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# Texas Register

Volume 18, Number 89, November 26, 1993

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Texas Register



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How to Use the Texas Register

Information Available: The 10 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 Sections - sections adopted by state agencies on an emergency basis.

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

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 18 (1993) is cited as follows: 18 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 "18 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 18 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, releases cumulative supplements to each printed volume of the TAC twice each year.

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 22, April 16, July 13, and October 12, 1993). 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
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

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

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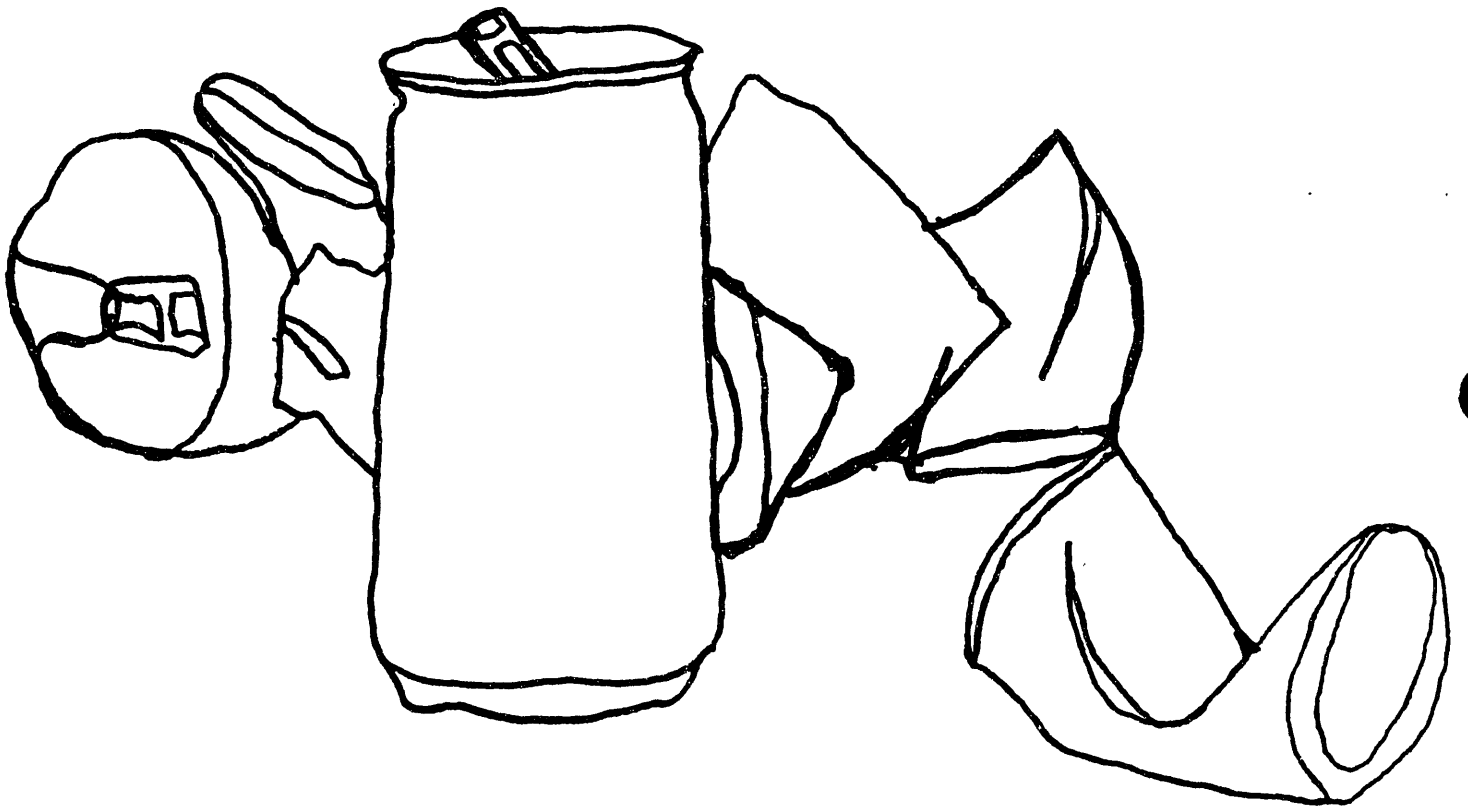
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Contour: Still life (cans)



Name: Marcia Wooten  
Grade: 9  
School: Skyline High School, Dallas ISD





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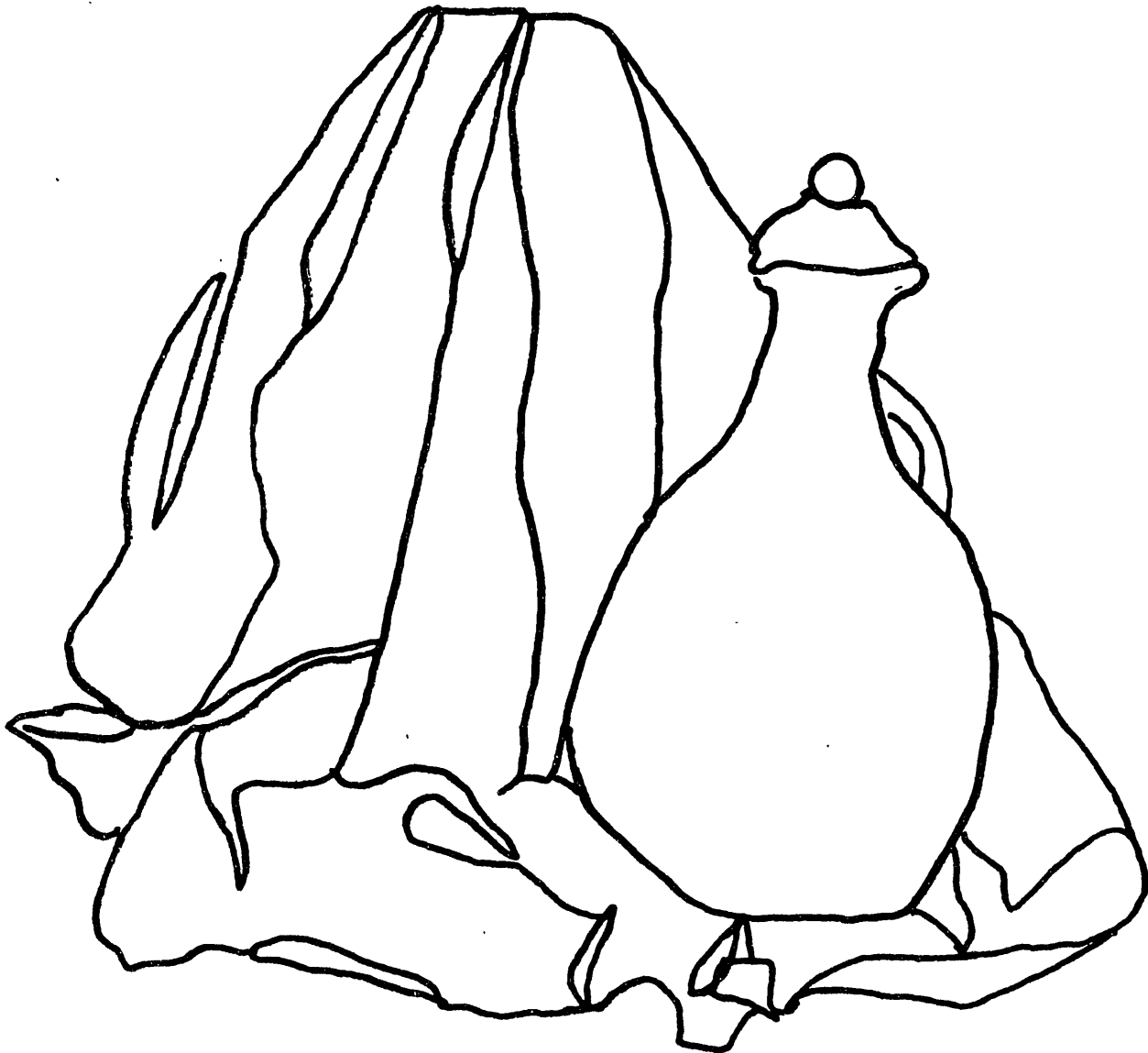
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Name: Jeffrey Reed  
Grade: 2  
School: Buda Elementary, Hays CISD

Contours: Still Life 8-30-93  
(cloth & jars)

Name: Marcia Wooten  
Grade: 9  
School: Skyline High School, Dallas ISD



# The Governor

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

## Appointments Made November 3, 1993

To be a member of the Texas County and District Retirement System Board of Trustees' for a term to expire December 31, 1993: Judge Maxine Darst, 309 Elm Drive, Terrell, Texas 75160. Judge Darst will be filling the unexpired term of Bill Hicks of Odessa, who resigned.

To be a member of the Texas Historical Records Advisory Board for a term to expire January 23, 1995: Gerald D. Saxon, Ph.D., 3409 Sheffield, Arlington, Texas 76013. Dr. Saxon will be filling the unexpired term of Robert A. Nash of Lubbock, who is deceased.

To be a member of the Electronic Data Base Advisory Committee for a term at the pleasure of the Governor: Rodger G. Carr, 15531 St. Cloud, Houston, Texas 77062. Mr. Carr is being appointed to a new position pursuant to the Government Code, §481.060(b), as amended by House Bill Number 326, 73rd Legislature.

To be a member of the State Independent Living Council pursuant to the Rehabilitation Act of 1973 as amended, Public Law 102-569.

The following terms expire October 29, 1994: Luis Enrique Chew, D.A.R.E., 8929 Viscount Boulevard, S-101, El Paso, Texas 79925-5823; Larry M. Correu, San Antonio Independent Living Services, 8610 Broadway, Suite 420, San Antonio, Texas 78217; Alfredo Juarez, 270 Padres Avenue #107, El Paso, Texas 79907; Houston Ely Weaver, 70 Dogwood Lane, Lumberton, Texas 77656; Carl R. Wright, Texas Advocates, P.O. Box 5368, Austin, Texas 78763.

The following terms expire October 29, 1995: Tana Lynne Hadlock, University of Texas Medical Branch, Department of Rehabilitation Services, E-96, Galveston, Texas 77555-0596; Margarita Lightbourn-Harbeck, 11128 Sam Snead, El Paso, Texas 79936; Humberto Orozco, Valley Association for Independent Living, 105C-East Expressway 83, Pharr, Texas 78577; Vera Randle, Tri-County Independent Living Center, 1501 C Loop 304 East, Crockett, Texas 75835; Judy C. Scott, American Foundation for the Blind, 260 Treadway Plaza, Dallas, Texas 75235.

The following terms expire October 29,

1996: Peter M. Garcia, Jr., M.D., Texas Orthopedics, 3200 Red River #201, Austin, Texas 78705; Michael Edward Garrett, Texas Commerce Bank, 600 Travis, Houston, Texas 77002; Ronald Rocha, ARCIL, Inc., 5555 North Lamar Boulevard, Suite J-125, Austin, Texas 78751; Hedda Schlosberg, 5118 Timberbranch, San Antonio, Texas 78250; Rena Ventura-Jackson, Counseling Associate, Odessa College, 201 West University, Odessa, Texas 79762.

## Appointments Made November 12, 1993

To be a member of the Texas Racing Commission for a term to expire February 1, 1999: Lukin T. Gilliland, Jr., 115 Hubbard, San Antonio, Texas 78209. Mr. Gilliland will be replacing Hugh Fitzsimmons, Jr. of Carrizo Springs, whose term expired.

## Appointments Made November 15, 1993

To be a member of the Sabine River Authority of Texas Board of Directors for a term to expire July 6, 1999: Walta Pippen Cooke, 200 Timberlane, Carthage, Texas 75633. Ms. Cooke will be replacing William Rice of Longview, whose term expired.

To be a member of the Interagency Council on Early Childhood Intervention Services for a term to expire February 1, 1999: Karen Douglas, 12411 La Albada, San Antonio, Texas 78233. Ms. Douglas is being appointed to a new position pursuant to House Bill Number 1510, 73rd Legislature.

To be a member of the Interagency Council on Early Childhood Intervention Services for a term to expire February 1, 1999: Claudette Wilkinson Bryan, 2761 Burlington Boulevard, Dallas, Texas 75211. Ms. Bryant is being appointed to a new position pursuant to House Bill Number 1510, 73rd Legislature.

To be a member of the Interagency Council on Early Childhood Intervention Services for a term to expire February 1, 1999: Tammy H. Tiner, Ph.D., 200 Pershing, College Station, Texas 77840. Dr. Tiner is being reappointed.

Issued in Austin, Texas, on November 18, 1993.

TRD-9332243

Ann W Richards  
Governor of Texas

## Appointments Made November 18, 1993

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1999: David R. Durham, 3501 Edgewood Drive, Abilene, Texas 79605. Mr. Durham will be replacing Adair Wakefield Margo of El Paso, whose term expired.

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1999: Raymond Donald Nasher, 4701 Miron Drive, Dallas, Texas 75220. Mr. Nasher is being reappointed.

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1999: Nelda S. Lee, 2610 East 21st Street, Odessa, Texas 79761. Ms. Lee will be replacing Mary Ellen Mitch Jericho of Dallas, whose term expired.

To be a member of the Texas Commission on the Arts for a term to expire August 31, 1999: Jay M. Vogelson, 9316 Guernsey Lane, Dallas, Texas 75220. Mr. Vogelson will be replacing Martha Morriss of Texarkana, whose term expired.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332409

Ann W. Richards  
Governor of Texas

Name: Mandy Fields  
Grade: 8  
School: T.H. McDonald Middle School, Mesquite ISD



MANDY FIELDS

# Attorney General

**Description of Attorney General submissions.** 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 maybe 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-93-83 (ID# 20116).** Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a county must be reimbursed for the cost of audit services performed for a county department of education under Texas Civil Statutes, Article 2929g-1.

