conditions

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

(4) If the distribution is for a Schedule I or II controlled substance, the following is applicable.

(A) The pharmacy, practitioner or other registrant who is receiving the controlled substances shall issue copy 1 and copy 2 of a DEA order form (DEA 222) [222C)] to the distributing pharmacy.

(B) The distributing pharmacy shall:

(i) complete the area on the DEA order form (DEA 222) [222C)] titled TO BE FILLED IN BY SUPPLIER;

(ii) maintain copy 1 of the DEA order form (DEA 222) [222C)] at the pharmacy for two years; and

(iii) forward copy 2 of the DEA order form (DEA 222) [222C)] to the divisional office of the Drug Enforcement Administration.

(e) Other records. Other records to be maintained by a pharmacy·

(1) a permanent log of the initials or identification codes which will identify **pharmacy personnel** [each pharmacist] by name (the initials or identification code shall be unique to ensure that each **person** [pharmacist] can be identified, i.e., identical initials or identification codes cannot be used);

(2) copy 3 of DEA order form (DEA 222) [222C)] which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents;

(3) a hard-copy of the power of attorney to sign DEA 222 [222C] order forms (if applicable);

(4) suppliers' invoices of dangerous drugs and controlled substances; pharmacists or other responsible individuals shall verify that the controlled drugs listed on the invoices were actually received by clearly recording their initials and the actual date of receipt of the controlled substances;

(5) (No change.)

(6) a hard-copy of [controlled substances] inventories required by §291.17 of this title (relating to Inventory Requirements) except that a perpetual inventory of controlled substances listed in Schedule II may be kept in a data processing system if the data processing system is capable of producing a hard-copy of the perpetual inventory on-site;

(7)-(10) (No change.)

(f)-(g) (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 16, 1994.

TRD-9446707 Fred S. Brinkley, Jr., R.Ph., M.B.A.
Executive Director/Secretary
Texas State Board of Pharmacy

Proposed date of adoption: October 25, 1994

For further information, please call: (512) 832-0661

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Chapter 309. Generic Substitution

• 22 TAC §309.7

The Texas State Board of Pharmacy proposes an amendment to §309.7, concerning Dispensing Responsibilities of a pharmacist when substituting a generically equivalent drug product for the brand prescribed. The amendment specifies that the pharmacist must use Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements published by the Federal Food and Drug Administration as a basis for determining the generic equivalency of a drug product.

Fred S. Brinkley, Jr. R.Ph., MBA, Executive Director/Secretary has determined that there will not be fiscal implications to state or local governments as a result of enforcing the section

The public benefit anticipated as a result of the section as proposed is the protection of the health and safety of the public through the establishment of a standard reference for the determination of generic equivalency of a drug product

Mr. Brinkley also has determined that there will be no cost for compliance with the section on small or large businesses or on individuals.

Comments may be submitted to Gay Dodson, R.Ph., Texas State Board of Pharmacy, 8505 Cross Park Drive, Suite 110, Austin, Texas 78754-4594.

The amendment is proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1), §(4), which specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; §16(a), which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; §17(b) (3), which gives the Board the authority to specify minimum standards for the delivery, dispensing in a suitable container appropriately labeled, providing of prescription drugs or devices, monitoring of drug therapy, and counseling of patients on proper use of prescription drugs and devices within the practice of pharmacy; and Section 40 which allows a pharmacist to substitute a generically equivalent drug product. The following is the Statute affected by this rule: Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1).

§309.7. Dispensing Responsibilities.

(a) (No change.)

(b) Pharmacists shall utilize as a basis for the determination of generic equivalency as defined in the Act, §40, [the following sources of information:

[(1)] Approved Drug Products With Therapeutic Equivalence Evaluations and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication. [; or

[(2) other recognized scientific publications which document generic equivalency.]

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 16, 1994.

TRD-9446709 Fred S. Brinkley, Jr., R.Ph., M.B.A.
Executive Director\Secretary
Texas State Board of Pharmacy

Proposed date of adoption: October 25, 1994

For further information, please call: (512) 832-0661

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Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 571. Licensing Examinations

• 22 TAC §571.11

The Texas Board of Veterinary Medical Examiners is proposing an amendment to §571.11, concerning Request to Examine Failing Examinations. This amendment will require the Board to provide candidates with a written analysis of his/her failing performance on the State Board Examination.

Ron Allen, Executive Director of the Board, 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.

This amendment will have no adverse effect on state or local government in the first five-year period.

Mr. Allen further states this amendment will ensure the security of the State Board Examination and save the agency copying and staff time costs. There will be no effect on small businesses.

Comments concerning this amendment may be addressed to the Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183.

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

Further the Veterinary Licensing Act, §12(f), Texas Civil Statutes, Article 8890, states "If requested in writing by a person who fails a licensing examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination."

§571.11 Request for Analysis of Failed Exam [To Examine Failing Papers]. Any applicant who fails the Texas State Board Examination may request an analysis of his/her performance on the examination. The request must be in writing and submitted no later than 30 days after the applicant received notice of the failing grade. However, an applicant who has not provided evidence of graduation to the Board office, will not be provided an analysis until proof of graduation is received. The applicant will then have 30 days to request an analysis. Analyses will be provided in writing. The actual examination document will not be made available for inspection by the applicant. [and makes a request to examine the failing paper will be required to meet with the Executive Staff in the Central Office.]

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 12, 1994.

TRD-9446691 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Proposed date of adoption: October 6, 1994

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

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Chapter 573. Rules of Professional Conduct

Supervision of Personnel

• 22 TAC §573.14

The Texas Board of Veterinary Medical Examiners is proposing new §573.14, concerning Alternate Therapies-Acupuncture in accordance with the mandate contained in the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890.

Ron Allen, Executive Director of the Board, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Allen further states this rule will ensure that only a licensed veterinarian will perform acupuncture on non-human animals. Mr. Allen states no data is available reflecting the number of individuals administering acupuncture to non-human animals as defined in this rule, or under what circumstances. Therefore, the Board cannot project the cost to large or small businesses.

Comments concerning this rule may be addressed to the Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183.

The rule is proposed under the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which states "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

Further the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890, states "The Board shall adopt rules to protect the public and to ensure that the performance of alternate therapies, including acupuncture, . . . are performed only by a licensee or under the supervision of a licensee."

§573.14 Alternate Therapies-Acupuncture.

(a) Definition. For the purpose of this rule, acupuncture is:

(1) the insertion of an acupuncture needle and the application of moxibustion to specific areas of a non-human animal's body to relieve the discomfort associated with painful disorders, to induce surgical anesthesia, and for therapeutic purposes, and

(2) the administration or thermal or electrical treatments or the recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the treatment described by paragraph (1) of this subsection. Acupuncture in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Acupuncture in the treatment of animals. Only licensed veterinarians may use acupuncture in the care and treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform acupuncture in the treatment of an animal patient.

(c) Client Consent Required. Before acupuncture may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that acupuncture is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The statement shall become a permanent part of the patient's record.

(d) Notice to the Public. If any of the treatments used by a licensee are classified by the Board to be alternate therapies, the licensee must display a sign in the reception area or other public area where such treatment is performed to inform the public that such treatment is regularly used by the licensee in his or her practice. The displayed notice shall be in addition to the signed consent required in subsection (c) of this section. The written notice must be of rectangular shape at least 8 1/2 x 11 inches with a print size of at least 56 point, clearly displayed to be easily noticed by a client or potential client.

(e) Standard Used in Determining Appropriate Use of Acupuncture. If the Board receives a complaint against a licensee about treatment involving the use of acupuncture, investigation of the complaint may include opinions from other licensees who use acupuncture in their treatment of animals. However, veterinarians who practice acupuncture shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar locations or communities, in which they practice.

(f) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

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 12, 1994.

TRD-9446692 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Proposed date of adoption: October 6, 1994

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

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• 22 TAC §573.15

The Texas Board of Veterinary Medical Examiners is proposing new §573.15, concerning Alternate Therapies-Holistic Medicine in accordance with the mandate contained in the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890.

Ron Allen, Executive Director of the Board, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Allen further states this rule will ensure that only a licensed veterinarian will practice holistic medicine on non-human animals. Mr.

Allen states no data is available reflecting the number of individuals practicing holistic medicine on non-human animals as defined in this rule, or under what circumstances Therefore, the Board cannot project the cost to large or small businesses.

Comments concerning this rule may be addressed to the Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183.

The rule is proposed under the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which states "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

Further the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890, states "The Board shall adopt rules to protect the public and to ensure that the performance of alternate therapies, including . . . holistic medicine, . . . are performed only by a licensee or under the supervision of a licensee.

§573.15. Alternate Therapies-Holistic Medicine.

(a) Definition. For the purpose of this rule, holistic medicine means. the practice of veterinary medicine that believes in a blend of alternative and, if need be, conventional approaches of treatment in an effort to develop a system of complementary medicine to treat the whole patient In practice, it incorporates less conventional methods, such as behavior modification, herbal medicine, acupuncture, chiropractic, homeopathy, applied kinesiology, and basic nutrition with more conventional methods, such as modern drugs, surgery and diagnostics. Use of holistic medicine in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine

(b) Use of in the treatment of animals. Only licensed veterinarians may use holistic medicine in the care and treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform holistic medicine in the treatment of an animal patient.

(c) Client Consent Required Before holistic medicine may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that holistic medicine is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probably ability to cure the problem. The signed statement shall become a permanent part of the patient's record.

(d) Notice to the Public. If any of the treatments used by a licensee are classified by the Board to be alternate therapies, the licensee must display a sign in the reception area or other public area where such treatment is performed to inform the public that such treatment is regularly used by the licensee in his or her practice. The displayed notice shall be in addition to the signed consent required in subsection (c) of this section. The written notice must be of rectangular shape at least 8 1/2 x 11 inches with a print size of at least 56 point, clearly displayed to be easily noticed by a client or potential client.

(e) Standard Used in Determining Appropriate Use of Holistic Medicine. If the Board receives a complaint against a licensee about treatment involving the use of holistic medicine, investigation of the complaint may include opinions from other licensees who use holistic medicine in their treatment of animals. However, veterinarians who practice holistic medicine shall exercise the same degree of humane care, skill, and diligence in treatment patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice

(f) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

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 12, 1994.

TRD-9446693 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Proposed date of adoption: October 6, 1994

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

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• 22 TAC §573.16

The Texas Board of Veterinary Medical Examiners is proposing new §573. 16, concerning Alternate Therapies-Homeopathy in accordance with the mandate contained in the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890.

Ron Allen, Executive Director of the Board, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

Mr Allen further states this rule will ensure that only a licensed veterinarian will practice homeopathy on non-human animals. Mr. Allen states no data is available reflecting the number of individuals practicing homeopathy on non-human animals as defined in this rule, or under what circumstances. Therefore, the Board cannot project the cost to large or small businesses.

Comments concerning this rule may be addressed to the Texas Board of Veterinary Medical Examiners, 1948 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183.

The rule is proposed under the Veterinary Licensing Act, §7(a), Texas Civil Statutes, Article 8890, which states "The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

Further the Veterinary Licensing Act, §7(b), Texas Civil Statutes, Article 8890, states "The Board shall adopt rules to protect the public and to ensure that the performance of alternate therapies, including . . . homeopathy, . . . are performed only by a licensee or under the supervision of a licensee.

§573.16. Alternate Therapies-Homeopathy.

(a) Definition. For the purpose of this rule, homeopathy is: a system of therapeutics in which diseases are treated by substances which are capable of producing in healthy animals symptoms like those of the disease to be treated, the substance being administered in minute doses. Use of homeopathic remedies in non-human animals is considered to be an alternate therapy in the practice of veterinary medicine.

(b) Use of Homeopathy in the Treatment of Animals. Only licensed veterinarians may use homeopathy in the care and treatment of animals. No veterinarian may allow a non-veterinarian employee or other agent to perform homeopathy in the treatment of an animal patient.

(c) Client Consent Required. Before homeopathy may be used in the treatment of an animal, the veterinarian must obtain a signed statement from the animal's owner or caretaker acknowledging that homeopathy is an alternate therapy in veterinary medicine and approving its use in the treatment of the animal. Before signing the statement, the veterinarian shall inform the client of the conventional treatments available and their probable ability to cure the problem. The signed statement shall become a permanent part of the patient's file.

(d) Notice to the Public. If any of the treatments used by a licensee are classified by the Board to be alternate therapies, the licensee must display a sign in the reception area or other public area where such treatment is performed to inform the public that such treatment is regularly used by the licensee in his or her practice. The displayed notice shall be in addition to the signed consent required in subsection (c) of this section. The written notice must be of rectangular shape at least 8 1/2 x 11 inches with a print size of at least 56 point, clearly displayed to be easily noticed by a client or potential client.

(e) Standard Used in Determining Appropriate Use of Homeopathy. If the Board receives a complaint against a licensee about treatment involving the use of homeopathy, investigation of the complaint may include opinions from other licensees who use homeopathy in their treatment of animals. However, veterinarians who practice homeopathy shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community, or in similar localities or communities, in which they practice

(f) Other Board Rules Not Preempted. Nothing in this rule shall remove or limit in any way the applicability of other rules of the Board as they apply to the practice of veterinary medicine.

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 12, 1994

TRD-9446694 Ron Allen
Executive Director
Texas Board of Veterinary Medical Examiners

Proposed date of adoption: October 6, 1994

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

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter C. Crude Oil Production Tax

• 34 TAC §3.35

The Comptroller of Public Accounts proposes an amendment to §3.35, concerning reporting requirements for producers and purchasers. Senate Bill 892, enacted by the 73rd Legislature, 1993, amended the Tax Code, Chapter 202, to discontinue filing requirements for certain crude oil producers. The amendment is necessary to establish reporting requirements.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the amendment may be submitted to Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

The amendment implements the Tax Code §§202.001, 202.003, 202.006, 202. 153, 202.154, 202.201, 202.202, 202.251

§3.35. Reporting Requirements for Producers and Purchasers.

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

(1)[(2)] First Purchaser-The first person purchasing crude oil directly from the operator or producer.

(2)[(1)] Operator-The person responsible for the actual physical operation of the producing property.

(3) (No change.)

(b)-(c) (No change.)

(d) The operator is responsible for reporting, or accounting for, all of the production from the property unless written exception is granted by the comptroller. Written exception will be granted whenever a producer has elected to take in-kind. The producer will then have the same reporting responsibilities as an operator for the production taken in-kind.

(e) (No change.)

(f) Due dates.

(1) (No change.)

(2) The Crude Oil Producer's Annual Report [is] due prior to December 31, 1993, is due. The Crude Oil Producer's Annual Report due after December 31, 1993, is not required. A producer who is not required to file a report after December 31, 1993, and who ceases to operate crude oil producing properties must notify the comptroller's office on or before the 25th day of the month following the month that the producer ceased doing business [on or before March 1 of each year covering transactions for the previous calendar year; however, if an operator ceases to operate crude oil producing properties, a final report must be filed on or before the last day of the second month after operations end or whenever the operator must begin filing monthly reports]

(g) (No change.)

(h) All operators or producers authorized to remit and responsible for remitting tax, other than tax due under subsection (c) of this section, must file the Crude Oil Producer's Monthly Tax Report.

(i) All operators or producers must file the Texas Tax Questionnaire to obtain a taxpayer number [not required to report under subsection (h) of this section must file the Crude Oil Producer's Annual Report].

(j) The following information must be reported on the crude oil reports:

(1)-(2) (No change.)

(3) the Crude Oil Special Tax Report. The volume and value of all oil lost, used, stolen, or otherwise unaccounted for in each county (to be used by [annual filers] producers who are not required to file reports under subsection (f) of this section);

(4) Crude oil operators or producers. Crude oil operators or producers who are not required to file reports under subsection (f) of this section must keep the following records [the Crude Oil Producer's Annual Report]:

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

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

Issued in Austin, Texas, on August 16, 1994.

TRD-9446704 Martin E. Cherry
Chief, General Law Section
Comptroller of Public Accounts

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 463-4028

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Subchapter AA. Automotive Oil Sales Fee

• 34 TAC §3.702

The Comptroller of Public Accounts proposes an amendment to §3.702, concerning definitions and exemptions to the automotive oil sales fee. The 73rd Legislature, 1993, amended the Health and Safety Code, Chapter 371, effective October 1, 1993, to clarify the procedure for obtaining a credit or refund of the automotive oil fee.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new

information regarding tax responsibilities. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Joe A. Galvan, Jr., Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed 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.

The amendment implements the Health and Safety Code, §371.003 and §371. 062.

§3.702. Definitions and Exemptions.

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

(c) Credit or refund of fee paid. A purchaser of automotive oil who makes an exempt sale or use of the oil as provided in this section[,] may obtain a refund or credit **from the supplier** for the automotive oil fee previously paid to **the supplier**. The purchaser requesting a refund or credit from their supplier must furnish documentation that verifies the exemption. **An oil manufacturer or importer who makes an exempt sale or use of the oil as provided in this section may obtain a refund or credit from the comptroller for the automotive oil fee previously paid to the comptroller. The amount of refund that may be claimed may equal but not exceed the amount of the fee paid on the automotive oil.**

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 16, 1994.

TRD-9446706 Martin E. Cherry
Chief, General Law Section
Comptroller of Public Accounts

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 463-4028

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Part X. Texas Public Finance Authority

Chapter 222. Public Records

• 34 TAC §222.1

The Texas Public Finance Authority "the Authority" proposes new §221.1, specifying the charges that the Authority will make for copies of public records. This new rules is proposed in compliance with Chapter 428, Acts, 73rd Legislature, Regular Session, which requires agencies to adopt rules specifying charges for copies of public record.

Sandra Hauser, general counsel, has determined that for the first-year period the section is in effect there may be fiscal implications for state government as a result for enforcing or administering the rule. The cost can not be quantified because they are dependent upon the amount the types requested. The charges for standard size copies are the same under the proposed rule as the charge that the Authority is currently charging, however, the proposed rules provides for additional charges that may be made which are not currently being charged. Ms. Hauser also has determined that this rule will have no local government impact.

Ms. Hauser also has determined that for each year of the first five years the proposed rule is in effect the public benefit anticipated as a result of enforcing the rule will be a better understanding of the procedure used in obtaining open records. The impact of the proposed rule on small businesses will be no different than it will be for other members of the public. The anticipated economic cost to persons who are required to comply with this section as proposed is difficult to quantify because it depends upon the amount and type of copies requested Ms. Hauser also has determined that this rule will have no local employment impact.

Written comments on the proposed ruler from any member from the public are solicited. A written comment should be submitted within 30 days of publication of the proposed rule by mail or delivery to Sandra Hauser, Texas Public Finance Authority, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

The new section is proposed under Texas Civil Statutes, Article 601d, §21, which give the Texas Public Finance Authority the authority to adopt rules necessary to carry out its powers and duties.

The rule implements Chapter 428, Acts, 73rd Legislature, Regular Session 1993.

§222.1. Charges for Public Records.

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

(1) Nonstandard-size–Anything other than 8.5 inches by 11 inches or 8. 5 inches by 14 inches. (i.e. microfiche, microfilm, diskettes, magnetic tapes, CD-ROM, and nonstandard-size copies).

(2) Readily available information–Information that already exists in printed form, or information that is stored electronically and is ready to be printed or copied without requiring any programming, or information that requires a substantial amount of time to locate or prepare for release.

(3) Standard-size–8.5 inches by 11 inches or 8.5 inches by 14 inches.

(4) TPFA–The Texas Public Finance Authority.

(b) Copy charge.

(1) The charge for standards-size reproductions, non-certified, readily available is $.10 per page for 50 pages or less and $.85 for first page and $. 15 for each additional page for more than 50 pages, unless the public performs the copying and then the rate will be $.10 per page.

(2) The charge for standard-size reproductions, non-certified, not readily available is $.70 for the first page and $.15 per page for subsequent pages plus labor costs of $18.50 per hour incurred.

(3) The charge for certification of copies is $1.00.

(c) Fax charge.

(1) The charge for a local fax is $.10 per page.

(2) The charge for a long distance fax in the same area code is $.50 per page and $1.00 for a different area code.

(d) Non-standard reproductions.

(1) The charge for audio tapes if $1.50 per tape.

(2) The charge for microfilm and xerographic reproduction of 11 inches by 17 inches or larger is $.50 per page.

(e) Computer time. The charge for computer time is $.50 per minute plus $18.50 per hour for staff time but there is no charge for five minutes or less of computer time.

(f) TPFA Cost Recovery Charges.

(1) The charge for diskette reproduction is $1.00 per diskette and an additional labor charge of $18.50 per hour if the reproduction involves extensive staff time or complex data manipulation.

(2) Any additional reasonable cost will be added cost with full disclosure to the requesting party as soon as it is known.

(3) A deposit in the amount of the estimated charges may be required for requests if such charges exceed $200.

(g) Waiver of Charges. Copies of public records will be furnished without charge or at a reduced charge if the Executive Director determines that waiver or reduction of the fee is in the public interest.

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

Issued in Austin, Texas, on July 20, 1994.

TRD-9446497 Anne L. Schwartz
Executive Director
Texas Public Finance Authority

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 463-5544

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part VI. Texas Commission for the Deaf and Hearing Impaired

Chapter 183. Board for Evaluation of Interpreters and Interpreter Certification

Subchapter B. Board Certification Procedures

- **40 TAC §183.131**

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

The Texas Commission for the Deaf and Hearing Impaired is proposing the repeal of §183.131, concerning petition for regrading. This repeal is being proposed to make more efficient use of the resources of the certification program and adopt program policies standard to other state licensing agencies

David W. Myers, Executive Director, has determined that there will be no fiscal implication for state or local government as a result of the repeal of this section.