**Summary of Opinion.** The provisions of Texas Civil Statutes, Article 2929g-1 [Texas Education Code, Auxiliary Laws] that certain county auditors render auditing services to certain county departments of education would be unconstitutional if the expenses of the auditor's services were not reimbursed by the county department of education receiving the services.

TRD-9332295

**LO-93-84 (ID# 19049).** Warren Chisum, Chairman, Committee on Environmental Regulation, Texas House of Representatives, Austin concerning sharing of "co-management fees" between optometrists and ophthalmologists.

**Summary of Opinion.** An ophthalmologist does not violate §161.091 of the Health and Safety Code merely by co-managing a patient with an optometrist and thereby consenting to have Medicare pay a fee to the optometrist. To violate this provision, the ophthalmologist would also have to intentionally or knowingly offer to pay remuneration to "any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage."

TRD-9332296

**LO-93-85 (ID# 19675).** Request from Judith Zaffirini, Chair, Committee on Health and Human Services, Texas State Senate, Austin, concerning whether the practice of reflexology falls within the definition of "massage therapy" in Texas Civil Statutes, Article 4512k, and related questions.

**Summary of Opinion.** Whether reflexology techniques constitute "massage therapy" as defined in Texas Civil Statutes, Article 4512k, is a question of fact and therefore is not an appropriate subject for an opinion from this office. The Advisory

Council on Massage Therapy ("advisory council") does not have authority to promulgate a rule establishing that reflexology is "massage therapy." A determination by the advisory council that reflexology is "massage therapy" does not affect the duties of the Texas Department of Health to administer Article 4512k and investigate possible violations of that statute.

A person convicted of practicing "massage therapy" without a registration must wait five years to be registered and must complete the educational and experiential requirements and pass the state examination in order to obtain a registration certificate. The Department of Health has discretion to refuse to register, for a period of no more than five years, an applicant who admits to, but has not been convicted of, practicing "massage therapy" without a registration in violation of Article 4512k.

TRD-9332297

**LO-93-86 (ID# 21028).** Request from Stephen H. Smith, District Attorney, 119th Judicial District of Texas, San Angelo, concerning whether the filing, by a person or entity not authorized to conduct banking business, of an assumed name certificate for a purported bank violates Article 342-902 of the Texas Banking Code of 1943, Texas Civil Statutes, Article 342-101 to 342-1113.

**Summary of Opinion.** The filing of an assumed name certificate that indicates only disjunctively that a person not authorized to conduct a banking business currently is conducting a banking business or intends to conduct such a business in the future does not violate Article 342-902 of the Banking Code as a representation to the public that one is conducting a banking business.

TRD-9332298

**LO-93-87 (RQ-558).** Request from Merrill L. Hartman, Chair, Court Reporters Certification Board, Austin, concerning whether a court reporter is authorized to sell a copy of a deposition transcript to a company which operates a computerized database.

**Summary of Opinion.** There is no statute or rule prohibiting or authorizing a shorthand reporter to sell a copy of a deposition

transcript to a company which operates a computerized data base, or any person or entity other than the deponent, a party to the proceeding, or a party's attorney, without leave of court. This question would be more appropriately addressed by supreme court rule or by the court with jurisdiction over a particular case.

TRD-9332299

**LO-93-88 (ID# 18550).** Request from Janice M. Caldwell, Dr. P.H., Executive Director, Texas Department of Protective and Regulatory Services, Austin, concerning removal of criminal record subject to expunction order from agency files.

**Summary of Opinion.** The provisions of Chapter 55 of the Code of Criminal Procedure, authorizing the expunction of certain arrest records, control over the provisions of the Open Records Act, Texas Civil Statutes, Article 6252-17a, to the extent of conflict. After entry of an expunction order, the release, dissemination, or use of the expunged records and files for any purpose is prohibited. On receipt of an expunction order, an official or agency named in the order must return all records and files subject to the order to the court, or, if removal is impracticable, obliterate all portions of the records or file that identify the petitioner.

Since the Texas Department of Protective and Regulatory Services is not named in an expunction order applicable to an arrest record in its files, it is not required or authorized by Chapter 55 of the Code of Criminal Procedure to remove the arrest record from its files. It may, however, be able to arrange for its destruction pursuant to §441.035(e) of the Government Code.

TRD-9332300

**LO-93-89 (ID# 20522).** Request from Joe F. Grubbs, Ellis County and District Attorney, Ellis County Courthouse, Waxahachie, concerning authority of a district clerk to impose certain fees in a proceeding for the forfeiture of contraband.

**Summary of Opinion.** The district clerk lacks authority to require the county to pay costs of court.

TRD-9332301

**LO-93-90 (ID# 19572).** Request from Bryan Davis, County Attorney, Nacogdoches, concerning whether a county generally may incur debt by executing a vendor's lien note for the purchase of real property.

Commissioners courts do not have a general power to purchase real property. Whether a county may purchase real property depends on whether the purchase falls within a power expressly conferred by law.

Nor do commissioners courts have a general power to incur debt. Their power to incur debt may be granted expressly or, generally, by necessary implication from a grant of a power to do something that requires the creation of debt. The power to issue negotiable instruments that would deprive the county of a defense assertable against the original creditor cannot be implied by necessity.

TRD-9332302

**LO-93-91 (ID# 21878).** Request from J. Lynn Owens, Reeves County Auditor, Pecos, concerning whether, under §113.901 of the Local Government Code, a county auditor may refuse to issue a requisition if the county already has ordered or received the goods requisitioned and related question.

**Summary of Opinion.** For purposes of §113.901 of the Local Government Code, a "purchase" is completed upon the transfer of title to the goods from the vendor to the buyer, in accordance with §2.401(b) of the Business and Commerce Code. Section 113.901 does not authorize a county auditor to refuse to issue a requisition to any county officer upon request, even if the county officer already has purchased the supplies or materials. Pursuant to §113.901, a county auditor may refuse to approve an account for a purchase of supplies or materials if the vendor did not receive the original copy of the properly signed requisition before the county officer made the purchase.

TRD-9332303

**LO-93-92 (RQ-591).** Request from John Poulard, Executive Director, General Services Commission, Austin, concerning effect of certain amendments to the Texas prevailing wage statute, Texas Civil Statutes, Article 5159a, and related questions.

**Summary of Opinion.** Nothing in the recent amendments to the Texas prevailing wage rate statute alters the reasoning or result of Attorney General Opinion DM-25 (1991). Generally, when choosing an area in which to perform a prevailing wage rate survey, a public body should choose the political subdivision most nearly corresponding to the location of the work. For the purpose of this statute, a council of governments is a political subdivision. The public body may not omit any classes of workers or rates for prevailing wages from its contracts. Agencies required or autho-

ized by the statute to conduct prevailing wage surveys may contract with the General Services Commission for the commission to conduct such surveys.

TRD-9332304

**LO-93-93 (RQ-601).** Request from Robert T. Jarvis, Grayson County Attorney, Grayson County Justice Center, Sherman, concerning whether an independent school district may award scholarships out of its general fund to its top graduates based solely on academic ranking.

**Summary of Opinion.** Prior to instituting a program to award scholarships from the general fund to graduates based on academic ranking, the board of trustees of an independent school district must determine in the first instance whether, under Article III, §52(a) of the Texas Constitution, such a program serves a public purpose, and whether the independent school district has placed sufficient controls on program to ensure that the public purpose is carried out. Likewise, pursuant to §20.48 of the Education Code, the board of trustees must determine, in the first instance, whether the awarding of such scholarships is "necessary in the conduct of the public schools."

As this office stated in Attorney General Opinion JM-1265 (1990) at 4, "[t]he encouragement and motivation of students in academic achievement would seem to be an appropriate function of the public free schools." Thus, a school board might find the use of local school funds to provide college scholarships to be "necessary in the conduct of the public schools" for purposes of §20.48 of the Education Code as well as structured to further the achievement of a legitimate public purpose.

TRD-9332305

**LO-93-94 (RQ-548).** Request from Mike Driscoll, County Attorney, Harris County, Houston, concerning fees for issuing and "serving" a writ of income withholding for child support.

**Summary of Opinion.** Under §14.45(h) of the Family Code, a district clerk may assess one fee not to exceed \$15 for issuing and delivering a writ of income withholding. See Acts 1993, 73rd Legislature, Chapter 417, §4 (effective September 1, 1993). The fee for issuing and delivering a writ of income withholdings is no different if the person seeking the writ is being assisted by the Harris County Domestic Relations Office.

TRD-9332306

**LO-93-95 (RQ-560).** Request from James Warren Smith, Jr., County Attorney, Frio County, Pearsall, concerning whether a policy requiring certain probationers to conform to a dress and hair code is prohibited by either the Texas Constitution or the United States Constitution.

**Summary of Opinion.** The determination whether a condition of probation such as a dress and hair code violates the right to free expression under the state or federal constitution depends upon whether the condition is primarily designed to meet the ends of rehabilitation and protection of the public and is reasonably related to such ends. Whether the condition satisfies these criteria will depend upon the facts of each individual case. Such a condition is not necessarily constitutional in each and every case.

TRD-9332307

**LO-93-96 (ID# 21290).** Request from Ronald Earle, Travis County District Attorney, Austin, concerning whether a district attorney may simultaneously hold a compensated teaching position with a state university.

**Summary of Opinion.** A district attorney is not prohibited, either by Article XVI, §40, of the Texas Constitution, or by the common-law doctrine of incompatibility, from simultaneously holding a compensated teaching position with a state university.

TRD-9332308

**LO-93-97 (RQ-422).** Request from David Counts, Chair, Natural Resource Committee, Texas House of Representatives, Austin, concerning whether a city may annex that portion of a municipal utility district lying within its extraterritorial jurisdiction, and related questions.

**Summary of Opinion.** Section 43.075 of the Local Government Code permits but does not require that the governing bodies of a municipal utility district (MUD) consisting of two separate, noncontiguous areas of land in the extraterritorial jurisdiction of two municipalities, and a municipality seeking to annex one of those areas, may agree to a division and allocation of powers, duties, and functions of the district. In the absence of such an agreement, §43.075(g) of the Local Government Code provides that the city may not duplicate the MUD's services within the area previously served by the MUD.

Section 43.075 does not require by its terms that the MUD cease to exist upon annexation. Double taxation by the MUD and the city is not constitutionally impermissible.

In the event that annexation impairs the MUD's ability to issue bonds, §43.0715 of the Local Government Code would require the city to compensate landowners and developers in the MUD. Should the city refuse to pay such compensation, the proposed partial annexation could not go forward.

TRD-9332309

**LO-93-98 (ID# 21823).** Request from Richard J. Miller, Bell County Attorney, Belton, concerning whether Bell County is responsible for maintenance of a drainage ditch on

private land reflected in a rural subdivision plat approved by the commissioners court, where the ditch never has been maintained by the county and where flooding from the ditch is not the result of drainage from, or improvements to, a county road.

**Summary of Opinion.** Bell County is not responsible for maintenance of a drainage ditch on private land reflected in a rural subdivision plat approved by the commissioners court, where the ditch has not been dedicated to public use and never has been maintained by the county and where flooding from the ditch is not the result of drainage from, or improvements to, a county road.

TRD-9332310

## Open Records Decision

(ORD-620) (RQ-354). Request from Peter Potemkin, Executive Director, Texas Workers' Compensation Insurance Facility, Austin, concerning whether, under §552.101 or §552.110 of the Open Records Act, the Texas Workers' Compensation Insurance Facility may withhold from required public disclosure the guidelines it uses to determine the percentage of the estimated premium it will require an applicant to pay as a deposit, and related questions.

**Summary of Opinion.** Sections 552.101, 552.110, and 552.111 of the Open Records Act, Chapter 552 of the Government Code, Acts 1993, 73rd Legislature, Chapter 268, §1, §46 (nonsubstantive codification of former Texas Civil Statutes, Article 6252-17a) do not authorize the Texas Workers' Compensation Insurance Facility to withhold from required public disclosure the guidelines the facility uses to determine the percentage of the estimated premium it will require an applicant for workers' compensation insurance to pay as a deposit

TRD-9332294

## Opinions

**DM-254 (RQ-579).** Request from Gonzalo Barrientos, Chair, Committee on Nominations, Texas State Senate, Austin, concerning whether an unincorporated association insurance carrier is eligible to serve as a corporate surety pursuant to Texas Civil Statutes, Article 5160.A.

**Summary of Opinion.** The conclusion in Attorney General Opinion JM-923 (1988) that "the legislature requires a corporate surety when public work is concerned" is affirmed. Thus, an unincorporated association insurance carrier is ineligible to serve as a corporate surety pursuant to Texas Civil Statutes, Article 5160.A

TRD-9332311

**DM-255 (RQ-393).** Request from Mary Webb, Chair, Texas Agricultural Finance Authority, Austin, concerning whether the Texas Agricultural Finance Authority may use bond proceeds from the Texas Agricultural Fund to reimburse the Department of Agriculture for administrative expenses incurred on behalf of the authority.

**Summary of Opinion.** The Texas Agricultural Finance Authority may use bond proceeds from the Texas Agricultural Fund to reimburse the Department of Agriculture for administrative expenses incurred on behalf of the authority.

TRD-9332312

**DM-256 (RQ-538).** Request from William R. Ratliff, Chair, Education Committee, Texas State Senate, Austin, concerning whether an independent school district may provide free office space and other items to a private, non-profit foundation.