Mr. Myers also has determined that the public benefit anticipated as a result of repealing this section will be updated procedures and clarification in the operation of the Board for Evaluation of Interpreters. Standardization of licensing policies will enable the program to serve more individuals more effectively. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the repeal as proposed.

Comments on this repeal may be submitted to Angela Bryant, Board for Evaluation of Interpreters, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904.

The repeal is proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf and Hearing Impaired the authority to adopt rules for administration and programs

The repeal affects the Human Resources Code, §81.006(b)(3).

§183.131. Petition for Regrading.

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 12, 1994

TRD-9446673 David W. Myers
Executive Director
Texas Commission for the Deaf and Hearing Impaired

Earliest possible date of adoption. September 23, 1994

For further information, please call (512) 451-8494

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Subchapter E. Fees

- **40 TAC §183.573**

The Texas Commission for the Deaf and Hearing Impaired is proposing the amendment of §183.573, concerning fees, which deletes the fee for regrading in paragraph (8). This amendment is proposed in conjunction with the elimination of regrading procedures to make more efficient use of the resources of the certification program and adopt program policies standard to other state licensing agencies.

David W. Myers, Executive Director, has determined that there will be no fiscal implication for state or local government as a result of the amendment of this paragraph.

Mr. Myers also has determined that the public benefit anticipated as a result of this amendment will be updated procedures and clarification in the operation of the Board for Evaluation of Interpreters Standardization of licensing policies will enable the program to serve more individuals more effectively. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on this amendment may be submitted to Angela Bryant, Board for Evaluation of Interpreters, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904.

The amendment is proposed under the Human Resources Code, §81.006(b)(3), which provides the Texas Commission for the Deaf and Hearing Impaired the authority to adopt rules for administration and programs.

The amendment affects the Human Resources Code, §81.006(b)(3).

§183.573. Fees. The commission shall charge the following fees:

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

[(8) Re-grading Level I Level II Level III Level IV Level V $25 $25 $25 $30 $30]

(8)[(9)] Within 30 days after the date of mailing of notice that the applicant has failed the evaluation, the applicant may petition for regrading by sending a written notice of the request for regrading to the board with payment of appropriate fee.

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 12, 1994.

TRD-9446674 David W Myers
Executive Director
Texas Commission for the Deaf and Hearing Impaired

Earliest possible date of adoption: September 23, 1994

For further information, please call: (512) 451-8494

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WITHDRAWN RULES

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 152. General Allocation Rules

Subchapter A. Institutional Division Admissions

• 37 TAC §152.4

The Texas Department of Criminal Justice has withdrawn the emergency effectiveness of new §152.4, concerning the general allocation rules. The text of the emergency new §152.4 appeared in the July 29, 1994, issue of the *Texas Register* (19 TexReg 5811). The effective date of this withdrawal is August 17, 1994.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446759 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Effective date: August 17, 1994

For further information, please call: (512) 463-9693

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The Texas Department of Criminal Justice has withdrawn from consideration for permanent adoption a proposed new §152.4, which appeared in the July 29, 1994, issue of the *Texas Register* (19 TexReg 5826). The effective date of this withdrawal is August 17, 1994.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446768 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Effective date: August 17, 1994

For further information, please call: (512) 463-9693

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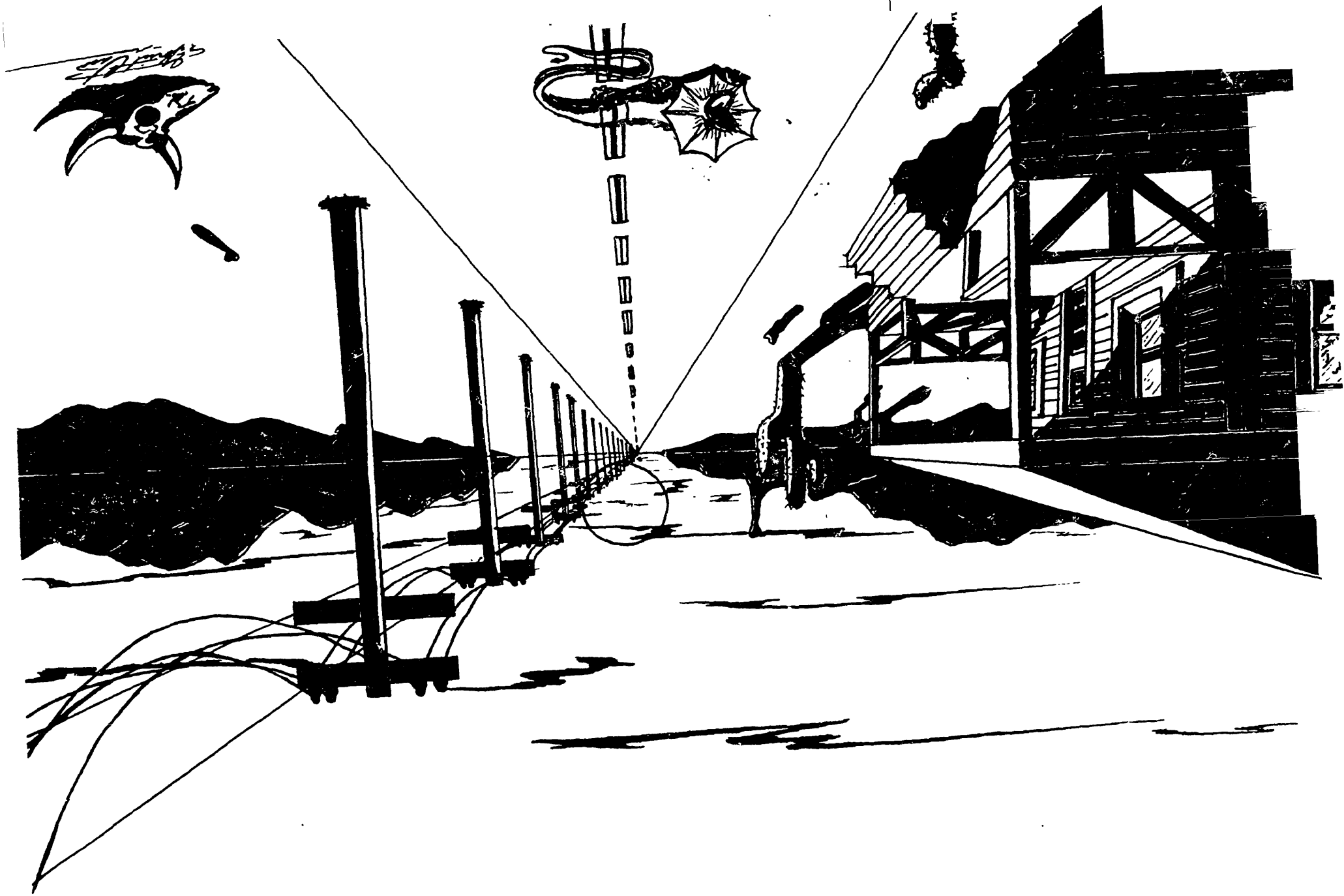

ADOPTED RULES

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

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

TITLE 22. EXAMINING BOARDS

Part XV. Texas State Board of Pharmacy

Chapter 291. Pharmacies

Nuclear Pharmacy (Class B)

• 22 TAC §291.52

The Texas State Board of Pharmacy adopts an amendment to §291.52, concerning personnel, with changes to the proposed text as published in the March 29, 1994, issue of the *Texas Register* (19 TexReg 2174).

The amendment specifies minimum training requirements which must be met for a pharmacist to be an authorized nuclear pharmacist.

One written comment was received from Richard A. Ratliff, P.E., Chief Bureau of Radiation Control, Texas Department of Health. The Board agrees with the comments by the Bureau of Radiation Control and has modified the proposed rule to include their suggestions.

These changes include the addition of the term "authorized nuclear pharmacist" and specification that the total of 700 hours of training must be divided into 200 hours of didactic training and 500 hours of supervised experience.

The amendment is adopted under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1), §(4), which specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; and §16(a), which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act. The statute affected by this rule: Texas Civil Statutes, Article 4542a-1.

§291.52. Personnel.

(a) Pharmacists.

(1) Pharmacist-in-charge.

(A) Every nuclear pharmacy shall have an authorized nuclear pharmacist designated on the nuclear pharmacy license as the pharmacist-in-charge who shall be responsible for a nuclear pharmacy's compliance with laws and regulations, both state and federal, pertaining to the practice of nuclear pharmacy.

(B) The nuclear pharmacy pharmacist-in-charge shall see that directives from the board are communicated to the owner(s), management, other pharmacists, and interns of the nuclear pharmacy.

(C) A pharmacist may be pharmacist-in-charge for no more than one nuclear pharmacy at any one given time.

(2) Authorized nuclear pharmacists. All personnel performing tasks in the preparation and distribution of radioactive pharmaceuticals shall be under the direct supervision of an authorized nuclear pharmacist. General qualifications for an authorized nuclear pharmacist are the following. A pharmacist shall:

(A) meet minimal standards of training and experience in the handling of radioactive materials in accordance with the requirements of the Texas Regulations for Control of Radiation of the Bureau of Radiation Control, Texas Department of Health;

(B) be a pharmacist licensed by the board to practice pharmacy in Texas; and

(C) submit to the board either:

(i) written certification that he or she has current board certification as a nuclear pharmacist by the Board of Pharmaceutical Specialties; or

(ii) written certification signed by preceptor authorized nuclear pharmacist that he or she has achieved a level of competency sufficient to independently operate as an authorized nuclear pharmacist and has satisfactorily completed 700 hours in a structured educational program consisting of both:

(I) 200 hours of didactic training in a program approved by Bureau of Radiation Control, Texas Department of health in the following areas:

(-a-) radiation physics and instrumentation;

(-b-) radiation protection;

(-c-) mathematics pertaining to the use and measurement of radioactivity;

(-d-) chemistry of radioactive material for medical use; and

(II) 500 hours of supervised experience in a nuclear pharmacy involving the following:

(-a-) shipping, receiving, and performing related radiation surveys;

(-b-) using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(-c-) calculating, assaying, and safely preparing dosages for patients or human research subjects;

(-d-) using administrative controls to avoid mistakes in the administration of radioactive material; and

(-e-) using procedures to prevent or minimize contamination and using proper decontamination procedures.

(3) The board may issue a letter of notification that the evidence submitted by the pharmacist meets the requirements of paragraph (2)(A)-(C) of this subsection and has been accepted by the board and that, based thereon, the pharmacist is recognized as an authorized nuclear pharmacist.

(b)-(f) (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 16, 1994.

TRD-9446710 Fred S. Brinkley, Jr., R.Ph. M.B.A.
Executive Director/Secretary
Texas State Board of Pharmacy

Effective date: September 6, 1994

Proposal publication date: March 29, 1994

For further information, please call: (512) 832-0661

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter F. Motor Vehicle Sales Tax

• **34 TAC §3.89**

The Comptroller of Public Accounts adopts an amendment to §3.89, concerning sales of house trailers, without changes to the proposed text as published in the April 26, 1994, issue of the *Texas Register* (19 TexReg 3136).

The section is amended to delete mobile offices from the definition of motor vehicles as provided by the 73rd Legislature, 1993.

One comment was received from a representative of the Texas Department of Licensing and Regulation suggesting that the definition of recreational vehicle, as defined by 24 Code of Federal Regulations §3282.8(g), be included. The comptroller determined that the suggestion does not directly address the proposed rule amendments which deal with mobile office trailers.

The 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.

The amendment implements the Tax Code, §151.308 and §152.001.

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 16, 1994.

TRD-9446705 Martin E. Cherry
Chief, General Law Section
Comptroller of Public Accounts

Effective date: September 6, 1994

Proposal publication date: April 26, 1994

For further information, please call: (512) 463-4028

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter I. Income

• **40 TAC §3.902**

The Texas Department of Human Services (DHS) adopts an amendment to §3. 902, concerning types of income that are excluded in determining eligibility for Aid to Families with Dependent Children (AFDC) benefits, in its Income Assistance Services rule chapter, without changes to the proposed text as published in the July 15, 1994, issue of the *Texas Register* (19 TexReg 5457).

The justification for the amendment is to increase the amount of the exemption from $375 to $500 for payments AFDC families receive from Job Training Partnership Act (JTPA) program participation.

The amendment will function by making more JTPA program participants eligible for AFDC benefits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and financial assistance programs.

The amendment implements the Human Resources Code, §22.001 and §31.003.

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 16, 1994.

TRD-9446677 Nancy Murphy
Section Manager, Media and Policy Services
Texas Department of Human Services

Effective date: September 6, 1994

Proposal publication date: July 15, 1994

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

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Part VI. Texas Commission for the Deaf and Hearing Impaired

Chapter 181. General Rules of Practice and Procedures

Subchapter H. Memoranda of Understanding with State Agencies

• **40 TAC §§181.913, 181.915, 181.916**

The Texas Commission for the Deaf and Hearing Impaired adopts amendments to §§181.913, 181.915, and 181.916, concerning the Commission's Memoranda of Understanding (MOUs) with the Texas School for the Deaf, the Texas Employment Commission, and the Texas Department of Mental Health and Mental Retardation respectively, without changes to the proposed text as published in the June 14, 1994, issue of the *Texas Register* (19 TexReg 4897).

The amendments replace unclear language and provide more current information about the services offered by the respective agencies, the coordination between the Commission and the respective agencies, the identification of any duplication of service or gaps in service delivery, and the methods to address identified gaps in service delivery.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, §81.017, Human Resources Code, which direct the Texas Commission for the Deaf and Hearing Impaired to adopt by rule memoranda of understanding with specified state agencies and other state agencies that provide services to persons who are deaf. Section 81.017(c) requires that these memoranda be reviewed annually.

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 15, 1994.

TRD-9446675 David W. Myers
Executive Director
Texas Commission for the Deaf and Hearing Impaired

Effective date: September 6, 1994

Proposal publication date: June 24, 1994

For further information, please call: (512) 451-8494

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

(Editor's Note: As required by the Insurance Code, Article 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 will hold a public hearing on October 3, 1994, at 9:00 a.m., under Docket Number 2111, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe in Austin, Texas, to consider a staff petition proposing adoption of two new endorsements, Endorsement Number FRO-421 to be attached to the Texas Farm and Ranch Owners Policy and Endorsement Number TFR-080 to be attached to the Texas Farm and Ranch Policy, to provide coverage for greenhouses used for farming purposes for loss or damage caused by windstorm, hurricane, or hail. The petition also proposes new Texas Personal Lines Manual rules to govern the use of these endorsements and provide appropriate rates. The proposed endorsements and manual rules are necessary to restore windstorm, hurricane, and hail coverage for greenhouses located on a farm and ranch premises and used for farming purposes, which was inadvertently omitted when the Farm and Ranch Owners Policy and the Farm and Ranch Policy were revised into simplified easy-to-read language.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.35, 5.101, 5.96, and 5.98.

Copies of the full text of the proposed endorsements and Texas Personal Lines Manual rules are available for review in the Office of the Chief Clerk, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number P-0894-17-I).

Comments on the proposal 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, MC 113-2A, 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, MC 103-1A, Austin, Texas 78714-9104.

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 Procedures and Texas Register Act (Administrative Procedure Act, 73rd Legislative, Regular Session, Chapter 268, §1, 1993 Texas General Laws 737 (codified at Government Code, Title 10, Subtitle A, Chapter 2001).

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 15, 1994.

TRD-9446641

D. J. Powers
General Counsel and Chief Clerk
Texas Department of Insurance

Earliest possible date of adoption: September 19, 1994

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

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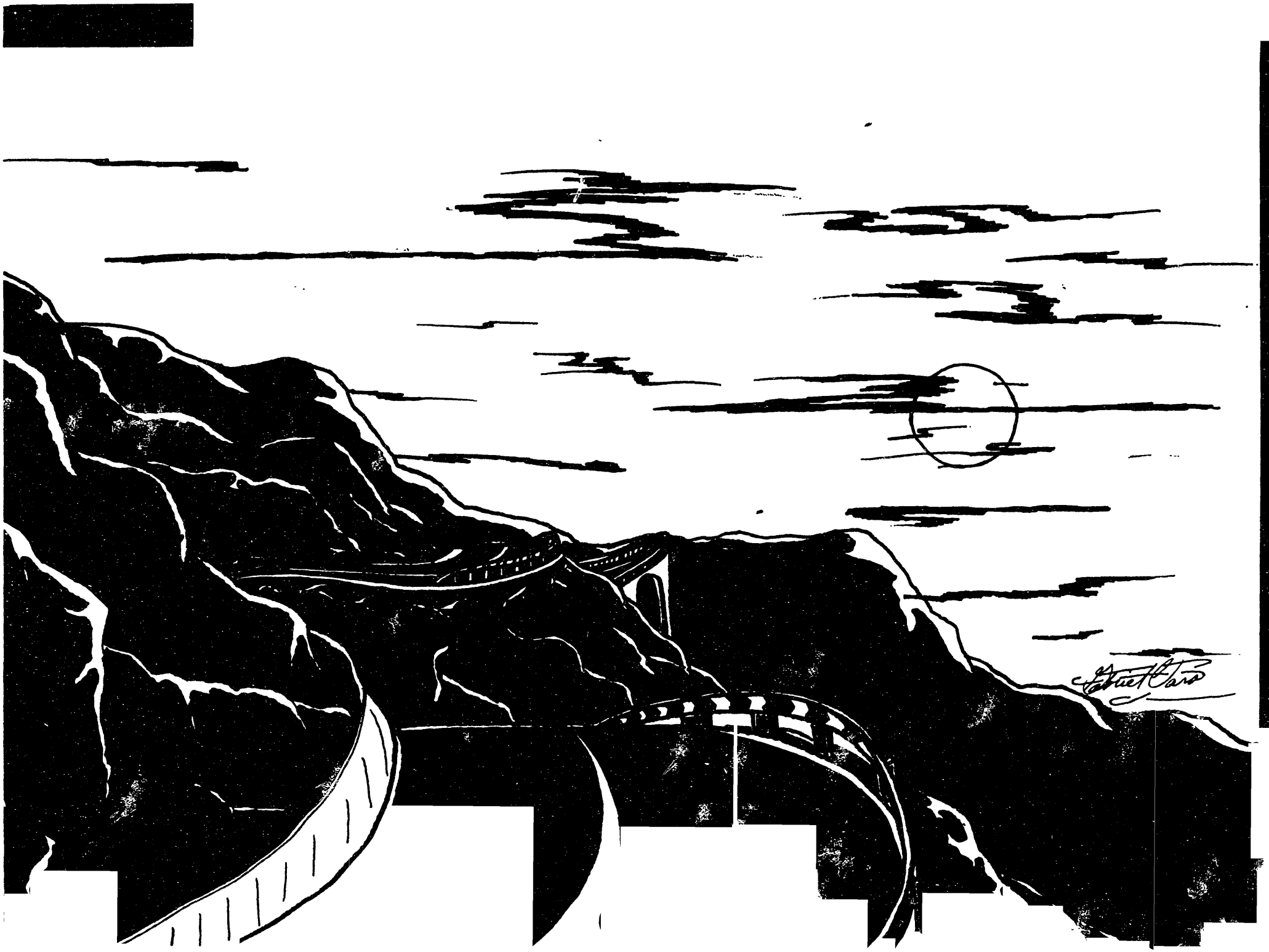

OPEN MEETINGS

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

Thursday-Friday, August 25-26, 1994, 1:30 p.m. and 9:00 a.m. respectively.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

Texas Agricultural Finance Authority

AGENDA:

Thursday, August 25:

Discussion on: applications to Texas Agricultural Finance Authority Loan Guaranty Program and Young Farmer Loan Guarantee Program;

Friday, August 26:

Discussion and action on: minutes of last meeting; guaranty to Texas Hill Country Food Processors, Inc.; applications to Loan Guaranty Program; budget for fiscal year 1995; Texas Agricultural Finance Authority Loan Guaranty Program rules; applications to Young Farmer Loan Guarantee Program; Young Farmer Loan Guarantee Program rules; Young Farmer Loan Guarantee credit policy and procedures; Farm and Ranch Program; Revenue Bond Program; discussion on: outstanding guaranty to United Bean Marketing Cooperative and Wright Fibers, Inc.; portfolio of the Texas Agricultural Finance Authority Loan Guaranty Program; portfolio of the Young Farmer Loan Guaranty Program; Young Farmer Loan Guarantee Program revised application package; discussion and consent on: grants awarded under Texas Agricultural Diversification Grant Program; and discussion of next meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: August 17, 1994, 5:03 p.m.

TRD-9446779

Tuesday, August 30, 1994, 8:00 a.m.

Harvey Hotel, 3100 I-40 West

Amarillo

Texas Corn Producers Board

AGENDA:

Call to order

Action: minutes of May meeting; financial statements

Presentations: TDA representative; recent cases concerning employment discrimination; ACGA and its Ethanol Curriculum in the Classroom Program; activity reports

Report and Recommendations: Research Committee; Promotion and Advertising; C-O-R-N Committee; Finance Committee

Presentation and Action: 1995 research funding and the Texas Agricultural Diversification Matching Grants Program; public relations promotional campaign; agriculture awareness–consumer education; request for assistance to feeding whole stillage to cattle in a growing feedlot; contract employment with Max Jordan; 1994-1995 proposed budget

Executive Session: discussion on salary for executive director, in accordance with Texas Government Code, §551.074; adjourn executive session

Call to order

Action: on executive session; date and location of next meeting

Adjourn

Contact: Carl King, 218 East Bedford, Dimmitt, Texas 79027, (806) 647-4224.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446791

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State Auditor's Office

Thursday, August 25, 1994, 10:45 a.m.