**Summary of Opinion.** The Education Code, §23.26, authorizes the board of trustees of an independent school district to accept donations and other gifts from a private foundation, and to supply the foundation with office space and the use of other school property, assuming a school purpose is served. The question whether Article III, §52(a) of the Texas Constitution prohibits the board from supplying the foundation with office space and the use of other school property depends upon whether this would serve a public purpose, appropriate to the function of an independent school district, whether adequate consideration would flow to the public; and whether the board would maintain sufficient controls over the foundation's activities, to ensure that the public purpose is actually achieved.

The Local Government Code, §171.009, permits the trustee of an independent school district to serve as a director of a private, non-profit corporation which does business with the school district, provided he or she receives no compensation or other remuneration for doing so. The determination whether the Education Code, §23.201, prohibits the board of trustees of an independent school district from entering into a contract with a business entity for which a trustee serves on its board of directors without compensation or any other remuneration requires the resolution of factual issues and is therefore beyond the purview of the opinion process.

TRD-9332313

**DM-257 (RQ-547).** Request from John A. Sickel, Criminal District Attorney, Van Zandt County, Canton, concerning whether the Local Government Code, §140.003, requires a specialized local entity to deposit its funds in the county's bank account or permits the specialized local entity to deposit its funds in its own bank account in

the county's depository bank, and related questions.

**Summary of Opinion.** The Local Government Code, §140.003, in directing an adult probation office, as a "specialized local entity," to deposit the funds it receives "in the county treasury of the county in which the entity has jurisdiction," means that such funds must be deposited with the county treasurer for placement in the county depository. The phrase "the funds the entity receives," as used in §140.003, subsection (f), means all funds from any source (except for any specific fund regarding which there may be a provision of law to the contrary).

Section 140.003, subsection (f), incorporates the requirements of §111.092 (regarding county auditor's budgetary oversight of warrant process) and §113.043 (prohibiting payment on check or warrant not countersigned by county auditor) of the Local Government Code and makes them generally applicable to payments made by specialized local entities.

Subsections (f) and (g) of §140.003 incorporate §112.001 or §112.002 (regarding the county auditor's authority to prescribe an accounting system) and §112.006 (regarding the county auditor's authority to determine whether a proposed expenditure is for a proper purpose) of the Local Government Code and make them applicable to the management of the funds of specialized local entities. Subsections (f) and (g) generally require the county auditor to determine whether a proposed expenditure of a specialized local entity is for a legal purpose to the same extent that the auditor is similarly responsible with respect to county finances. Subsections (f) and (g) generally permit but do not require the county auditor to prescribe accounting procedures for a specialized local entity.

TRD-9332314

**DM-258 (RQ-602).** Request from Susan A. Spataro, CPA, CMA, Travis County Auditor, Austin, concerning whether unclaimed overpayments on property taxes escheat to the state or do they belong to Travis County after three years

**Summary of Opinion.** In the absence of authority to the contrary, unclaimed overpayments on property taxes belong to the county once the three-year period of reclamation has lapsed under §31.11 of the Tax Code. The funds may be transferred into the county's general fund account pursuant to Article VIII, §9 of the Texas Constitution.

TRD-9332315

**DM-259 (RQ-507, ID# 18811).** Request from Jack W. Garison, Executive Director, Texas Department of Licensing and Regulation, Austin, concerning whether a member of an appraisal review board may appear before the board either in a capacity as a

court-appointed receiver or a registered property tax consultant without violating conflict-of-interest laws and related questions.

**Summary of Opinion.** Pursuant to §41.69 of the Tax Code, a member of an appraisal review board may not participate in the determination of a taxpayer protest before the appraisal review board in which the member, acting as a paid, court-appointed receiver of a tract of property in the appraisal district, represented a property owner because the member has, as a matter of law, a direct personal or pecuniary interest in the outcome of the protest. Similarly, §41.69 of the Tax Code precludes a member of an appraisal review board from participating in the determination of a taxpayer protest if the member performed property tax consulting services in the protest because the member therefore has a direct personal or pecuniary interest in the determination of the protest.

Section 171.004(a) of the Local Government Code requires a member of an appraisal district board who has performed property tax consulting services in a taxpayer protest before the appraisal district board to disclose the nature and extent of the member's interest, but only if the member has a substantial interest in a business entity or real property involved in the matter. The determination of whether an appraisal district board member has such a substantial interest involves the resolution of facts; it is therefore outside the scope of the opinion process.

TRD-9332316

**DM-260 (RQ-244).** Request from Ashley Smith, Chair, Committee on Higher Education, Texas House of Representatives, Austin, concerning whether an independent school district may use various assets to create an endowment fund.

**Summary of Opinion.** The board of trustees of a school district may establish an endowment fund for educational purposes with money willed or donated for that purpose. The school board may not place the proceeds from the sale of land owned by the district in an endowment fund. This office will not issue an advisory opinion on whether a school district may allocate current local tax revenues to an endowment fund for the future support of the district's schools while the constitutionality of the school financing system remains the subject of litigation.

TRD-9332317

**DM-261 (RQ-419).** Request from James R. Wilson, Director, Texas Department of Public Safety, Austin, concerning constitutionality of provisions of Texas Civil Statutes, Article 6701h, §4A, pertaining to impoundment of out-of-state vehicles involved in accidents where proof of financial res-

ponsibility is not shown, and related questions.

**Summary of Opinion.** Texas Civil Statutes, Article 6701h, §4A, providing for impoundment of vehicles not registered in Texas where such vehicles are involved in accidents and proof of financial responsibility is not shown, is not on its face violative of constitutional commerce and equal protection provisions. The Department of Public Safety must afford opportunity for hearings under the Administrative Procedure Act, former Texas Civil Statutes, Article 6252-13a, now codified at Title 10, Chapter 2001 of the Government Code, Acts 1993, 73rd Legislature, Chapter 268, §1, in setting security amounts required to be submitted in order to obtain the release of impounded vehicles. Texas Civil Statutes, Article 6701h, on its face requires security of at least \$1,000 in such circumstances. Where a hearing on the amount of security to be required is sought, the department should be prepared to offer oral testimony in order to afford opportunity for cross-examination.

TRD-9332318

**DM-262 (RQ-518).** Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a constable may, to collect delinquent child support payments, seize and sell personal property that §§42.001, 42.002, and 42.0021 of the Property Code otherwise exempt from execution and seizure if the constable is acting pursuant to a writ of execution and related questions.

**Summary of Opinion.** Pursuant to a writ of execution issued to collect child support arrearages, attorney fees, and interest, a constable may seize only that personal property of the obligor that §§42.001, 42.002, and 42.0021 of the Property Code do not exempt from execution.

Rule 309 of the Texas Rules of Civil Procedure authorizes any holder of a child support lien to foreclose on the lien, regardless of whether the lien attached upon the filing of an abstract of judgment or a child support lien notice. On the other hand, §14.979(a) of the Family Code requires a claimant to foreclose on the child support lien only if the lien attached by virtue of the filing of a child support lien notice that was not based on a valid, final court judgment finding the obligor in arrears and determining the amount of the arrearage. Section 14.979(a) does not require a claimant to foreclose on a child support lien that is predicated upon the filing of an abstract of judgment or a child support lien notice based upon a valid, final court judgment. Thus, if, prior to the issuance of the writ of execution, the claimant obtained an abstract of judgment and filed it for record in the appropriate county clerk's office thereby creating a child support lien, the constable

may seize all of a child support obligor's nonhomestead real property and all of the obligor's personal property. Likewise, if a claimant chooses to institute foreclosure proceedings upon a child support lien predicated upon the filing of an abstract of judgment, the constable may seize all of a child support obligor's nonhomestead real property and all of the obligor's personal property.

TRD-9332319

**DM-263 (RQ-580).** Request from David R. Smith, M.D., Commissioner, Texas Department of Health, Austin, concerning whether House Bill 241, Acts 1993, 73rd Legislature, Chapter 251, prohibits the Texas Department of Health from requiring an examination for recertification of emergency medical service personnel.

**Summary of Opinion.** House Bill 241, Acts 1993, 73rd Legislature, Chapter 251, does not prohibit the Texas Department of Health from requiring an examination for recertification of emergency medical service personnel.

TRD-9332320

**DM-264 (RQ-191).** Request from Bruce Isaacks, Criminal District Attorney, Denton County, Denton, concerning whether the Denton County Bail Bond Board is authorized to set a limit on the value amount of bonds which a corporate surety may provide, and related questions under Texas Civil Statutes, Article 2372p-3.

**Summary of Opinion.** There is no limit on the value of the bonds a corporate bail bondsman may issue.

An irrevocable letter of credit is the only security a corporation must provide when its application for a bail bondsman's license is tentatively approved by the county bail-bond board. In counties with populations of 250,000 or more, the credit amount must be at least \$50,000; in counties with populations of less than 250,000, the credit amount must be at least \$10,000. The sheriff cannot, however, insist on credit for an unlimited time; the sheriff must accept a letter of credit even though it has a time limit.

County bail-bond boards lack the authority to impose different or additional requirements for obtaining a bail bondsman's license. Therefore, a county bail-bond board cannot question the appraisal value or obtain an independent appraisal of the real estate an applicant for a bail-bondsman's license intends to convey in trust to the board as security. In addition, a county bail-bond board cannot require that the real estate be located in that county. On the other hand, a board must require a renewal application to contain a current appraisal of the real estate from each taxing unit and an appraisal from a real estate appraiser who



meets the qualifications set out in Texas Civil Statutes, Article 2372p-3, §6(f)(2).

TRD-9332321

**DM-265 (RQ-569).** Request from John D. Whitlow, Criminal District Attorney, Calhoun County, Port Lavaca, concerning whether the annual distribution of extra interest by the Texas County and District Retirement System to annuitants violates Article III, §52 of the Texas Constitution.

**Summary of Opinion.** The annual distribution of extra interest by the Texas County and District Retirement System to annuitants pursuant to the Government Code, §845.310(e)(2), does not violate Article III, §52 of the Texas Constitution.

TRD-9332322

**DM-266 (RQ-321).** Request from Rick Perry, Commissioner, Texas Department of Agriculture, Austin, concerning construction of the provisions of §52.012 and §52.085 of the Agriculture Code regarding agricultural cooperative marketing association member voting rights.

**Summary of Opinion.** The Agriculture Code, §52.085(a), limits each member of a non-citrus-related cooperative marketing association to one vote. A citrus-related cooperative marketing association may, pursuant to §52.085(b), provide for a member association to have more than one vote; if such an association does so, however, it must not pay dividends on stock or membership capital in excess of 8.0% a year, in accordance with §52.012(a)(2) of the Agriculture Code

TRD-9332323

**DM-267 (RQ-566).** Request from Libby Linebarger, Chair, Public Education Committee, Texas House of Representatives, Austin, concerning whether conflicts of interest exist that would disqualify a spouse from serving in elected office when both spouses hold elected positions in local governmental bodies with overlapping jurisdictional boundaries and one jurisdiction is responsible for a portion of the annual budget of the other governmental body, and related questions.

**Summary of Opinion.** A city is not a "business entity" for purposes of Chapter 171 of the Local Government Code. The prohibition of Article XVI, §40 of the Texas Constitution against dual office holding does not apply to a person who is both a director of a state conservation district and a mere employee of a conservation and reclamation district.

TRD-9332324

**DM-268 (RQ-592).** Request from Nathan B. Rheinlander, Comal County Attorney, New Braunfels, concerning whether House Bill 2087 violates Article III, §52 of the Texas Constitution.

**Summary of Opinion.** House Bill 2087, which amends the Local Government Code, §263.152, to authorize a county commissioners court to donate to civic or charitable organizations salvage and surplus property that it has been unable to sell by competitive bid or auction, does not on its face violate Article III, §52 of the Texas Constitution. The donation of a particular item may run afoul of this constitutional prohibition if the property is of value to the county and it is not donated for a public purpose for adequate consideration.

TRD-9332325

**DM-269 (RQ-479).** Request from Jose R. Rodriguez, El Paso County Attorney, El Paso, concerning term of office of directors of the El Paso County Water Control and Improvement District (Westway), and related questions

**Summary of Opinion.** The term of directors of the El Paso Water Control District (Westway) is two years. The district's board of directors should select a uniform election date under Chapter 41 of the Election Code for the district's director elections. The extent to which acts of improperly elected directors are nevertheless valid involves fact questions which cannot be resolved in the opinion process.

TRD-9332326

**DM-270 (RQ-525).** Request from O. H. "Ike" Harris, Chair, Committee on State Affairs, Texas State Senate, Austin, regarding the number of vacation days to which police officers and fire fighters are entitled in a city with a population of more than 30,000.

**Summary of Opinion.** A fire fighter and a police officer in a city of greater than 30,000 is entitled to the number of vacation days granted under either subsection (b) or subsection (c) of the Local Government Code, §142.0013, whichever is greater.

TRD-9332327

### ◆ ◆ ◆ Requests for Opinions

**(RQ-577).** Request from Herbert L. Prouty, General Counsel, El Paso Water Utilities Public Service Board, El Paso, concerning whether the ten-day requirement in §7 of the Open Records Act may be waived, and related questions.

**(RQ-578).** Request from Honorable John T. Montford, Chair, Senate Finance Committee, Texas State Senate, Austin, and Honorable Peggy Rosson, Member, Texas State Senate, Austin, concerning authority of the Texas Higher Education Coordinating Board to construe the "financial need" requirements of House Bill 1356, Acts 1993, 73rd Legislature, which amends the Hazelwood Act, §54.203, Education Code

**(RQ-579).** Request from Honorable Roberto Gutierrez, Texas House of Representatives, Austin, concerning whether an unincorporated association insurance carrier is eligible to serve as a corporate surety pursuant to Texas Civil Statutes, Article 5160A: reconsideration of Attorney General Opinion JM-923 (1988) in light of statutory amendments.