One Capitol Square, Fifth Floor, William P. Clements Building, Committee Room One

Austin

Legislative Audit Committee

AGENDA:

1. Call to order

2. Approval of the minutes of the meeting, March 14, 1994

3. Approval of the State Auditor's Office work plan, fiscal year 1995

4. Approval of the State Auditor's Office budget, fiscal year 1995

5. Consider recommendations and possible award of a contract for an independent audit for the State Auditor's Office

6. Any other business

7. Adjourn

(The State Auditor's Office meeting will begin upon the adjournment of the Legislative Budget Board meeting.)

Contact: Lawrence F. Alwin, 206 East Ninth Street, 19th Floor, Austin, Texas 78701, (512) 479-4700.

Filed: August 17, 1994, 1:55 p.m.

TRD-9446767

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Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Friday, August 26, 1994, 9:00 a.m.

General Services Commission, Central Services Building, 1711 San Jacinto, Room 402

Austin

Pricing Subcommittee

AGENDA:

Call to order and introduction of subcommittee members and guests

Acceptance of minutes from May 27, 1994 meeting

Discussion and recommendation for action on new services; renewal services; new products; and product changes and revisions

Adjournment

Contact: Pat Martin, P.O. Box 13047, Austin, Texas 78711, (512) 463-3443.

Filed: August 16, 1994, 2:47 p.m.

TRD-9446712

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Texas Department of Commerce

Thursday, September 8, 1994, 10:00 a.m.

410 East Fifth Street, Anson Jones Building

Austin

Capital Certified Development Corporation Board of Directors

AGENDA:

10:00 a.m. Call meeting to order; approval of minutes of June 16, 1994 meeting; treasurer's report; loan activity report; resolution; SBA central processing; marketing plan update; board marketing activity update; review S-Tex MOU status; Rio Rainbow proposal update; discussion; loan portfolio transfers; central processing; next quarterly meeting agenda. 11:15 a.m. Review Directors and Officers Liability Insurance; and adjourn.

Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Eileen Kelley at least two days before this meeting so that appropriate arrangements can be made. Please also contact Eileen Kelley at (512) 320-9534 if you need assistance in having English translated into Spanish.

Contact: Colleen L. Rowland, 410 East Fifth Street, Austin, Texas 78701, (512) 320-9651.

Filed: August 17, 1994, 9:06 a.m.

TRD-9446742

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Texas State Board of Dental Examiners

Friday, August 19, 1994, 8:00 a.m.

333 Guadalupe, Tower Three, Suite 800

Austin

Emergency Revised Agenda

AGENDA:

X. Executive session

F. Consideration and appointment of executive director

Reason for emergency: Last board meeting before agency sunsets.

Contact: C. Thomas Camp, 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: August 18, 1994, 8:27 a.m.

TRD-9446807

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Advisory Commission on State Emergency Communications

Wednesday, August 24, 1994, 10:30 a.m.

333 Guadalupe Street, William P. Hobby Building, Room 102

Austin

Poison Control Coordinating Committee

AGENDA:

The committee will call the meeting to order and recognize guests; hear public comment; approval of July 13, 1994 committee meeting minutes; proposal for Poison Center System Toxicology Laboratory to difficult tests; report of Subcommittee on Operations; report of Subcommittee on Education; report of Subcommittee on Finance; report of Subcommittee on Telecommunications; a proposal for Internet connection of the Poison Center System; status of contract/grant applications; report on availability of national 800 phone number; and adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 327-1911 at least two working days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: August 16, 1994, 4:59 p.m.

TRD-9446725

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General Services Commission

Tuesday, August 30, 1994, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

AGENDA:

1) Consideration and approval of the General Services Commission's 1996-1997 appropriation request; 2) consideration of proposed new §§126. 1-126.5, 126.20, and 126.21, concerning state and federal surplus and salvage property, and the repeal of §§113.71-113.76; 3) consideration of final adoption of the proposed rule §123.32, concerning prevailing wage rate determinations; 4) consideration of proposed new §§121.1-121.9 and the repeal of existing §§121.1-121.11, concerning telecommunications; 5) approval of fiscal year 1995 internal audit work plan; 6) consideration of proposed change orders–various projects; 7) consideration of delegating purchasing authority to Texas Department of Mental Health and Mental Retardation; 8) monthly division income report; executive session to consider personnel matters; executive session to consider the status of real property purchases; executive session to receive a report from counsel concerning the status of all pending litigation.

Contact: Judith Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3960.

Filed: August 16, 1994, 4:29 p.m.

TRD-9446723

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Texas Guaranteed Student Loan Corporation

Thursday, August 25, 1994, 9:30 a.m.

13809 North Highway 183, Suite 301

Austin

Board of Directors Meeting

AGENDA:

1. Approval of minutes of July 22, 1994

2. Budget/Finance/Audit Committee report (overview of proposals for financial auditing services)

3. Selection of financial auditors

4. Presentation and discussion of strategic initiatives in light of an overview of the proposed fiscal year 1995 budget

5. Board approval of strategic initiatives

6. Adjourn

Contact: Peggy Irby, 13809 North Highway 183, Austin, Texas 78750, (512) 219-5700.

Filed: August 17, 1994, 5:07 p.m.

TRD-9446800

Thursday, August 25, 1994, 1:00 p.m.

13809 North Highway 183, Suite 301

Austin

Nominating Committee Meeting

AGENDA:

1. Executive Session: discussion of nominations of board officers for fiscal year 1995

2. Action on nominees for board officers

3. Adjourn

Contact: Peggy Irby, 13809 North Highway 183, Austin, Texas 78750, (512) 219-5700.

Filed: August 17, 1994, 5:07 p.m.

TRD-9446799

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Texas Department of Health

Thursday, August 25, 1994, 9:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Regulatory Committee

AGENDA:

The committee will meet to discuss the approval of the minutes from the June 23, 1994 meeting, and discuss and possibly act on: emergency and proposed rules (dental radiologic procedures; and sedation/anesthesia permits for dentists); proposed rules (meat and poultry inspection; and licensure of wholesale distributors of drugs, including good manufacturing practices); final adoption of rules (opticians' registry; code enforcement officers; preparation of radiopharmaceuticals; Texas asbestos health protection rules); withdrawal of proposed bloodborne pathogen standard; bloodborne pathogen guidelines; proposed rule concerning a memorandum of understanding between the Texas Department of Health and the Texas Natural Resource Conservation Commission relating to jurisdiction of radiation control responsibilities; report on Massage Therapy Task Force meeting; and comments and announcements not requiring committee action.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:04 p.m.

TRD-9446784

Thursday, August 25, 1994, 1:00 p.m.

Room M-741, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Board Briefing Committee

AGENDA:

The committee will be briefed by the Commissioner of Health on current activities of the Texas Department of Health.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:04 p.m.

TRD-9446783

Thursday, August 25, 1994, 3:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Texas Board of Health, Strategic Management Committee

AGENDA:

The committee will meet to discuss the approval of the minutes from the June 24, 1994 meeting, and discuss and possibly act on: general revenue transfers; 1995 operating budget and the 1996-1997 legislative appropriations request; monthly budget update; follow-up report on Texas Board of Health strategic planning summit; concerns regarding supplying Hepatitis B Virus vaccine to universities; issues concerning death and dying; update on the North America Free Trade Agreement; national health reform; update on border health issues; and report on injury prevention.

Contact: Kris Lloyd, 100 West 49th Street, Austin, Texas 78756, (512) 458-7848.

Filed: August 17, 1994, 5:04 p.m.

TRD-9446782

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State Independent Living Council

Sunday-Tuesday, August 28-30, 1994, 1:00 p.m. (Sunday) and 8:00 a.m. (Monday-Tuesday).

Camino Real El Paso Del Norte Hotel, 101 South El Aspaso Street

El Paso

AGENDA:

Summary: Call to order, review of minutes, review agenda, public comment, committee reports and recommendations, TRC-TCB reports, action plans.

Contact: Humberto Orozco, P.O. Box 2946, McAllen, Texas 78502, (210) 781-7733.

Filed: August 16, 1994, 2:48 p.m.

TRD-9446714

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Texas Juvenile Probation Commission

Thursday, August 25, 1994, Noon.

Laurel Ridge Hospital, 17720 Corporate Woods Drive

San Antonio

Budget Committee Meeting

AGENDA:

Call to order; discuss possible changes in the Community Corrections allocations for fiscal year 1995; adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446798

Thursday, August 25, 1994, 1:00 p.m.

17720 Corporate Wood Drive

San Antonio

TJPC/TYC Juvenile Justice Committee Meeting

AGENDA:

I. Approval of minutes; II. Statement of principles; III. Legislative policy issues; A. Determinate sentencing, B. Age of Certification, C. Judicial discretion, D. Confidentiality, E. Offenders with mental retardation, F. Age of court jurisdiction, G. Collaboration; IV. Staff issue briefs for the Commission on Children and Youth, selected topics: A. Distinction between juvenile and adult (Issue One), B. Balanced funding (Issue Two), C. Intermediate sanctions (Issue Five), D. TJPC standard enforcement authority (Issue 25), E. Other issue briefs of interest to board members (all TYC/TJPC

issue briefs submitted to the Commission on Children and Youth); V. NCCD Project-Travis County/TYC/TJPC; VI. Update on plan for fiscal year 1995 TYC commitments.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: August 17, 1994, 5:04 p.m.

TRD-9446781

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Texas State Board of Medical Examiners

Thursday, August 18, 1994, 11:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revision

Reciprocity Committee

AGENDA:

In addition to previously posted agenda, review of several endorsement applicants referred to Endorsement Committee by the executive director have been added.

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 17, 1994, 5:03 p.m.

TRD-9446776

Thursday, August 25, 1994, 2:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Physician Assistant Advisory Council Licensure Committee

AGENDA:

1. Call to order

2. Roll call

3. Review of physician assistant applications for permanent licensure.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: August 17, 1994, 5:02 p.m.

TRD-9446773

Friday, August 26, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Hearings Division

AGENDA:

The agenda includes a request for modification of probation by Robert Homan Stowe, M.D.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: August 17, 1994, 5:02 p.m.

TRD-9446774

Friday, August 26, 1994, 10:30 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Physician Assistant Advisory Council

AGENDA:

1. Call to order

2. Roll call

3. Discussion and possible action on proposed memo relating to drug samples.

4. Review physician assistant applications for permanent licensure.

5. Approval of minutes

a. June 14, 1994

b. July 8, 1994

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: August 17, 1994, 5:02 p.m.

TRD-9446775

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Texas Department of Mental Health and Mental Retardation

Wednesday-Thursday, August 31 and September 1, 1994, 6:30 p.m.

Winters Complex, 701 West 51st Street (at Guadalupe), Auditorium

Austin

Travis State School Alternate Use Committee

AGENDA:

I. Chairman's Report

II. Presentation of Bid Proposals

a. The Recover Project (Austin HHS/Travis County Health Department)

b. Intergenerational Village (Mark Tittel)

c. State AIDS Center (John Lindell)

d. Substance Abuse Felony Punishment Facility (TDCJ)

e. Intermediate Sanction Facility and Secure Juvenile Training School (TYC)

Break

III. Public Comments

IV. Break

V. Consideration of a Recommendation to the TXMHMR Board

VI. Adjourn.

Contact: Steve Craddock, 909 West 45th Street, Austin, Texas 78751, (512) 206-4579.

Filed: August 17, 1994, 1:38 p.m.

TRD-9446765

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Texas Municipal Retirement System

Friday, August 26, 1994, 10:00 a.m.

1200 North Interregional-35

Austin

Special Meeting, Board of Trustees

AGENDA:

Receive and possibly take action on report entitled "Texas Municipal Retirement System-Study of Retiree Health Coverage," pursuant to Senate Bill 404, Acts, 1993. Consider establishment of "Joint Committee on Retirement Matters."

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: August 16, 1994, 4:58 p.m.

TRD-9446724

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Texas Natural Resource Conservation Commission

Tuesday, August 30, 1994, 9:30 a.m.

12118 North IH-35, Park 35 Complex, Building C, Room 107

Austin

Petroleum Storage Tank Advisory Committee

AGENDA:

Call to order. Introduction of committee members.

Listen to report from Joe Woodard (PST Division Director).

Discuss and develop committee goals and objections for upcoming year.

Schedule next meeting.

Contact: Dwight C. Russell, 7801 North Lamar Boulevard, Suite D-77, Austin, Texas 78752, (512) 452-8834.

Filed: August 17, 1994, 5:04 p.m.

TRD-9446780

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Board of Nurse Examiners

Thursday-Friday, August 25-26, 1994, 3:00 p.m. and 8:00 a.m. respectively.

T-Bar-M Ranch and Convention Center, 2549 Highway 48 West

New Braunfels

AGENDA:

The Board of Nurse Examiners will meet beginning on Thursday, August 25, 1994, at 3:00 p.m. for strategic planning. The session will convene at 8:00 a. m. on Friday, August 26.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: August 16, 1994, 3:56 p.m.

TRD-9446721

Saturday, August 27, 1994, 7:30 a.m.

T-Bar-M Ranch and Convention Center, 2549 Highway 48 West

New Braunfels

AGENDA:

On Saturday, August 27, 1994 the board will meet in executive session from 7:30 a.m.-8:00 a.m. to discuss personnel matters, pursuant to Government Code, §551.074. The planning session will reconvene at 8:00 a.m. and conclude by noon.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: August 16, 1994, 3:56 p.m.

TRD-9446722

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Texas Senate

Tuesday, August 23, 1994, 9:00 a.m.

300 West 15th Street, One Capitol Square, Committee Room One

Austin

Council on Sex Offender Treatment, Meeting of the MOU Interagency Task Force

AGENDA:

I. Convene

II. Agency group facilitation

A. Selecting a group member and facilitator

B. Elaboration on agency's perceived role in sex offender treatment

C. Recording agency statements

III. Discussion on time line for completion of MOU

IV. Consensus on next meeting time

V. Adjourn

Contact: Doris Sanchez, P.O. Box 12068, Austin, Texas 78711, (512) 463-0127.

Filed: August 16, 1994, 10:29 a.m.

TRD-9446700

Tuesday, August 23, 1994, 10:00 a.m.

1400 Congress Avenue, Capitol Extension, Room E1.012

Austin

Joint Interim Committee on the Family Code

AGENDA:

The committee will address the prioritization of construction of the Golden Triangle State School Project by the Texas Youth Commission.

Contact: Becki Gregg, P.O. Box 12068, Austin, Texas 78711, (512) 463-0395.

Filed: August 16, 1994, 2:56 p.m.

TRD-9446715

Wednesday, August 31, 1994, 10:00 a.m.

Lubbock Methodist Hospital, Knipling Center, 21st and Louisville

Lubbock

Interim Committee on Interim Committee on Domestic Violence

AGENDA:

I. Call to order

II. Roll call and opening remarks

III. Approval of minutes

IV. Address committee charge: invited testimony

V. Public testimony

VI. Other business

VII. Adjourn

Contact: Allen Horne, P.O. Box 12068, Austin, Texas 78711, (512) 463-0112.

Filed: August 16, 1994, 2:56 p.m.

TRD-9446717

Wednesday, September 7, 1994, 2:00 p.m.

1100 Congress Avenue, State Capitol, Lieutenant Governor's Committee Room

Austin

Administration Committee

AGENDA:

I. Call to order

II. Consideration of committee budgets

III. Adjourn

Contact: JoHannah Whitsett, P.O. Box 12068, Austin, Texas 78711, (512) 463-0103.

Filed: August 16, 1994, 10:29 a.m.

TRD-9446701

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Texas State Board of Social Worker Examiners

Friday-Saturday, September 9-10, 1994, 9:00 a.m. and Noon respectively.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

AGENDA:

The board will meet to discuss approval of the minutes from the previous meeting, and discuss and possibly act on: discussion by Tom Samph on the validity and reliability of issues on the examination; alternative measures of continued competency; executive director report; committee reports; public comments regarding proposed rule changes; adoption of final rules; review American Association of Social Work Boards exam contract; order relating to the license of GS; forms and brochures; schedule meetings of committees; and training by Linda Wiegman.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446797

Saturday, September 10, 1994, 1:00 p.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Supervision Committee

AGENDA:

The committee will meet to discuss and possibly act on review and development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446792

Saturday, September 10, 1994, 1:00 p.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Rules Committee

AGENDA:

The committee will meet to discuss and possibly act on development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446793

Saturday, September 10, 1994, 1:00 p.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Examination Policy Committee

AGENDA:

The committee will meet to discuss and possibly act on: issues related to the reliability and validity of the national examination; and recommendations to the Board and to American Association of Social Work Boards.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446794

Saturday, September 10, 1994, 1:00 p.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Continuing Education/Competency Committee

AGENDA:

The committee will meet to discuss and possibly act on development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446795

Saturday, September 10, 1994, 1:00 p.m.

Citadel Room, Driskill Hotel, 604 Brazos Street

Austin

Compliance/Complaints Committee

AGENDA:

The committee will meet to discuss and possibly act on: old and new complaints; recommendation relating to KM; and review and development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: August 17, 1994, 5:06 p.m.

TRD-9446796

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Texas Department of Transportation

Thursday, August 25, 1994, 9:00 a.m.

Lankford Laboratory Lecture Hall, Room 208, Electrical Engineering Building, Texas Tech University

Lubbock

Texas Transportation Commission

AGENDA:

Comments by Lubbock area officials; discussion of area transportation needs; report by Lubbock District. Public hearing at 10:00 a.m. on aviation projects at various locations. Approve minutes. Awards, recognitions, resolutions. Contract awards, rejections, defaults, assignments. Programs. Routine minute orders. Interstate, U.S., state highway, FM Road, and city street projects. Transportation planning: authorize revisions to the 1994-1996 Statewide Transportation Improvement Program. Multimodal transportation: aviation projects at various locations; authorize appointments to Aviation Advisory Committee, funding for start up of new small transit system, and scoping process, request for proposals, and negotiation of a contract for the performance of a comprehensive assessment of transit in Texas. Authorize cash operating budget for fiscal year 1995. Leasing of property. Rulemaking: 43 TAC Chapters 1, 4, 17, 21, 25, 27, and 28. Executive session for legal counsel and land acquisition matters. Open comment period.

Contact: Diane Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630.

Filed: August 17, 1994, 4:09 p.m.

TRD-9446769

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University of Houston System

Wednesday, August 24, 1994, 8:00 a.m.

4800 Calhoun, Shamrock Room, Conrad Hilton College Building, University of Houston

Houston

Board of Regents

AGENDA:

To discuss and/or approve the following: minutes; president presentation; executive session; revision of bylaws; organizational structure; deletion of selected programs; dual employment; faculty emeritus; personnel recommendations; various reports; pipeline easement; electrical easement; endowment assessment; gift acceptance reports; legislative priorities; award of various contracts; change order; appointment of project manager; campus development plan; purchase orders; amendment to contract; housing room and board rates; operating budget revisions; purchase of PBS National Program Service for KUHT; insurance premiums; consultant and service contracts; higher education assistance fund notes; extension of contracts; various resolutions; closure of bank accounts; long-range internal audit plan; election of board officers; and consent docket.

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7442.

Filed: August 17, 1994, 5:07 p.m.

TRD-9446802

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Texas Youth Commission/Texas Juvenile Probation Commission

Thursday, August 25, 1994, 1:00 p.m.

Laurel Ridge Hospital, 17720 Corporate Woods Drive

San Antonio

Joint Juvenile Justice Committee

AGENDA:

I. Approval of minutes

II. Statement of principles

III. Legislative policy issues

IV. Staff issue briefs for the Commission on children and youth selected topics

V. NCCD Project-Travis County/TYC/TJPC

VI. Update on plan for fiscal year 1995 TYC commitments

Contact: Patricia Hayes, 4900 North Lamar Boulevard, Austin, Texas 78765, (512) 483-5076.

Filed: August 16, 1994, 2:56 p.m.

TRD-9446716

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Regional Meetings

Meetings Filed August 16, 1994

The Brazos Valley Development Council (Public Hearing.) Local Workforce Development Board will meet at the Brazos Center, Assembly II. 3232 Briarcrest Drive, Bryan, August 23, 1994, at 1:30 p.m. Infor-

mation may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9446711.

The Central Counties Center for MHMR Services Board of Trustees will meet at 304 South 22nd Street, Temple, August 25, 1994, at 7:00 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9446726.

The Kendall Appraisal District Board of Directors will meet at 121 South Main Street, Boerne, August 25, 1994, at 5:30 p.m. Information may be obtained from Mick Mikulenka or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9446713.

The Lavaca County Central Appraisal District Appraisal Review Board will meet at 113 North Main Street, Hallettsville, September 8, 1994, at 9:00 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9446699.

The Martin County Appraisal District (Rescheduled from August 18, 1994.) MCAD-Board of Directors met at 308 North St. Peter, Stanton, August 22, 1994, at 7:00 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1348, Stanton, Texas 79782, (915) 756-2823. TRD-9446703.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the International Conference Center of the Convention Center Complex, San Antonio, August 22, 1994, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9446698.

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Meetings Filed August 17, 1994

The Bandera County Appraisal District Board of Directors will meet at 1116 Main Street, Bandera, August 31, 1994, at 3:00 p.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, Fax: (210) 796-3672. TRD-9446754.

The Coastal Bend Council of Governments Membership will meet at 2910 Loopard, Conference Room, Corpus Christi, August 26, 1994, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9446788.

The Coryell County Appraisal District Board of Directors will meet at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, August 24, 1994, at 5:30 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9446763.