**(RQ-580).** Request from David R. Smith, M.D., Commissioner, Texas Department of Health, Austin, concerning effect of House Bill 241, Acts 1993, 73rd Legislature, on the authority of the Texas Department of Health to regulate the process of recertification of EMS personnel.

**(RQ-581).** Request from Honorable Libby Linebarger, Chair, Committee on Public Education, Texas House of Representatives, Austin, concerning Constitutionality of Senate Bill 1477, Acts 1993, 73rd Legislature, which transfers all property held by the Edwards Underground Water District to the Edwards Aquifer Authority.

**(RQ-582).** Request from Dick Durbin, Administrator, Texas Alcoholic Beverages Commission, Austin, concerning whether a holder of a permit to sell alcoholic beverages may possess a firearm for purposes of self-defense.

**(RQ-583).** Request from Rick Perry, Commissioner, Texas Department of Agriculture, Austin, concerning whether there is any limitation on the amount of wine that may be sold directly to consumers by the holder of a winery permit who is operating under §27(d) of House Bill 1445, Acts 1993, 73rd Legislature.

**(RQ-584).** Request from Jack W. Garison, Executive Director, Texas Department of Licensing and Regulation, Austin, concerning whether §11(a) of the Boxing and Wrestling Act, Texas Civil Statutes, Article 8501-1, authorize the Texas Department of Licensing and Regulation to collect a 3.0% gross receipts tax on proceeds the promoter obtains from the sale of television rights.

**(RQ-585).** Request from Honorable Barry L. Macha, Criminal District Attorney, Wichita Falls, concerning authority of the State Board of Education to withhold funding from a school district that is indebted to the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired.

**(RQ-586).** Request from Honorable Frank H. Bass, Jr., Montgomery County Attorney, Conroe, concerning whether a municipal utility district may divest itself of ownership and maintenance responsibility for storm sewer facilities.

**(RQ-587).** Request from Office of the General Counsel, Texas Department of Criminal Justice, Austin, concerning whether certain "sensitive information" regrading prisoners

is available to the public under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**(RQ-588).** Request from Honorable Fred Hill, Chairman, Committee on Urban Affairs, Texas House of Representatives, Austin, concerning authority of the Texas Natural Resource Conservation Commission to require a municipality to obtain permission to regulate on-site sewage facilities.

**(RQ-589).** Request from Ray Farabee, Office of the General Counsel, The University of Texas System, Austin, concerning whether a consultant's report concerning a university's overall faculty hiring and retention policies is exempted from public disclosure by §3(a)(11) of the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**(RQ-590).** Request from Leonard W. Peck, Jr., Assistant General Counsel, Texas Department of Criminal Justice, Huntsville, concerning whether the Texas Department of Criminal Justice may deny a prisoner access to information on legitimate security grounds where the requested information would otherwise be available to the public under the Open Records Act.

**(RQ-591).** Request from John Pouland, Executive Director, General Services Commission, Austin, concerning effect on House Bill 560, Acts 1993, 73rd Legislature, on determination of the "prevailing wage" for public work projects.

**(RQ-592).** Request from Honorable Nathan B. Rheinlander, Comal County Attorney, New Braunfels, concerning whether House Bill 2087, Acts 1993, 73rd Legislature, authorizes a commissioners court to dispose of certain property by gift to a civic or charitable organization located in the county.

**(RQ-593).** Request from Ray Farabee, General Counsel, The University of Texas System, Austin, concerning whether the M. D. Anderson Cancer Center Rotary House International is exempt from property taxes.

**(RQ-594).** Request from Honorable Keith Oakley, Chair, Committee on Public Safety, Texas House of Representatives, Austin, concerning whether an election to repeal collective bargaining under Texas Civil Statutes, Article 5154c-1, may be held while a collective bargaining agreement is in effect.

**(RQ-595).** Request from Honorable Warren Chisum, Chair, Committee on Environmental Regulation, Texas House of Representatives, Austin, concerning validity of two riders that require the implementation of a child welfare program by the Texas Department of Health, the Texas Department of Protective and Regulatory Services, and other state agencies.

**(RQ-596).** Request from Alfred F. Hurley, Chancellor, University of North Texas, Denton, concerning what constitutes a

"building or construction contract" under Texas Civil Statutes, Article 8308-3.23, for purposes of the requirement that certain companies which contract with the state, or a political subdivision thereof, must provide workers' compensation insurance for its employees.

**(RQ-597).** Request from Honorable Warren Chisum, Chair, Committee on Environmental Regulation, Texas House of Representatives, Austin, concerning constitutionality under Article III, §52 of Senate Bill 826, which permits school districts to acquire school buildings by lease-purchase contracts paid with maintenance tax revenues.

**(RQ-598).** Request from Patricia Ohlendorf, Vice Provost, University of Texas at Austin, Austin, concerning whether the home address and telephone number of a University of Texas student and employee must be disclosed as directory information or released from a University of Texas police report when the student/employee has elected to prohibit public access to the information pursuant to §§552.111 and §552.024 of the Texas Open Records Act.

**(RQ-599).** Request from Joella R. McPherson, C.P.A., Randall County Auditor, Canyon, concerning authority of a county to regulate, as a "sexually oriented business," a nightclub that features topless or nude dancers.

**(RQ-600).** Request from Charles D. Travis, Executive Director, Employees Retirement System of Texas, Austin, concerning responsibility for the 0.25% "incentive" payment on that portion of an annuitant's credit which is transferred from the Teachers Retirement System to the Employees Retirement System.

**(RQ-601).** Request from Honorable Robert T. Jarvis, County Attorney of Grayson County, Sherman, concerning whether a school district may fund scholarship to its highest ranking graduates.

**(RQ-602).** Request from Susan Spataro, Travis County Auditor, Austin, concerning whether unclaimed overpayments on property taxes escheat to the county or to the state after three years.

**(RQ-603).** Request from Nora Linares, Director, Texas Lottery Commission, Austin, concerning whether the Bingo Enabling Act, Texas Civil Statutes, Article 179d, requires a person to hold a commercial lessor's license if the person leases premises to an authorized organization licensed to conduct bingo.

**(RQ-604).** Request from Honorable Hugo Berlanga, Chair, Committee on Public Safety, Texas House of Representatives, Austin, concerning meaning of "honorable discharge" for purposes of college tuition

exemption for veterans under §54.203 of the Education Code.

**(RQ-605).** Request from Honorable O. H. "Ike" Harris, Chair, Committee on State Affairs, Texas State Senate, Austin, concerning whether a public funds investment pool may purchase United States government securities by writing covered call contracts and covered put contracts.

**(RQ-606).** Request from Honorable John T. Montford, Chairman, Senate Finance Committee, Texas State Senate, Austin, concerning whether a county is required to accept warrantless arrestees from a municipal police department, and related questions.

**(RQ-607).** Request from Honorable Allen Place, Chairman, Committee on Criminal Jurisprudence, Texas House of Representatives, Austin, concerning whether a licensed peace officer may be employed to perform traffic control part-time on a construction site, and related questions.

**(RQ-608).** Request from Honorable David Counts, Chairman, Committee on Natural Resources, Texas House of Representatives, Austin, concerning authority of a municipal utility district to impose "standby charges".

**(RQ-609).** Request from Honorable Ken Armbrister, Chairman, Committee on Intergovernmental Relations, Texas State Senate, Austin, concerning whether certain electronic, electromechanical, and mechanical contrivances are now excluded from the definition of "gambling device" under the Penal Code.

**(RQ-610).** Request from Honorable William R. Ratliff, Chairman, Education Committee, Texas State Senate, Austin, concerning whether a county school administration may retain a lobbyist pursuant to §21.939 of the Education Code.

**(RQ-611).** Request from David R. Smith, M.D., Commissioner, Texas Department of Health, Austin, concerning whether the Texas Board of Health is authorized under the Medical Radiologic Technologist Certification Act, Texas Civil Statutes, Article 4512m, to promulgate rules discontinuing general certification of medical radiologic technologists, and implementing a system of specialty certification in diagnostic radiography, nuclear medicine, and radiation therapy.

**(RQ-612).** Request from Ray Farabee, Office of the General Counsel, The University of Texas System, Austin, concerning whether the University of Texas System is empowered to limit the number of vendors offering benefits to eligible employees under the Optional Retirement System.

**(RQ-613).** Request from Honorable James M. Kuboviak, Brazos County Attorney, Brazos County Courthouse, Bryan, and Honorable Mike Driscoll, Harris County Attorney, Houston, concerning collection

by county clerks of "security fee" authorized by Senate Bill 243, Acts 1993, 73rd Legislature, Chapter 818, at 3261-62.

(RQ-614). Request from Honorable William R. Ratliff, Chairman, Senate Education Committee, Texas State Senate, Austin, concerning authority of a state licensing agency to require disclosure of social security numbers.

(RQ-615). Request from Herbert Carleston, Assistant Superintendent for Business, Pearland Independent School District, Pearland, concerning whether a school district must provide tax records to a requestor under the Texas Open Records Act in a specified form when doing so is less costly to the requestor.

(RQ-616). Request from Dennis R. Jones, M.S.W., M.B.A., Commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning whether a community center established under the aegis of the Department of Mental Health and Mental Retardation may contract with a former member of its board of trustees.

(RQ-617). Request from David R. Smith, M.D., Commissioner, Texas Department of Health, Austin, concerning whether a licensed nursing facility providing comprehensive medical rehabilitation must also be licensed as a hospital under Chapter 241, Health and Safety Code.

(RQ-618). Request from Honorable John Vance, Dallas County District Attorney,

Dallas, concerning whether the fees provided for in §51.317 of the Government Code apply to the filing for a pre-indictment writ of habeas corpus.

(RQ-619). Request from Honorable Walt Sears, Jr., Franklin County Attorney, Mt. Vernon, concerning whether House Bill 859, Acts 1993, 73rd Legislature, Chapter 473, which requires a public utility to maintain as confidential certain portions of its customer records under particular circumstances is applicable to the Franklin County Water District.

(RQ-620). Request from Catherine A. Ghiglieri, Commissioner, Texas Department of Banking, Austin, concerning authority of a state bank to sell insurance and annuities.

(RQ-621). Request from Honorable Wilhelmina Delco, Chair, General Investigating Committee, Texas House of Representatives, Austin, concerning whether the municipal hotel-motel tax may be used to provide access to disabled persons at historic sites, and related questions.

(RQ-622). Request from Michael E. Hines, Executive Director, Texas Commission on Fire Protection, Austin, concerning applicability of Senate Bill 383, Acts 1993, 73rd Legislature, Chapter 398, at 1697-1700, to various advisory committees created to assist the Texas Commission on Fire Protection.

(RQ-623). Request from Honorable Rick Perry, Commissioner, Texas Department of Agriculture, Austin, concerning whether

Texas Civil Statutes, Article 8613, which regulates the sale of motor vehicle fuel to disabled persons, is applicable to any vehicle that displays an appropriate "special device or disabled person identification card".

(RQ-624). Request from Honorable Sonya Letson, Potter County Attorney, Amarillo, concerning whether a county is required to provide medical insurance and other benefits to district officers.

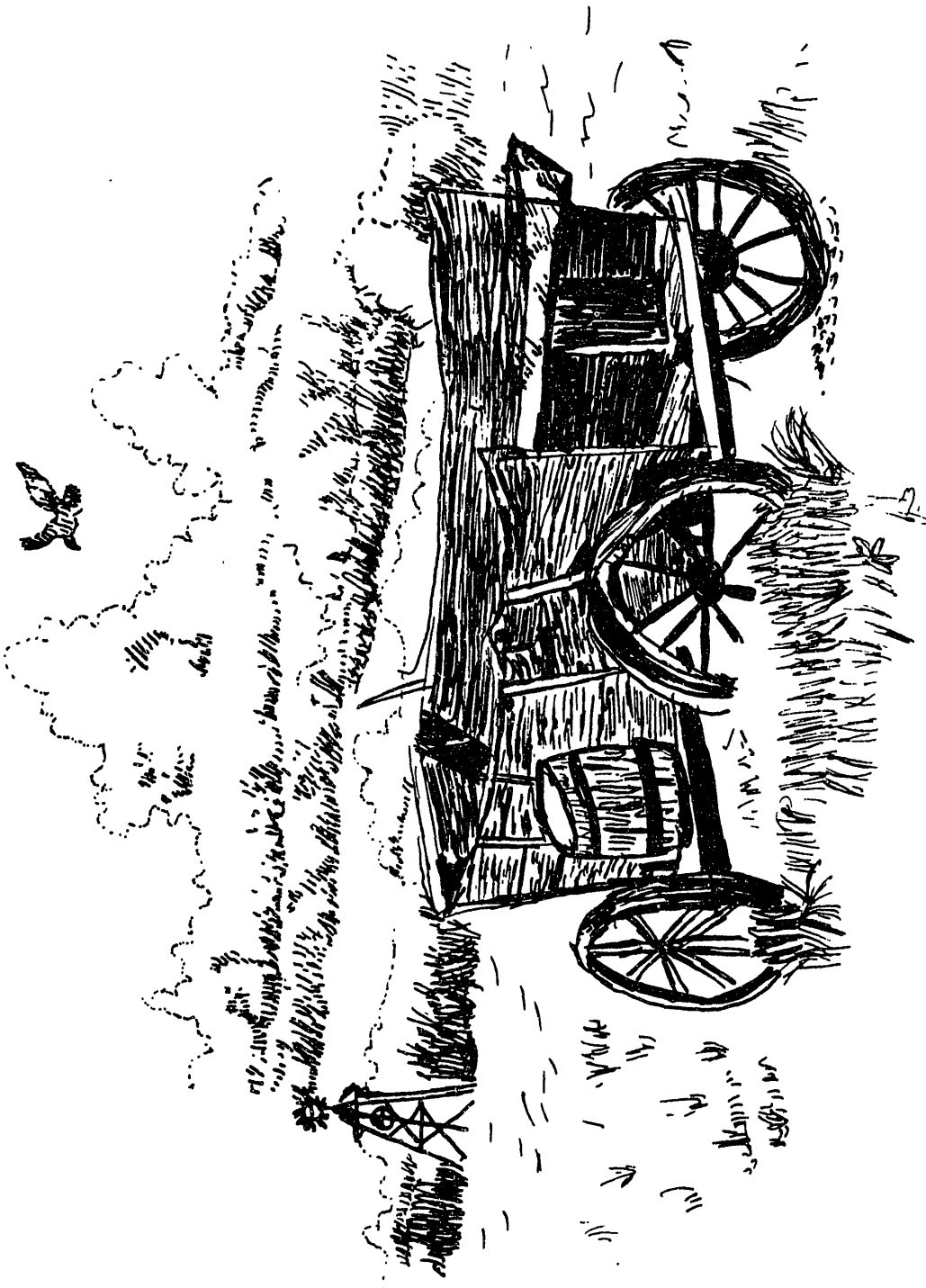
(RQ-625). Request from Jeannene Fox, Acting Administrator, Texas Alcoholic Beverage Commission, Austin, concerning whether, under §38(a) of the Bingo Enabling Act, Texas Civil Statutes, Article 179d, the Texas Alcoholic Beverage Commission (now the Texas Lottery Commission) may accept a written promise to pay required taxes in lieu of a bond guaranteed by a surety company, cash, an assignment of negotiable stocks and bonds, or other security "as the [commission] may deem sufficient to secure the payment of required taxes".

(RQ-626). Request from Honorable Roy C. Turcotte, Kenedy County Attorney, County Courthouse, Sarita, concerning jurisdiction for prosecution of an offense that occurs in another county, and related questions.

(RQ-627). Request from Jack W. Garison, Executive Director, Texas Department of Licensing and Regulation, Austin, concerning whether an arbitration agreement contravenes §18(a) of Article 5221f, the Manufactured Housing Standards Act, and related questions.

TRD-9332293

◆ ◆ ◆



Name: Amy Schlueter  
Grade: 8

School: T.H. McDonald Middle School, Mesquite ISD

# Emergency Sections

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

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

## TITLE 25. HEALTH SERVICES

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

#### Chapter 401. System Administration

##### Subchapter G. Community Mental Health and Mental Retardation Centers

###### • 25 TAC §401.464

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts on an emergency basis new §401.464 of Chapter 401, Subchapter G, concerning community mental health and mental retardation centers. This section replaces the current §401.464 of the same title which was previously adopted on an emergency basis effective September 1, 1993. The new section adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*.

The previous proposal of this section, published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5190), has been withdrawn. Public comment and the department's response regarding the proposal is available for inspection in the Office of Policy Development at TXMHMR (4405 North Lamar Boulevard, Room 411, Austin).

The section adopted on an emergency basis broadens the scope of the appeals process to include any concern or dissatisfaction a consumer may have. The purpose of the emergency adoption is to provide a more comprehensive and workable process when complying with the Texas Health and Safety Code, §534.0675, which calls for the establishment of uniform procedures for each local mental health or mental retardation authority to use when notifying consumers in writing of the denial, involuntary reduction, or termination of services and of the right to appeal those decisions.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §5(d), which provides emergency rulemaking power; and under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

#### §401.464. Notification and Appeals Process.

(a) The TXMHMR service system is dedicated to providing mental health and mental retardation services/supports which are viewed as satisfactory by persons receiving those services/supports. Therefore, local MHMR authorities and their contractors shall take steps to assure that these persons:

- (1) have a method to express their concerns or dissatisfaction;
- (2) are assisted to do so in a constructive way; and
- (3) have their concerns or dissatisfaction addressed through a review process.

(b) A request to review decisions described in this section may be made by the person requesting or receiving services/supports, the person's legal representative, or any other individual with the person's consent.

(c) At the time of admission into services and on an annual basis thereafter, the local MHMR authority and its contractors shall provide to persons who receive services/supports written notification of the local MHMR authority's and its contractor's policy for addressing concerns or dissatisfaction with services/supports. The notification shall explain:

- (1) an easily understood process for persons to request a review of their concerns or dissatisfaction by the local MHMR authority or its contractor, if appropriate;
- (2) how the person may receive assistance in requesting the review;
- (3) the timeframes for the review, and
- (4) the method by which the person is informed of the outcome of that review.

(d) Local MHMR authorities and their contractors shall notify persons in writing of the following decisions and of the process to appeal by requesting a review of those decisions:

- (1) a decision to deny the person services/supports at the conclusion of a lo-

cal MHMR authority's procedure which determines whether the person meets the criteria for the priority population; and

- (2) a decision to terminate services/supports and follow-along from the local MHMR authority or its contractor, if appropriate.

(e) The written notification must:

- (1) be given or mailed to the person within ten working days of the date the decision was made;

- (2) state the reason for the decision;

- (3) explain that the person may contact either the local MHMR authority or its contractor, whichever is appropriate, within 30 days of receipt of notification if dissatisfied with the decision and request that the decision be reviewed in accordance with subsection (g) of this section; and

- (4) include name(s), phone number(s) and address(es) of one or more accessible staff to contact during office hours.

(f) If a person believes that the local MHMR authority or its contractor has made a decision to involuntarily reduce services by changing the amount, duration, or scope of services/supports provided and is dissatisfied with that decision, then the person may request in writing that the decision be reviewed in accordance with subsection (g) of this section.

(g) The review by the local MHMR authority or its contractor shall:

- (1) begin within ten working days of receipt of the request for a review and be completed within ten working days of the time it begins unless an extension is granted by the CEO of the local MHMR authority or its contractor, if appropriate.

- (2) begin immediately upon receipt of the request and be completed within five working days if the decision is related to a crisis service;

- (3) be conducted by an individual who was not involved in the initial decision;

- (4) include a review of the original decision which led to the person's dissatisfaction;

(5) result in a decision to uphold, reverse, or modify the original decision; and

(6) provide the person an opportunity to express his or her concerns in person or by telephone to the individual reviewing the decision. The review shall also allow the person to:

(A) have a representative talk with the reviewer, or

(B) submit his or her concerns in writing, on tape, or in some other fashion.

(h) Following a review, either the local MHMR authority or its contractor, whichever is appropriate, shall explain to the person in writing and in person or by telephone, if requested, the action it will take or, if no action will be taken, why it will not change the decision or believes such action would not be in the person's best interest. This is the final step in the review process.

(i) The notification and review process described in this section:

(1) is applicable only to services/supports funded by TXMHMR and provided or contracted for by its local MHMR authorities;

(2) does not preclude a person's right to reviews, appeals, or other actions that accompany other funds administered through a local MHMR authority or its contractors, or to other appeals processes provided for by other state and federal laws, e.g., Texas Health and Safety Code, Title 7, Chapter 593 (Persons with Mental Retardation Act); 42 United States Code §1396 (Medicaid statute); and Texas Human Resources Code, Chapter 73 (Texas Administrative Code, Title 25, Chapter 621), Early Childhood Intervention programs as funded by the Texas Interagency Council for Early Childhood Intervention.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332432

Ann Utley  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Effective date: December 1, 1993

Expiration date: April 1, 1994

For further information, please call: (512)  
206-4670



# Proposed Sections

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 any action may be 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 sections, 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 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 3. Boll Weevil Eradication Program

##### • 4 TAC §§3.50-3.56

The Texas Department of Agriculture (the department) proposes new §§3. 50-3.57, concerning the prohibition of planting of cotton in boll weevil eradication zones and the requirement for participation in the boll weevil eradication program established by the Texas Boll Weevil Eradication Foundation (the foundation). In accordance with Senate Bill 30, 73rd Legislature, 1993, (now codified at Texas Agriculture Code, Chapter 74, Subchapter D), the foundation has been established to implement a statewide boll weevil eradication program in Texas, including establishing eradication zones and assessments by referendum of eligible cotton producers. Subchapter D at §74.118 also provides for the department to prohibit the planting of cotton in an eradication zone and require the participation by cotton growers in the eradication program.

The new sections are proposed to carry out the authority provided the department in §74.118 and to carry out the intent of the 73rd Legislature in furthering the successful implementation of the boll weevil eradication program. Proposed §3.50 and §3.51 provide a statement of authority and purpose and definitions. Proposed §3.52 provides for the prohibition of planting of commercial and non commercial cotton. Proposed §3.53 provides for public notices of prohibitions. Proposed §3.54 provides requirements for participation in the boll weevil eradication program. Proposed §3.55 provides for public notice of participation requirements. Proposed §3.56 provides for penalties for failure to comply with the new sections and procedures to be followed by the department when a violation requires the destruction of cotton. Proposed §3.57 provides for an appeal of a penalty assessed by the department under these rules.

Katie Dickie, Special Assistant for Producer Relations, has determined that for the first five-year period the sections are in effect, there will be fiscal implications to state government as a result of enforcing or administering the sections. For the first five-year period the sections are in effect, the estimated additional cost to state government will be \$1,920 per year from fiscal year 1994 through fiscal year 1998, for a total of \$9,600.

There will be no effect on units of local government.

Ms. Dickie also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the conducting of the boll weevil eradication program in a manner that poses the least possible risk to the public, property and the environment. The effect on small businesses that qualify as eligible cotton growers will be contingent upon the amount of the assessment, if any, established by the foundation for the eradication zone in which the business grows cotton. The anticipated economic cost to persons who are required to comply with the sections as proposed will be contingent upon the amount of the assessment, if any, established by the foundation for the eradication zone in which the individual cotton grower grows cotton.

Comments on the proposal may be submitted to Katie Dickie, Special Assistant for Producer Relations, P.O. Box 12847, Austin, Texas 78711, and must be received no later than 30 days from the date of the publication of this proposal in the *Texas Register*.

The new sections are proposed under the Texas Agriculture Code, §74.118, which provides the department with the authority to adopt rules prohibiting the growing of cotton in eradication zones, requiring participation in the boll weevil eradication program, and establishing penalties for failure to comply with such rules. The code sections that will be affected by the proposal are Texas Agriculture Code, Chapter 74, Subchapter D.

**§3.50. Statement of Authority and Purpose.** The Texas Legislature, in Senate Bill 30, 73rd Legislative Session, 1993, (now codified at the Texas Agriculture Code, Chapter 74, Subchapter D) declared it a necessity to establish a boll weevil eradication program for Texas in order to suppress and eradicate the boll weevil. As a vehicle for the implementation of the eradication program, Senate Bill 30 provided for the establishment of the Boll Weevil Eradication Foundation (the foundation). The foundation is charged with establishing eradication zones and assessments by referendum of eligible cotton growers. The Code, §74.118, Chapter 74, also provides the Texas Department of Agriculture (the department) with the authority to prohibit the planting of cotton in an eradication zone and to require participation in an eradication

program established by the foundation. These rules carry out the authority provided the department in the Texas Agriculture Code, §74.118.

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

Code—The Texas Agriculture Code.

Commercial Cotton—Cotton grown for the purpose of processing and sale for economic profit.

Department—The Texas Department of Agriculture.

Eradication Zone—A geographic area in which cotton growers by referendum approve their participation in a boll weevil eradication program.

Foundation—The organization designated by the Commissioner of Agriculture as the official Boll Weevil Eradication Foundation, in accordance with the Code, Chapter 74, Subchapter D.

Non Commercial Cotton—Cotton grown for other than processing or sale for economic profit, including cotton grown for ornamental or research purposes.

**§3.52. Prohibition of Planting of Commercial and Non Commercial Cotton.**

(a) Commercial cotton shall not be planted in any area within an eradication zone where the department has determined that the location of that cotton would jeopardize the success of the eradication program in that zone or present a hazard to public health or safety. Such an area shall be designated by the department as a prohibited planting area.

(b) In making a determination as to whether or not planting of commercial cotton shall be prohibited in an area, the department may consider the factors listed in §3.23 of this title (relating to Protection of Individuals, Livestock, Wildlife, and Honeybee Colonies) and §3.24 of this title (relating to Guidelines for Establishment of Foundation Rules, Procedures and Methods of Treatment), and the recommendation of the foundation board.

(c) Non commercial cotton shall not be planted in any eradication zone, except under a special permit issued by the

department prior to planting.

### §3.53. Notice of Prohibitions.

(a) Within 30 days of declaring an area within an eradication zone as a prohibited planting area, the department shall publish a notice designating the area in which cotton cannot be planted.

(b) The notice of prohibition shall contain a description of the prohibited planting area, including the farm/tract number and amount of acreage, when available.

(c) The department shall publish the notice of prohibition in a newspaper having general circulation in the affected zone for one day each week for three successive weeks.

### §3.54. Requirement for Program Participation.

(a) All commercial cotton growers within an approved eradication zone are required to participate in the eradication program established by the foundation for that zone.

(b) Participation in the eradication program shall include:

(1) timely reporting to the foundation of information regarding acreage and location of all commercial cotton fields and of non commercial patches of cotton grown for ornamental, research, or other purposes, as provided in the Texas Agriculture Code, §74.121;

(2) payment of the assessment in the amount and manner established by the foundation for that eradication zone; and

(3) compliance with any rules or procedures established by the foundation for implementation of the eradication program in that eradication zone.

### §3.55. Notice of Requirement for Participation.

(a) Within 30 days after passage of a referendum establishing an eradication zone, a notice of the requirement to participate in the eradication program shall be published by the department in a newspaper having general circulation within the affected zone for one day each week for three successive weeks.