The Coryell County Appraisal District Board of Directors will meet at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, August 24, 1994, at 6:30 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9446762.

The Deep East Texas Council of Governments Executive and Personnel Committee met at 118 South First Street, JTPA Office, Lufkin, August 22, 1994, at 10:30 a.m. Information may be obtained from Walter Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9446777.

The Deep East Texas Council of Governments Budget Committee met at 118 South First Street, Lufkin, August 22, 1994, at 1:30 p.m. Information may be obtained from Walter Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9446778.

The Education Service Center, Region VIII Board of Directors will meet at FM 1734, 2230 North Edwards Street, Mount Pleasant, August 25, 1994, at 7:00 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mount Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9446744.

The Fiftieth (50th) Judicial District Juvenile Board will meet in the District Courtroom, Baylor County Courthouse, Seymour, August 23, 1994, at Noon. Information may be obtained from David W. Hajek, P.O. Box 508, Seymour, Texas 76380, (817) 888-2852. TRD-9446764.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise Street, Athens, August 25, 1994, at 9:00 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9446758.

The Kendall Appraisal District (Revised Agenda.) Board of Directors will meet at 121 South Main Street, Boerne, August 25, 1994, at 5:30 p.m. Information may be obtained from Mick Mikulenka or Helen Tamayo, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax: (210) 249-3975. TRD-9446789.

The Leon County Central Appraisal District Board of Directors met at the Corner of Highway 7 and Highway 75, Leon County Central Appraisal District Office, Gresham Building, Centerville, August 22, 1994, at 7:00 p.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252, Fax: (903) 536-2377. TRD-9446801.

The Lubbock Regional MHMR Center Board of Trustees met in the Board Room, 1602 Tenth Street, Lubbock, August 22, 1994, at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, 1602 Tenth Street, Lubbock, Texas 79408, (806) 766-0202. TRD-9446760.

The North Central Texas Council of Governments Executive Board will meet at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, August 25, 1994, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9446803.

The Panhandle Regional Planning Commission Board of Directors will meet at 415 West Eighth Avenue, PRPC Board Room, Amarillo, August 25, 1994, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9446787.

The San Jacinto River Authority Board of Directors will meet at 2301 North Millbend Drive, The Woodlands, August 24, 1994, at 12:30 p.m. Information may be obtained from James R. Adams, P.O. Box 319, Conroe, Texas 77305, (409) 588-1111. TRD-9446761.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron Street, Rockdale, August 22, 1994, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9446741.

The Trinity River Authority of Texas Board of Directors will meet at 5300 South Collins Street, Arlington, August 24, 1994, at 10:00 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9446785.

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Meetings Filed August 18, 1994

The Brazos Valley Quality Work Force Planning Committee met at 715 University Drive, College Station, August 21, 1994, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 821-2505. TRD-9446811.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, August 31, 1994, at 10:00 a. m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons, Dallas, Texas 75247, (214) 631-0520. TRD-9446805.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the Trinity Community Center, 806 Robb Street, Trinity, August 25, 1994, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9446808.

The Denton Central Appraisal District (Revised Agenda.) Board of Directors will meet at 3911 Morse Street, Denton, August 25, 1994, at 4:00 p.m. Information may be obtained from Kathy Pierson, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-8904. TRD-9446806.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, September 8, 1994, at 7:00 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9446804.

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IN ADDITION

The ***Texas Register*** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Comptroller of Public Accounts

Notice of Consultant Contract Award

In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the July 8, 1994, issue in the *Texas Register* (19 TexReg 5385)

The consultant will review Texas public assistance programs and make recommendations for identifying ways to maximize the efficient use of existing funds and increase federal funding. The successful proposer will be expected to begin performance of the contract on or about August 17, 1994.

The consultant is awarded to Institute for Human Services Management, Inc., (IHSM), 7307 MacArthur Bouelevard, Suite 214, Bethesda, Maryland 20816. The total dollar value of the contract is not to exceed $58,000. The contract was executed August 17, 1994, and extends through September 30, 1995. IHSM is to present a final report on or about October 17, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446734 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: August 17, 1994

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Notice of Request for Proposals

Notice of Request for Proposals: Pursant to Texas Goverment Coe, Chapter 2254, Subchapter B, the Comproller of Public Accounts (Comproller) announces the issuance of a Request for Proposals (RFP) for the purpose of hiring a consultant to perform research with respect to certain clients and retailers participating in the State's Electronic Benefits Transfer (EBT) pilot program in Harris County, Texas. The research to be performed will include site vists to retailers' stores and interviews with clients and retailers during the period beginning October 1, 1994, and ending Janary 31, 1995, and will determine the level of service being provided by participating relailers to EBT clients in the pilot area, as well as the level of service being probided to those retailers by Transactive Corporation (the private company retained by the State to inplement EBT in Texas). It is hoped that this will uncover problems quickly and allow for their prompt resolution. The successful proposer will be expected to begin performance of the contract on or about October 1, 1994.

Contact: Parties interested in submitting a proposal should contact the Comptroller of Public Accounts, Senior Legal Counsel's Office, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pcik-up previously-referenced address on Tuesday, August 23, 1994, between 4:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal businesses hours thereafter. All written inquiries and mandatory letters of intent to propose must be received at the previously-referenced address prior to 4:00 p.m. (CZT) on September 6, 1994.

Close Date: Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. (CZT), on September 13, 1994. Proposals received after this time and date will not be considered.

Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller, who will then make a recommendation to the Comptroller. The Comptroller will make the final decision. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller reserves the right to accept or reject any or all proposals submitted. The Comptroller is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller to pay for any costs incurred prior to the execution of a contract.

The ancipated schedule of events is as follows: Issuance of RFP-August 23, 1994, 4:00 p.m. (CZT); Mandatoy Letter of Intent and Questions Due-September 6, 1994, 4:00 p.m. (CZT); Proposals Due-September 13, 1994, 4:00 p.m. (CZT); and Contract Execution-September 23, 1994, or soon thereafter as possible.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446736 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: August 17, 1994

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Notice of Request for Proposals: Pursuant to Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts (Comptroller) announces the issuance of a Request for Proposals (RFP) for the purpose

of hiring a consultant to assist the Comptroller's Texas Performance Review Division in identifying additional sources of federal and other non-tax revenues for the State. These revenues may include independent estimates based on past Texas Performance Review initiatives. The consultant may also identify methods for improving the collection of such revenues (e.g. through administrative, automated, or legislative changes) and associated administrative or other costs. The successful proposer will be expected to begin performance of the contract on or about September 19, 1994.

Contact: Parties interested in submitting a proposal should contact the Comptroller of Public Accounts, Senior Legal Counsel's Office, 111 East 17th Street, Room 113, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pick-up at the previously-referenced address on Tuesday, August 23, 1994, between 4:00 p.m. and 5:00 p.m. Central Zone Time (CZT), and during normal business hours thereafter. All written inquiries and mandatory letters of intent to propose must be received at the previously-referenced address prior to 4:00 p.m. (CZT) on August 31, 1994.

Closing Date: Proposals must be received in the Senior Legal Counsel's Office no later than 4:00 p.m. (CZT), on September 8, 1994. Proposals received after this time and date will not be considered.

Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller, who will then make a recommendation to the Comptroller. The Comptroller will make the final decision. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller reserves the right to accept or reject any or all proposals submitted. The Comptroller is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows: Issuance of RFP–August 23, 1994, 4:00 p.m. (CZT); Mandatory Letter of Intent and Questions Due–August 31, 1994, 4:00 p.m. (CZT); Proposals Due–September 8, 1994, 4: 00 p.m. (CZT); and Contract Execution–September 19, 1994, or soon thereafter as possible.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446746 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: August 17, 1994

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Texas Department of Criminal Justice

Construction Management Services Contract Award

The award of these construction management contracts are filed in accordance with Texas Government Code, §2254.030. The Texas Department of Criminal Justice published a request for Construction Management Services in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5791) to obtain Construction Management Services to assist the Texas Department of Criminal Justice in the management of construction of the 500 Bed Substance Abuse Treatment Facility located in Hondo and the 500 Bed Substance Abuse Treatment Facility located in Burnet. The proposal selected was that of Brown and Root Building Company, 4100 Clinton Drive, P.O. Box 3, Houston, Texas 77001-0003. The beginning date of the Hondo contract is May 11, 1994. The contract period of performance is through February 18, 1995. The total value of the contract for completion of services for the Hondo contract is $554,555. The beginning date of the Burnet contract is May 11, 1994. The contract period of performance is through February 18, 1995. The total value of the contract for completion of services for the Burnet contract is $569,330. For further information, please call Jeptha C. Tatum, Contracts Manager, TDCJ Engineering Directorate at (409) 294-6957.

Issued in Austin, Texas, on August 16, 1994.

TRD-9446745 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Filed: August 17, 1994

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Office of the Governor, Criminal Justice Division

Request for Applications Under the Juvenile Justice and Delinquency Prevention Act

Notice of Invitation for Applications: The Criminal Justice Division of the Governor's Office (CJD) is soliciting applications for grants to be awarded under the federal Juvenile Justice and Delinquency Prevention (JJDP) Act for Title V-Incentive Grants for Local Delinquency Prevention Programs, in response to the need for local comprehensive delinquency prevention planning and programs for youth who have had or are likely to have contact with the juvenile justice system.

The Title V prevention strategy is designed to reduce identified risk factors while strengthening protective factors. It requires a commitment by and participation of the entire community in developing and implementing a comprehensive strategy, in addition to coordination and use of existing programs and resources. A comprehensive three-year plan is also required, describing the extent of risk factors identified in the community and how these risk factors will be addressed. The maximum grant amount is $100,000 matched by an equal amount of cash or in-kind contributions. Eligible applicants are cities; counties; Native American Tribes that perform law enforcement functions; or any combination of the above.

In accordance with Delinquency Prevention Guidelines published in the February 11, 1994, edition of the *Federal Register*, priority consideration will be given to Native American Tribes and to applicants serving rural areas (cities with juvenile populations of 2,000 or less and counties with juvenile populations of 4,000 or less).

Juvenile population means children ages ten years through 16 years of age.

Contact Persons: Detailed specifications including the selection process and application kits will be made available through the regional Council of Governments (COGs). If information about regional COGs is needed, contact the

Juvenile Justice Team, Criminal Justice Division, at (512) 463-1919.

Closing Date for Receipt of Applications: The original and five copies of the application must be received by mail or hand delivered to the appropriate regional COG before 5:00 p.m. on November 1, 1994.

Selection Process: Applications will be prioritized by each Council of Governments according to the standard point system in the application kit. The COGs will submit the three highest ranked proposals from each region to CJD. CJD will rank applications submitted according to the selection and evaluation criteria in the *Guide to Title V Delinquency Prevention Program*. Final decisions regarding the award of grants will be made by the Governor. The Grants will be awarded on or before March 1, 1995.

Issued in Austin, Texas, on August 15, 1994.