(b) The notice required by subsection (a) of this section shall include the requirements for the timely reporting of acreage and field location, compliance with regulations of the foundation and the department, and payment of assessment fees as prescribed by the foundation board.

### §3.56. Assessment of Penalties; Destruction of Cotton.

(a) Each cotton grower in an eradication zone shall comply with the requirements of §3.54 of this title (relating to Requirement for Program Participation). A grower who violates those requirements shall be assessed a penalty.

(b) For a violation of §3.54(b)(1) of this title which requires reporting of acreage, a grower shall be assessed a penalty in the amount of \$25 per acre.

(c) For a violation of §3.54(b)(2) of this title which requires payment of the assessment established by the foundation, a grower shall be assessed a penalty in the amount of \$25 per acre.

(d) If the grower fails to comply with a prohibition notice provided in accordance with §3.53 of this title (relating to Notice of Prohibitions), or the prohibition against the growing of non commercial cotton, the department shall take the following actions:

(1) immediately upon identification of a field that is out of compliance with a notice of prohibition, the department shall give written notice to any farm owner and to the operator in charge of the field that the field and any cotton growing in the field is in violation of these rules, instructing the owner and operator to destroy any cotton within seven days after the date the written notice is received;

(2) if the owner or operator cannot be located after reasonably diligent effort has been made by the department to locate such persons, the department shall publish the notice in a newspaper of general circulation in the county in which the land is located and post for a period of three consecutive days a copy of the notice on or in the immediate vicinity of the field in violation; and

(3) if no response is received by the department from either the owner or operator within four days after the date of posting of the notice at the field, or if the department considers the response inadequate, the department shall have the cotton destroyed.

(e) The department may take any other action necessary to complete destruction of cotton to prevent the spread of boll weevils from the infested area.

(f) All costs incurred by the department in the destruction of the cotton in accordance with subsection (d) of this section shall be reimbursed by the grower.

### §3.57. Appeal of Penalty Assessment.

(a) A person against whom the department has assessed a penalty in accord-

ance with §3.54 of this title (relating to Requirement for Program Participation) may protest such action with the Commissioner within 20 days of receipt of notice of such action. A notice of protest shall be filed with the Coordinator for Cotton Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

(b) A timely notice of protest shall be considered by the department as a contested case and an opportunity for requesting a hearing on the matter shall be provided. If a hearing on the matter is requested, such hearing shall be conducted in accordance with the procedures provided for contested cases in the Texas Administrative Procedure Act, Government Code, Chapter 2001, and Chapter 1 of this title (relating to General Procedures).

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 November 22, 1993.

TRD-9332462

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: December 27, 1993

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

## Chapter 19. Seed Division

### Texas Seed Law

#### • 4 TAC §19.8, §19.9

The Texas Department of Agriculture (the department) proposes amendments to §19.8 and §19.9, concerning administration of the Texas Seed Law. The proposed amendment to §19.8 clarifies language in the section in order to be consistent with language in §19.5 and §19.6. The proposed amendment to §19.9 provides for a penalty for late filing of a quarterly report of agricultural seed sales in Texas, in accordance with statutory changes made by the 73rd Legislature, 1993.

Charles Leamons, director, seed quality program, has determined that for the first five-year period the rules are in effect there will be an estimated increase in state revenue of \$2,000 per year. There will be no fiscal implications for local government as a result of enforcing or administering the rules.

Mr. Leamons also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide clarity with respect to required labeling information and more efficient program management enabling TDA to recover the cost of processing late filings. For the first five-year period the rules are in effect, the cost of compliance for both small and large



businesses will be a cost increase not to exceed \$60 per year. The anticipated economic cost to persons who are required to comply with the rules as proposed will be a cost increase not to exceed \$60 per year per individual.

Comments on the proposal may be submitted to John Metcalf, Texas Department of Agriculture, P.O. Box 629, Giddings, Texas 78942 and must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §61.002, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the efficient enforcement of Chapter 61; and §61.011, which provides the department with the authority to assess a penalty for the late filing of certain quarterly reports.

The code affected by this proposal is the Texas Agriculture Code, Chapter 61.

**§19.8. Hermetically-Sealed Containers.** For agricultural and vegetable seeds labeled and packed in a hermetically-sealed container; the nine-month limitation on testing imposed by the Act, §61.009(b) (relating to Germination and Purity Testing) is extended as provided herein, if the following conditions are met:

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

(9) As allowed by the Act, §61.004(g) (relating to Labeling of Agricultural Seed) and §61.005(e) (relating to Labeling of Vegetable Seed), an expiration date may be labeled in lieu of the actual date of test or year for which the seed was packaged. If this procedure for labeling is used, the words "Texas expiration date," "expiration date," "exp. date," or "TX exp. date." must precede the month and year. Unless otherwise specified, the expiration date will be the last day of the month designated.

**§19.9. Inspection Fees on Agricultural Seed.** In addition to the requirements of the Act, §61.011 (relating to Agricultural Seed Inspection Fee and Permit), any person who sells, offers, exposes, or otherwise distributes for sale agricultural seed within the state for planting purposes shall pay an inspection fee thereon in accordance with the following.

(1) (No change.)

(2) Reporting system. When an inspection fee is paid by means of the reporting system, as provided by the Act, §61.011(c) (relating to Agricultural Seed Inspection Fee and Permit), the following shall apply:

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

(E) Each permittee on the reporting system must, pursuant to the provisions of the Act, §61.011(c) and (d) (relating to Agricultural Seed Inspection Fee and Permit), file with the department a "Quarterly Report of Agricultural Seed Sales in Texas" form prescribed by the department. If a permittee has no sales during the quarterly reporting period, the department must be notified accordingly.

(F)-(G) (No change.)

(H) The penalty for a late filing of quarterly reports shall be \$25 or 10% of the amount of the fee due, whichever is greater.

(3)-(4) (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 November 19, 1993.

TRD-9332463

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: December 27, 1993

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

◆ ◆ ◆  
**TITLE 10. COMMUNITY DEVELOPMENT**  
**Part I. Texas Department of Housing and Community Affairs**  
**Chapter 9. Texas Community Development Program**

**Subchapter A. Allocation of Program Funds**

• **10 TAC §9.3**

*(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 Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Department of Housing and Community Affairs (TDHCA) proposes the repeal of §9.3 concerning the Texas Capital Fund. The activities and programs available for funding under this section are now part of the new proposed Texas Capital Fund section, 10 TAC §9.7. The proposed new §9.7 clarifies the available Texas Capital Fund programs and incorporates proposed changes to the funding cycle, selection procedures, and selection criteria for the Main Street Improvements Program.

Ruth Cedillo, director of the Texas Community Development Program, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Cedillo also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be equitable allocation of CDBG nonentitlement area funds to eligible units of general local government in Texas. 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 Anne Paddock, Deputy General Counsel, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941, within 30 days of the date of this publication.

The repeal is proposed under the Texas Government Code, Chapter 2306, §2306.098, which provides Texas Department of Housing Community Affairs with the authority to allocate Community Development Block Grant nonentitlement area funds to eligible counties and municipalities according to department rules.

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 November 19, 1993.

TRD-9332456

Henry Flores  
Executive Director  
Texas Department of  
Housing and  
Community Affairs

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 475-3948

◆ ◆ ◆  
• **10 TAC §9.7**

The Texas Department of Housing and Community Affairs (TDHCA) proposes new §9.7 concerning the Texas Capital Fund. The activities and programs available for funding under the Texas Capital Fund are currently located in 10 TAC §9.3 which is proposed for repeal. The proposed new §9.7 clarifies the available Texas Capital Fund programs and incorporates proposed changes to the funding cycle, selection procedures, and selection criteria for the Main Street Improvements Program.

Ruth Cedillo, director of the Texas Community Development Program, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Cedillo also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be equitable allocation of Community Development Block

Grant nonentitlement area funds to eligible units of general local government in Texas. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Anne Paddock, Deputy General Counsel, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941, within 30 days of the date of this publication.

The new section is proposed under the Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant nonentitlement area funds to eligible counties and municipalities according to department rules.

#### §9.7. Texas Capital Fund.

(a) General Provisions. This fund covers projects which will result in either an increase in new, permanent employment within a community or retention of existing permanent employment. Under the small business incubator program or the main street improvements program, projects may also qualify if they meet the national program objective of aiding in the prevention or elimination of slum or blighted areas.

(1) All jobs being created or retained must primarily benefit low and moderate income persons. A minimum of 51% of all of the jobs ultimately created or retained must be for persons who at the time of their employment had total family income below the low and moderate income limit for the county where the development occurred.

(2) If the project is designed to aid in the prevention or elimination of slum or blighted areas, then it must meet the area slum or blight or spot slum or blight criteria and threshold requirements outlined in each of the separate program pre-applications.

(3) A firm financial commitment from all funding sources other than United States Department of Commerce Economic Development Administration is required upon submission of a pre-application.

(4) A letter from the United States Department of Commerce Economic Development Administration inviting a formal application under its public works program must be included in the pre-application if applicable.

(5) The leverage ratio between all funding sources and the Texas Capital Fund request must not be less than 1: 1. The only exception is the small and minority businesses loan program which requires a minimum leverage ratio of 1:3.

(6) In order for an applicant to be eligible under the low and moderate income persons benefit national program

objective, the Texas Capital Fund cost per job calculation must not exceed \$25,000.

(7) No assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one unit of general local government within Texas to another unit of general local government within Texas unless one or more of the following requirements has been met prior to submitting an application for consideration under this section:

(A) business to relocate with approval of current locality. Local government must provide (in the application) written documentation verifying the chief elected official (mayor or judge) of the unit of local government from which the business is relocating supports and approves the relocation proposal;

(B) Business to relocate out-of-state. Business must provide written documentation between business and out-of-state contact verifying the company has secured out-of-state location;

(C) local government notification with no response. Local government must provide written documentation that a letter has been mailed (by registered mail) to the local government from which the business is relocating, notifying them of the relocation. The local government, upon receipt of the notification, then has 30 days to object to the relocation in writing before the Texas Capital Fund application can be considered. A written objection to a relocation from a local government would prevent the application from being considered.

(8) The department will not consider any application for funding which would result in the provision of assistance for an economic development project where the applicant and one or more other cities or counties are competing to provide economic development project funds to that project.

(9) The department will not consider any application for funding in which the business, principals, or incubator to be assisted thereunder has filed under the Federal Bankruptcy Code, and the matter is in the process of being adjudicated or in which such business has been adjudicated bankrupt.

(10) With the exception of the main street improvements program, the department will only consider applications that provide funding for one business or incubator sponsor.

(11) The department may consider providing funding for an economic development project proposed by a city that is outside the city's corporate limits or ex-

traterritorial jurisdiction and may consider a project proposed by a county that is outside the unincorporated area of the county if the applicant demonstrates that the project is appropriate to meet its needs, if the applicant has the legal authority to engage in such a project, and if at least 51% of the principal beneficiaries reside within the applicant's jurisdiction.

(12) A business or incubator sponsor, which is currently being provided assistance from the Texas Capital Fund must create at least 50 permanent jobs in each additional proposed Texas Capital Fund project in order for such project to be considered for funding, with the exception of small business incubator program projects that have the national program objective of aiding in the prevention or elimination of slums or blight.

(13) A Texas Capital Fund contractor must satisfactorily close out a contract in support of a specific business, incubator sponsor, or main street improvements program city in order to be eligible to receive additional funds under the Texas Capital Fund for the same business, incubator sponsor, or main street city. The contractor is eligible for an additional Texas Capital Fund award in support of a specific business (if the prerequisite program income choice has been selected) if the assisted business is not in the designated main street/incubator geographic area or if the main street/incubator project selected the elimination of slums and blight as its national program objective and the assisted business will create or retain jobs to meet the national program objective.

(14) The department will not consider or accept an application for funding under the Texas Capital Fund in support of the same project.

(b) Overview. This fund is distributed to eligible units of general local government for eligible activities in the following program areas.

(1) The loan program. The loan program provides financing for activities such as machinery and equipment, working capital, the purchase of land and depreciable property, new construction, and rehabilitation of commercial or industrial facilities.

(2) The infrastructure program. The public infrastructure program provides funds for eligible activities such as the construction or improvement of water/wastewater facilities, public roads, natural gas-line services, electric-power services, and railroad spurs.

(3) The real estate development program. The real estate development program provides a contract to an eligible applicant for the acquisition, construction or rehabilitation of real estate in support of a

specific business (either a for-profit entity or a non-profit entity).

(4) The small business incubator program. The small business incubator program provides funds for an eligible applicant to acquire, construct, or rehabilitate real estate and to provide public improvements in support of a nonprofit incubator sponsor.

(5) The small and minority businesses loan program. The small and minority businesses loan program provides a loan to a for-profit small or minority business for the purchase of machinery and equipment and for working capital.

(6) The main street improvements program. The main street improvements program provides public improvements in support of Texas main street program designated municipalities.

(c) Funding cycle. There are no pre-application deadlines for the loan, infrastructure, real estate development, small business incubator, and small and minority businesses loan programs. Pre-applications for the main street improvements program must be received by 5:00 p.m. on the date and location specified in the most recent pre-application guide for this program.

(d) Selection procedures. The department has entered into an interagency cooperation contract with the Texas Department of Commerce by which the Texas Department of Commerce performs marketing and underwriting services for this fund. Applications under this section are reviewed by the Texas Capital Fund Advisory Committee after they have been evaluated by staff of the Texas Department of Commerce. The Advisory Committee is appointed by the executive director of the Texas Department of Commerce and the Community Development Block Grant division director of the department. The Texas Department of Commerce and the department have equal representation on the Advisory Committee. The Texas Capital Fund Advisory Committee and staff make recommendations to the department's executive director for final award. The application and selection procedures consist of the following steps.

(1) Prior to submitting a formal application, each potential applicant must submit a complete pre-application to the Office of Business Finance Services, Business Development Division, of the Texas Department of Commerce.

(2) Upon receipt of a pre-application containing financial information on the business or incubator sponsor or main street city to be considered for funding, the staff of the Texas Department of Commerce performs an initial review to determine whether the pre-application is

complete, whether the activities proposed are eligible for funding and for compliance with threshold requirements. In those instances where the staff of the Texas Department of Commerce determines that the pre-application is incomplete, or the activities are ineligible for funding, or does not meet threshold requirements, the pre-application is returned for the applicant to complete or is cited as ineligible. For the main street improvements program, an incomplete or ineligible pre-application is returned to the applicant and the applicant is disqualified from participation in that program. Additional information is not accepted from a main street improvements program applicant after the pre-application deadline. The staff at the Texas Department of Commerce then conducts a review of each complete pre-application to make threshold determinations with respect to:

(A) the financial feasibility of the project to be assisted based on a credit analysis;

(B) the strength of commitments from all other public and/or private investments identified in the pre-application;

(C) the ability of the applicant to operate or maintain any public facility or service assisted with Texas Community Development Program funds, if infrastructure improvements are requested;

(D) whether the use of Texas capital funds is appropriate, as defined in the pre-application guidelines for this fund, to carry out the project proposed in the pre-application; and

(E) whether there is evidence that at least 51% of the permanent jobs created or retained will benefit low- and moderate-income persons. Projects proposed under the small business incubator program or the main street improvements program may meet the national program objective by aiding in the prevention or elimination of slums or blight.

(3) If the Texas Department of Commerce or the department invite a formal application, the staff of the Texas Department of Commerce is required to discuss the project and program rules with the mayor or judge, as applicable, or his designee, and one company official. A formal application may only be submitted if the Texas Department of Commerce or the department authorizes such in writing. If an authorization to submit a formal application is granted, a formal application must be submitted within 45 days of the authorization.

(4) A copy of a complete application must be provided to the appropriate regional review committee. Each regional review committee may, at its option, review, and comment on an economic development proposal from a jurisdiction within its state planning region. These comments become part of the application file and are considered by the department provided such comments are received by the department prior to application review by the Advisory Committee.

(5) Applications are evaluated for compliance with threshold requirements or scored based on the selection criteria established for the Texas Capital Fund program.

(A) For the loan, infrastructure and real estate development programs, the staff of the Texas Department of Commerce generates scores on selection criteria related to leverage ratio, cost per job, minority hiring, and project feasibility. Scores on factors in these categories are derived from information provided by the applicant. An infrastructure, loan, or real estate development program applicant must receive at least 60 points out of a possible 100 points to be considered for funding. An applicant that receives at least 60 points on such criteria may be invited to send a representative to make a presentation to the Texas Capital Fund Advisory Committee.

(B) An application submitted under the small business incubator program or the small and minority businesses loan program is not scored, however, an applicant must meet the minimum threshold requirements specified in the pre-application.

(C) For the main street improvements program, the staff of the Texas Department of Commerce score pre-applications based on selection criteria related to leverage ratio and minority hiring. The Texas Capital Fund Advisory Committee scores pre-applications based on selection criteria related to project feasibility. The Texas Historical Commission scores pre-applications based on selection criteria related to project feasibility using its scores to place the applicants in rank order from highest to lowest scores. The five projects ranked highest by the Texas Historical Commission receive additional points. Scores on factors in these categories are derived from information provided by the applicant. Formal applications are then requested from the two highest scoring applicants.

(6) The staff of the Texas Department of Commerce in conjunction with department staff may conduct a site visit of the proposed project. Site visits to the two

highest scoring main street improvements applicants may include a verification of information submitted in the pre-application.

(7) If a project is determined not to be feasible by the Advisory Committee, the department notifies the applicant of its decision, including the basis for denial.

(8) The Texas Capital Fund Advisory Committee and staff make recommendations to the department's executive director for final award.

(9) The executive director of the department reviews the recommendations and announces the projects selected for funding.

(10) The staff of the Texas Department of Commerce in conjunction with department staff works with the recipients to execute contract agreements. While the contract award must be based on the information provided in the pre-application and the formal application, the department may negotiate any element of the final contract agreement with the recipient. A main street improvements program contract amount cannot increase and the level of benefits described in the pre-application and formal application cannot decrease.

(e) Selection criteria for the loan, infrastructure and real estate development programs. The following is an outline of the selection criteria used for selection of projects under the loan, infrastructure, and real estate development programs. One hundred points are available. The terms and criteria used in this subsection are further defined in the pre-application guidelines for these programs.

(1) Project feasibility (total-30 points). The feasibility of each project is evaluated and scored based on the financial soundness of the project. Factors examined include firm commitments for financial investments and the jobs to be created or retained; the history of the business; the current financial condition of the business, including a full review of the credit analysis; cash flow projections; the business or marketing plan, including letters of intent to purchase products or services; and management experience of the business's principals. A project located in a designated enterprise zone receives special consideration.

(2) Minority hiring (total-20 points). Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (20 points). In the event less than 5.0% of the applicant's population base is composed of minority residents or the applicant has less than five permanent employees, the applicant is assigned the average score on this factor for all applicants for the previous program year or the

score calculated on the actual figures, whichever is higher.

(3) Leverage ratio (total-30 points). Points are awarded by dividing the total other funds committed by the amount of Texas capital funds requested less administration, in accordance with the following scale:

(A) 1 0:1 (100%)-10 points;

(B) 1 .5:1 (150%)-15 points;

(C) 2.0:1 (200%)-20 points;

(D) 2.5:1 (250%)-25 points;

(E) 3.0:1 (300%)-30 points.

(4) Cost per job (total-20 points). Points are awarded by dividing the amount of Texas capital funds requested by the number of full-time job equivalents to be created or retained, in accordance with the following scale:

(A) At or below 10,000-20 points;

(B) At or below 15,000-15 points;

(C) At or below 20,000-10 points;

(D) At or below 25,000-5 points.

(f) Additional criteria for the loan program and the public infrastructure program. A minimum of a 10% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required.

(g) Additional criteria for the real estate development program. A minimum of a 10% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required if the business has been operating for at least three years. A minimum of a 33% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the business is required if the business has been operating for less than three years.

(h) Threshold requirements for the small business incubator program. The following is an outline of threshold requirements used for selection of projects under the small business incubator program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program. In order for its pre-

application to be considered, an applicant must meet either Paragraphs (1), (2), or (3) of this subsection.

(1) Low and moderate income persons objective. Document that at least 51% or more of all the persons to benefit from the economic development activities qualify as low and moderate income persons.

(2) Area slums/blight objective. Document the boundaries of the area designated as a slum or blighted, document the conditions which qualified it under the definition in §9.1(a)(17), and the way in which the assisted activity addressed one or more of the conditions which qualified the area as slum or blighted.

(3) Spot slum/blight objective. To show how this objective will be met, the applicant must:

(A) document that the project qualifies as slum or blighted on a spot basis under local law;

(B) describe the specific condition of blight or physical decay that is to be treated;

(C) for rehabilitation carried out under this category, describe the specific conditions detrimental to public health and safety which will be corrected; and

(D) provide details and scope of the proposed rehabilitation, by structure.

(4) The staff at Texas Department of Commerce conducts a review of each complete pre-application to make threshold determinations with respect to the feasibility of each incubator project based on the soundness of the project. Factors examined include firm commitments for financial contributions; the jobs to be created or retained; the history of the incubator; the financial condition of the incubator, including a full review of the credit analysis and cash flow projections; the feasibility study and business plan; pre-lease commitments, demonstrated proof of community support, demonstrated linkages with related small business programs and educational institutions; and evidence of strong management experience of the incubator sponsor

(i) Additional criteria for the small business incubator program.

(1) A minimum 10% equity injection (of the total project costs) in the form of cash, land, buildings, equipment, furniture, or fixtures by the applicant and/or incubator sponsor is required.

(2) An incubator project located in a designated enterprise zone receives spe-

cial consideration.

(j) Threshold requirements for the small and minority businesses loan program. The following requirements are used for the selection of projects under the small and minority businesses loan program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program. In order for its pre-application to be considered, an applicant must document the following:

(1) at least 51% or more of all the persons to benefit from the economic development activities qualify as low and moderate income persons; and

(2) a minimum 10% (of the total project costs) equity injection in the form of cash, land, buildings, equipment, furniture, or fixtures of the business.

(k) Enterprise zone designation. A small and minority businesses loan program project that is located in a designated enterprise zone receives priority consideration.

(l) Selection criteria for the main street improvements program. The following is an outline of the selection criteria used for selection of projects under the main street improvements program. The terms and criteria used in this subsection are further defined in the pre-application guidelines for this program.

(1) Threshold criteria. In order for its pre-application to be considered, an applicant must meet either (A) or (B), and (C) of this paragraph.

(A) Low and moderate income persons objective. Document that at least 51% or more of all persons to benefit from the economic development activities qualify as low and moderate income persons.

(B) Area slums/blight objective. Document the boundaries of the area designated as a slum or blighted, document the conditions which qualified it under the definition in §9.1(a)(17), and the way in which the assisted activity addressed one or more of the conditions which qualified the area as slum or blighted.

(C) Main street designation. The applicant must have been designated by the Texas Historical Commission as a Main Street City and must have received this designation two years prior to submitting a Texas Capital Fund application for main street improvements.

(2) Project feasibility (total-50 points) Factors examined by the Texas Capital Fund Advisory Committee include Texas Historical Commission Main Street designation and demonstrated successful ex-

perience in the program, firm commitments for financial contributions; the jobs to be created or retained; the community's long-term commitment to historic preservation and commercial revitalization, a full review of the marketing strategy and funding for continued main street efforts; existing business ownership and available space pre-release commitments; demonstrated proof of community support; demonstrated linkages with related downtown small businesses; and evidence of strong management experience of the main street manager. Projects that address the primary benefit to low and moderate income persons through job creation/retention receive highest priority, regardless of the national program objective selected. Projects that leverage additional dollars and demonstrate firm financial commitments also receive priority. Applicants that have demonstrated successful experience in the Texas Historical Commission's Main Street Program and that submit projects addressing the needs of mobility impaired individuals are given additional consideration. Applicants that have demonstrated a long term commitment to historic preservation, continued main street efforts, and have a low first floor building vacancy rate in the impacted project area are also given additional consideration. A main street improvements program project that is located in a designated enterprise zone receives priority consideration.

(3) Leverage ratio (total-30 points). Points are awarded by dividing all other funds committed to the project, exclusive of Texas Capital Funds, by the amount of Texas Capital Funds requested, less administration, according to the following scale:

(A) 1.5:1 (150%)-15 points.

(B) 2.0:1 (200%)-20 points.

(C) 2.5:1 (250%)-25 points;

(D) 3.0:1 (300%)-30 points.

(4) Minority hiring (total-ten points). Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (ten points). In the event less than 5.0% of the applicant's population base is composed of minority residents or the applicant has less than five permanent employees, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score based on the actual figures, whichever is higher.

(5) Projects recommended by Texas Historical Commission (total-ten points). Points are awarded up to a maxi-

mum of ten points to the five applicants ranked highest by the Texas Historical Commission. The Texas Historical Commission scores pre-applications based on the project feasibility selection criteria included in paragraph (2) of this subsection, using its scores to place the applicants in rank order from highest to lowest scores. A maximum of ten points is awarded according to the following scale:

(A) Ranking 1-10 points;

(B) Ranking 2-8 points;

(C) Ranking 3-6 points;

(D) Ranking 4-4 points;

(E) Ranking 5-2 points.

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 November 19, 1993.

TRD-9332457

Henry Flores  
Executive Director  
Texas Department of  
Housing and  
Community Affairs

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 475-3948

◆ ◆ ◆  
**TITLE 16. ECONOMIC  
REGULATION**  
**Part IV. Texas Department  
of Licensing and  
Regulation**  
**Chapter 74. Elevators**

• **16 TAC §74.65**

The Texas Department of Licensing and Regulation proposes new §74.65 concerning elevators. The new section defines the purpose, method of reporting, procedure for calling meetings, and reimbursement of expenses of the Elevator Advisory Board

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

Mr. Brush also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more effective and efficient functioning of the board. There will be no effect on small businesses. There

is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

The new section is proposed under the Health and Safety Code, Chapter 754, §754.012 and §754.013, which provides the agency authorization for appointment of the board and describes the duties of the board.

Cross Reference-Rule 74.65 affects Health and Safety Code, §754.012 and §754.013.

§74.65. Advisory Board.

(a) The purpose of the Elevator Advisory Board is to advise the executive director on the adoption of appropriate standards for the installation, alteration, and operation of elevators, escalators, and related equipment, the status of elevators, escalators, and related equipment used by the public in this state, and any other matter considered relevant by the executive director.

(b) Recommendations of the Board will be transmitted to the executive director through the director of policies and standards.

(c) Board meetings are called by the chair. Meetings in excess of those mandated by the Act shall be authorized by the executive director or the executive director's designee.

(d) Expenses reimbursed to board members shall be limited to authorized expenses incurred while on board business and travelling to and from board meetings. The least expensive method of travel should be used.

(e) Expenses related to subcommittee meetings will be reimbursed only if authorized by the executive director or the executive director's designee. These expenses will be reimbursed only to the board members appointed to the subcommittee or requested by the chair to assist or appear before the subcommittee.