TRD-9446669 David A. Talbot
General Counsel
Office of the Governor

Filed: August 15, 1994

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Texas Department of Health

Correction of Error

The Texas Department of Health proposed amendments to §§1.131, 1.132, 1. 136, 1.137, concerning health and safety code. The rules appeared in the July 8, 1994, issue of the *Texas Register* (19 TexReg 5305).

In the title of the rules the word "LWaste" should read "Waste".

In §1.132, definition of Log reduction, should read "Log_{10} reduction".

In §1.132, definition of Microbial inactivation, the extra line between the fourth and fifth lines should be deleted. The fourth line should read "mycobacteria at a 6_{10}". The seventh line should read "*stearothermophilus* endospores at a 4_{10}".

In the definition of the word "Sharps" should read "Sharps-Sharps include, but are not limited to the following materials: [when contaminated:]".

In §1.136(5)(B)(iii), it should read "***(iii)* Intravenous stylets and rigid introducers (e.g., J wires) shall be subjected to one of the following methods of treatment and disposal:".**

The Texas Department of Health proposed new §§1.133, 1.134, 1.135. The rules appeared in the July 8, 1994, issue of the *Texas Register* (19 TexReg 5311).

In §1.135(1)(B)(i) "6 log 10" should read "6 log_{10}", in (ii) "4 log 10" should read "4 log_{10}".

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Statewide Request for Proposals-Temporary Child Care for Children with Disabilities and Chronic Illness

The Texas Department of Health (TDH) is soliciting proposals for the provision of respite care services to families with children who are medically fragile or medically complex in a selected area of the state. Respite services are defined in Texas state statute as: "any support options provided on a short term basis for the purpose of relief to the primary caregiver in providing care to individuals of all ages with disabilities, and\or children or adults at risk of abuse or neglect.

For the purposes of this RFP, respite services will be targeted to children who are medically fragile or medically complex, ages 0-21. This proposal seeks applicants able to develop a prototype respite service in a defined geographic area of Texas to meet the unique needs of families who have children with special health care needs who are medically fragile or medically complex and who are on waiting lists for respite services. Priority consideration will be given to those agencies and organizations which have experience in working with children with disabilities, terminal or chronic illness and their families and which serve communities which demonstrate the greatest need for respite services. These projects are intended to maintain and support the family unit, to strengthen the parent-child bond, and to alleviate social, economic, and financial stress for these families. The applicant agency must assure the incorporation of each of the following essentials: use a collaborative model for respite services; be family-driven, family-centered, and promote family choice; be cost effective (there is a required 25% match by applicant agencies); provide access and availability to quality in-home respite services, out-of-home respite services, and hospital-based respite services by an experienced pediatric service provider; link to child licensing and child placement service agencies for the development of habilitative homes; coordinate with families, caregivers, local physicians, and other related family support and medical services; link to subspecialty medical and rehabilitative services; and provide information and referral services. A sliding fee scale must be implemented for respite services.

One temporary child care (respite) project will be funded and reimbursed through a contractual agreement with TDH, Bureau of Women and Children. A contract will be awarded, pending availability of federal funds awarded to the Texas Department of Health, for a one-year period from October 1, 1994-September 30, 1995. It is anticipated that the award will be available for renewal annually for a total of three consecutive years. The contract award will be based on available funding. The contract will be in accordance with Texas law, TDH policies, and the Uniform Grant and Contract Management Acts (UGCMA) manual which is available from TDH, Grants Management Division, 1100 West 49th Street, Austin, Texas 78756-3199.

Proposals will be evaluated on the following criteria: documentation of the ability to provide respite services to families with children who are medically fragile, targeting minority children and children with AIDS; evidence of multi-agency involvement and collaboration in project design and operation; high need for respite by the target population in a geographic catchment area; cost effectiveness of service options and services; assurance of mechanisms to meet the new requirements of the Home and Community Support Services Act of Texas; uniqueness of the service delivery model, array of modes of services offered, and extent to which the model can be replicated; coordination with Community Resource Coordinating Groups (CRCG) and regional TDH staff; assurance of collaboration with Child Care and Development Block Grants; evidence that cultural competence has been considered; evidence of a mechanism for planning for respite

services after initial grant funds terminate; the quality of the proposal's written operating plan; the availability of other funding sources; the caliber and experience of project staff; the demonstration of ability to meet unique cultural, geographic, and demographic needs of Texas; and evidence of broad-based community and area support. Applicant agencies must have a base of operation physically located in the proposed area of service.

Proposals submitted will include: a community needs assessment; the identification of the target population and area of service; the estimated number of children\families to be served; discussion of the model to be utilized; a detailed plan describing the project's purpose, goals, services, objectives and activities; an evaluation component to assess the project's effectiveness; specific responsibilities of project staff; and documentation of broad local community and area support. A process should be described to develop a mechanism for ongoing future funding which is locally-based. The maximum federal share each state will have to allocate will be approximately $198,000 for the first 12-month budget period. Only one project will be funded from the $198,000 yearly allocation. All income generated from third party payments and fees to families must be utilized by the contract recipient in accordance with TDH policy interpreting the UGCMA regulations.

It is anticipated that the Texas Respite Resource Network (TRRN) will provide ongoing technical assistance and consultation to the project which is funded.

Proposal packets may be obtained by contacting Wanda Hamm, Children's Health Division, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3179, (512) 458-7111, extension 3069. Proposals must be received in the TDH central office by 5:00 p.m. on Friday, September 23, 1994 or postmarked on or before Wednesday, September 21, 1994. Proposals that do not meet this deadline will not be considered.

The Texas Department of Health reserves the right to accept or reject any and all applications.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446740 Susan K. Steeg
General Counsel, Office of General Counsel
Texas Department of Health

Filed: August 17, 1994

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Texas Health and Human Services Commission

Public Notices

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 93-37, Amendment Number 422.

The amendment revises the plan to reimburse via a voucher system for oxygen to nursing facilities. The amendment is effective January 1, 1994.

If additional information is needed, please contract Geri Bischoff, Texas Department of Human Services, at (512) 450-3171.

Issued in Austin, Texas, on August 11, 1994.

TRD-9446689 Tim Graves
Deputy Commissioner
Texas Health and Human Services Commission

Filed: August 16, 1994

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The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-24, Amendment Number 453.

The amendment updates the Federal poverty income limits for inflation. The amendment is effective April 1, 1994.

If additional information is needed, please contact Rita King, Texas Department of Human Services, at (512) 450-4051.

Issued in Austin, Texas, on August 11, 1994.

TRD-9446690 Tim Graves
Deputy Commissioner
Texas Health and Human Services Commission

Filed: August 16, 1994

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The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 94-22, Amendment Number 451.

The amendment updates the AFDC needs standard amounts inflation. The amendment is effective April 1, 1994.

If additional information is needed, please contact Rita King, Texas Department of Human Services, at (512) 450-4051.

Issued in Austin, Texas, on August 11, 1994.

TRD-9446688 Tim Graves
Deputy Commissioner
Texas Health and Human Services Commission

Filed: August 16, 1994

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Texas Higher Education Coordinating Board

Notice of Hearing

There will be a public hearing of the Allied Health Cost Study Committee on Wednesday, August 24, 1994 from 1:00 p.m. to 5:00 p.m. The location of the hearing will be at the Texas Higher Education Coordinating Board office, 7745 Chevy Chase Drive, Building 5, Suite 5.139 in Austin, Texas. There will be commentaries by educators, students, professional practitioners and others on issues related to the cost, quality and cost-effectiveness of allied health education in Texas as reported by the Texas Higher Education Coordinating Board. A hearing session will follow regarding dental hygiene, dental laboratory technology, medical radiologic technology, nuclear medicine technology, and respiratory therapy. For further informa-

tion and a copy of the draft report please contact Sharon Cayer, Associate Program Director, Division of Health Affairs, at (512) 483-6213.

Issued in Austin, Texas, on August 15, 1994.

TRD-9446743 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: August 17, 1994

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Texas Department of Mental Health and Mental Retardation

Notice of Public Hearing

The Texas Department of Mental Health and Mental Retardation (TXMHMR) will conduct a public hearing to receive comments on the department's proposed reimbursement for the following programs: Case Management for Individuals Who Are Mentally Retarded or Have a Related Condition; Case Management for Individuals With Chronic Mental Illness; Diagnostic Services for Persons With Potential of Mental Retardation; and Rehabilitative Services for Persons With Mental Illness. The public hearing is held in compliance with 25 TAC §409. 002(j), which requires a public hearing on proposed reimbursement for medical assistance programs. The public hearing will be held on Thursday, September 1, 1994, at 9:00 a.m. in TXMHMR Central Office Auditorium (909 West 45th Street, Austin, Texas). Interested parties may request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement on or after August 18, 1994, by contacting Sherri Williams, MC W-425, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4817.

Issued in Austin, Texas, on August 17, 1994.

TRD-9446753 Dennis R. Jones, MSW, MBA
Commissioner
Texas Department of Mental Health and Mental Retardation

Filed: August 17, 1994

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Texas Natural Resource Conservation Commission

Extension of Comment Period

In the July 19, 1994, issue of the *Texas Register* (19 TexReg 5661) , the Texas Natural Resource Conservation Commission (TNRCC) published notice of a public hearing on a proposed revision to the State Implementation Plan (SIP) to be held August 16, 1994. The purpose of the hearing was to receive testimony on proposed revisions to the 1994 Vehicle Miles Traveled SIP. The deadline of August 16, 1994, for receipt of written comments has been extended to August 26, 1994. All comments at the hearing, as well as written comments received by 4:00 p.m. on August 26, 1994, at the TNRCC central office in Austin, will be considered by the Commission prior to any final decision on the proposal.

Copies of the proposal are available from the TNRCC Mobile Source Division, 12118 North IH-35, Building E, Austin, and at all regional offices of the agency. For further information, contact Teresa Hardin at (512) 239-0599.

Issued in Austin, Texas, on August 16, 1994.

TRD-9446737 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation Commission

Filed: August 17, 1994

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Texas Racing Commission

Correction of Errors

The Texas Racing Commission proposed an amendment to §305.301, concerning an interim license to conduct race meetings. The rule appeared in the July 26, 1994, issue of the *Texas Register* (19 TexReg 5685).

In the preamble, third paragraph, sixth line "...at a Class 1 racetracks... " should read "...at Class 1 racetracks...".

The Texas Racing Commission proposed an amendment to §313.103, concerning the eligibility requirements for a horse to enter a race. The rule appeared in the July 26, 1994, issue of the *Texas Register* (19 TexReg 5686).

In the preamble, third paragraph, lines five and six, the word "Commission'ss" should read "Commission".

The Texas Racing Commission proposed an amendment to §319.112, concerning unlicensed veterinary practices. The rule appeared in the July 26, 1994, issue of the *Texas Register* (19 TexReg 5688).

In the preamble, first paragraph, line four, the word "Commission'ss" should read "Commission".

In the preamble, third paragraph, line five, the word "Commission'ss" should read "Commission".

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