(f) Expenses paid to board members shall be limited to those allowed by the State of Texas Travel Allowance Guide and Texas Department of Licensing and Regulation policies governing travel allowances for employees.

(g) The board shall consist of those regulated industry members and consumers of services members specified in the Act, a professional engineer or architect specified in the Act, and four additional consumers of services of the industry regulated by the Act or of the department, one of which should be a person with disabilities. Board members will serve for staggered three year

terms with two regulated industry positions and two consumer positions expiring in each of the first and second years and one of each position expiring in the third year.

(h) Terms of board members shall expire November 1 of each year. Initial terms will be established so that the terms expiring in the first, second and third years will expire November 1 of the years 1995, 1996, and 1997.

(i) The member who is a professional engineer or architect, who is neither a regulated industry member nor a consumer member, will serve a three year term with an initial expiration date of November 1, 1995.

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 November 19, 1993.

TRD-9332367

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

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 463-3127

◆ ◆ ◆  
**TITLE 22. EXAMINING  
BOARDS**

**Part XVII. Texas State  
Board of Plumbing  
Examiners**

**Chapter 363. Examinations**

**• 22 TAC §363.1**

The Texas State Board of Plumbing Examiners proposes an amendment to §363.1, concerning Qualifications.

The proposed amendment alters the experience requirement for an individual to apply for the plumbing inspector's license.

Douglas A. Beran, Ph.D., chief fiscal officer/officer manager, 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.

Dr. Beran also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be enhanced public health, safety, and welfare by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the rule as proposed will be contingent upon the costs to undergo

certification by either the International Association of Plumbing and Mechanical Officials (IAPMO) or the Southern Building Code Congress International (SBCCI).

Comments on the proposal may be submitted in writing to Dr. Beran at the Texas State Board of Plumbing Examiners, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The proposed amendment does not affect other statutes, articles, nor codes.

§363.1. Qualifications.

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

(c) Plumbing Inspector. Each applicant must:

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

(3) have one of the following:

(A) a journeyman or master plumber license issued in the state of Texas;

(B) a journeyman or master plumber license issued in another state, provided he or she passes the Texas State Board of Plumbing Examiners journeyman exam; or

(C) successful completion of the International Association of Plumbing and Mechanical Officials (IAPMO) or Southern Building Code Congress International (SBCCI) certification and 5,000 hours of experience working at the trade or such work experience and technical training combined to equal 5,000 hours as verified by former employers [at least 6,000 hours of experience working at the trade or such work experience and technical training combined to equal 6,000 hours, as verified by former employers].

(d)-(f) (No change.)

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332398

Gilbert Klesling  
Administrator  
Texas State Board of  
Plumbing Examiners

Proposed date of adoption: January 10, 1994

For further information, please call: (512) 458-2145

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

• 22 TAC §461.4

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.4, concerning the Replacement of Certificates and/or Licenses. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§461.4. Replacement of Certificate/License. Evidence of loss or destruction (notarized statement accepted) or return of old certificate or license is required before a replacement certificate or license will be issued. See Chapter 473 of this title (relating to Fees).

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 November 10, 1993.

TRD-9332256

Rebecca E Forkner Acting Executive Director Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call. (512) 835-2036

• 22 TAC §461.5

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.5, concerning the Contents of Certificates and Licenses. The Board is amending this rule in order to have consistency on all documents issued by the Board reflecting an individual's degree status.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to bring consistency to documents issued by the Board for each individual under the jurisdiction of the Board so that there will be no confusion for the general public as to degree status. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§461.5. Contents of Certificate and License. The certificate and license will show the highest relevant degree held at the time of certification or licensure. [Later relevant degrees may be shown on renewal notices.]

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 November 10, 1993.

TRD-9332257

Rebecca E. Forkner Acting Executive Director Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

• 22 TAC §461.6

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.6, concerning File Updates. The Board

is amending this rule to ensure that all individuals certified or licensed by the Board are responsible for keeping their professional files current at all times.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure that information in an individual's file is up to date so that the information available to certificands, licensees and the general public is always correct and current. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§461.6. File Updates. The psychologist psychological associate is responsible for keeping his or her Board file updated.

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 November 10, 1993.

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Rebecca E Forkner Acting Executive Director Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

• 22 TAC §461.9

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.9, concerning Subdoctoral Licensure. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the section is in effect there will be no

fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§461.9. Subdoctoral Licensure [Certification].** Subdoctoral licensure [certification] shall be offered as specified in the Psychologists' Certification and Licensing Act, §19. The proper title for a person so licensed [certified] shall be "psychological associate."

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 November 10, 1993.

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Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption December 27, 1993

For further information, please call. (512) 835-2036

## Chapter 463. Applications

### • 22 TAC §463.1

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.1, concerning Qualifications of Subdoctoral Candidates. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.1. Qualifications of Subdoctoral Candidate.** A subdoctoral candidate for licensure [certification] as a psychological associate shall meet the qualifications and requirements of candidates at the doctoral level as stated in the Act, §11d.

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 November 10, 1993

TRD-9332260  
Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
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For further information, please call (512) 835-2036

### • 22 TAC §463.8

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.8, concerning Subdoctoral Certification/Licensure Requirements. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on

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

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.8. Subdoctoral Licensure [Certification] Education Requirements.** The Board requires a master's degree which is primarily psychological in nature of at least 42 credit hours for subdoctoral licensure [certification]. Of these 42 hours, at least 27 graduate level semester credit hours (exclusive of practicum) must have been in psychology. Six semester credit hours of thesis credit in a department of psychology may be counted toward these 27 semester credit hours. Four hundred and fifty clock hours of practicum, internship, or experience in psychology, in not more than two placements, supervised by a licensed psychologist, must be completed before the written exam may be taken. No experience which is obtained from a psychologist who is related within the second degree of affinity or within the second degree by consanguinity to the person may be considered for psychological associate licensure [certification]. Applicants who have a master's degree in psychology conferred from a psychology program in a regionally accredited educational institution, and who have not satisfied the Board's requirements, will be given an opportunity to satisfy the current requirements of the Board. Requirements include

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

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

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Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

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For further information, please call (512) 835-2036

### • 22 TAC §463.9

The Texas State Board of Examiners of Psy-



chologists proposes an amendment to §463.9, concerning Course Work for a Subdoctoral Licensure. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.9. Course Work for a Subdoctoral Licensure [Certification].** The application for licensure [certification] as a psychological associate shall include course titles and the names of instructors. If questions exist as to the content of course work, the Board may require the applicant to furnish a catalogue of the university or college where the courses were taken and the addresses of instructors.

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 November 10, 1993.

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Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
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For further information, please call (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.10

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.10, concerning Written Examinations

Required. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule

**§463.10. Written Examinations Required.** All applicants for certification as a psychologist or licensure as a psychological associate are required to pass the Examination for the Professional Practice of Psychology and the Board's Jurisprudence Examination prior to the Board granting certificates/licensures.

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

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Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
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For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.13

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.13, concerning Failing Written or Oral Examinations. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it

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

**§463.13. Failing Written/Oral Examination.** Applicants who fail the written examination for certification as a psychologist or licensure as a psychological associate or the oral examination for licensure as a psychologist are permitted to take it again by paying another exam fee. If the second examination is failed, the applicant may take it again at the next setting. If the third examination is failed, the applicant must wait a full calendar year before the examination may be taken again. This yearly interval applies to all succeeding applications for the examination. The Board may adjust this requirement a few days to provide flexibility in the Board's scheduling of examinations. In the event of subsequent examinations taken in other jurisdictions, the one-year waiting period applies. Split decisions on the Oral Examination are considered as failures.

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 November 10, 1993

TRD-9332264  
Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption. December 27, 1993

For further information, please call (512) 835-2036

• 22 TAC §463.14

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.14, concerning Cutoff Scores on Examinations. The Board is proposing amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

**§463.14. Cutoff Scores.** The minimum acceptable score for the Examination for the Professional Practice of Psychology is 70% of questions scored for doctoral level applicants and 55% of questions scored for masters level applicants. All applicants, both doctoral and masters level, must receive a minimum score of 70% of questions scored on the Board's Jurisprudence Examination. The exam score of applicants for certification/licensure who have already sat for the Examination for the Professional Practice of Psychology must satisfy the requirements of the Board as of the date of application to the Board.

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 November 10, 1993.

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Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

• 22 TAC §463.17

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.17, concerning Foreign Graduates. The Board is amending this rule to clarify that the rule applies not only to applicants for Certified Psychologist but also applicants for licensure as a Psychological Associate and to bring the rule in line with current requirements and procedures of the Board.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to clarify the current requirements and policies of the Board concerning applicants who hold degrees from foreign universities thereby helping to ensure that the citizens of the State of Texas receive services from qualified professionals. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be whatever the current cost for reviewing the required documentation by the University of Texas at Austin.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.17. Foreign Graduates.**

(a) Prior to submitting an application for certification as a psychologist or licensure as a psychological associate, the potential applicant [Applicants for certification whose applications are based on graduation from foreign universities] shall provide the Board with documents and evidence to establish that his/her [their] formal education is equivalent to a masters or doctoral degree, as required by the Psychologists' Certification and Licensing Act and Rules and Regulations of the Board, [in psychology] granted by a United States university that is regionally accredited. The registrar of the University of Texas at Austin must certify that, after reviewing the required documentation, the degree is equivalent to a masters or doc-

toral degree granted from a regionally accredited educational institution. The potential applicant shall provide the Board with the following:

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

(7) a check or money order made payable to the University of Texas at Austin to cover the cost of reviewing the required documentation. The fee for this service is set by the University of Texas at Austin.

(b) After receiving formal notification from the University of Texas at Austin that the potential applicant's formal education is equivalent to a masters or doctoral degree from a regionally accredited educational institution in the United States the Board will notify the potential applicant of the equivalency of his/her academic degree and will then accept a formal application for certification as a psychologist or licensure as a psychological associate.

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 November 10, 1993.

TRD-9332286  
Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

• 22 TAC §463.20

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.20, concerning Regionally Accredited Institutions. The Board is amending this rule in order to correct an error in the rule so that the proper legal citation is shown.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.20. Regionally Accredited Institutions.** A regionally accredited educational institution stated in the Act, §§11b[a], 19, and 22a(3) is defined as an educational institution which satisfied the standards of the accrediting association in one of the following six regions throughout the United States:

(1)-(6) (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 November 10, 1993.

TRD-9332267

Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

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For further information, please call. (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.28

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.28, concerning the Time Limit on Exam Failures. The Board is amending this rule to clarify the time allowed for applicants to successfully complete all examinations required by the Board.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow qualified persons to become certified and licensed with a minimum financial burden and ensure that consumers receive quality psychological services from practitioners as soon as possible. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 335-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§463.28. Time Limit on Exam Failures.** Applicants must successfully pass all examinations required of them within three years of the first examination date immediately following [of] the date they are approved to sit for each exam. Failure to do so will result [results] in termination of application. The Board may adjust this requirement within ten days to provide flexibility in the Board's scheduling of examinations.

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 November 10, 1993

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Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

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For further information, please call. (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.31

The Texas State Board of Examiners of Psychologists proposes new §463.31, concerning Provisional License/Certificate Application File Requirements The Board is proposing this new rule to conform to the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to receive psychological services from a person licensed in another jurisdiction while he/she is applying in Texas. The public benefits because a person can receive services from an experienced professional. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet

Road, Austin, Texas 78758, (512) 835-2036.

The new rule is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule

**§463.31. Provisional License/Certificate Application File Requirements.** An application file must be complete and contain whatever information or examination results the Board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If a provisional license or certificate is sought again, a new application and filing fee must be submitted. An application for licensure as a psychological associate, certification as a psychologist, or licensure as a psychologist must be on file with the Board.

(1) A completed application for a provisional license as a psychological associate includes:

(A) an application and required fee(s) for provisional license as a psychological associate;

(B) two current passport pictures of the applicant,

(C) official transcripts sent directly to the Board's office from all colleges/universities where post-baccalaureate course work was completed;

(D) a statement which has a notary seal or a state seal from the appropriate psychology licensing agency in another jurisdiction confirming that the applicant has an active license/certificate as a psychological associate, and is in good standing with that jurisdiction,

(E) official notification directly from the Professional Examination Service that the applicant has passed the Examination for the Professional Practice of Psychology with a score that meets or exceeds the cut off score in Texas at the time the application is filed with the Board,

(F) a notarized statement from a psychologist licensed in the State of Texas confirming that the psychologist sponsors the applicant,

(G) a notarized statement from a psychologist, licensed in the State of

Texas, confirming that the applicant will practice with the psychologist until receiving a permanent license from the Board;

(H) proof that the requirements for licensure/certification as a psychological associate in the other jurisdiction are substantially equal to those prescribed by the Psychologists' Certification and Licensing Act for the State of Texas.

(2) A completed application for provisional certification as a psychologist includes:

(A) an application and required fee(s) for provisional certification as a psychologist;

(B) two current passport pictures of the applicant;

(C) official transcript from the regionally accredited educational institution which indicates that an applicant has received a doctoral degree in psychology and meets the requirements of the Psychologists' Certification and Licensing Act, §11(b) or (c) for the State of Texas;

(D) a statement which has a notary seal or a state seal from the appropriate psychology licensing agency in another jurisdiction confirming that the applicant has an active license/certificate as a psychologist, is in good standing with that jurisdiction;

(E) official notification directly from the Professional Examination Service that the applicant has passed the Examination for the Professional Practice of Psychology with a score that meets or exceeds the cut off score in Texas at the time the application is filed with the Board;

(F) a notarized statement from a psychologist licensed in the State of Texas confirming that the psychologist sponsors the applicant;

(G) a notarized statement from a psychologist, licensed in the State of Texas, confirming that the applicant will practice with the psychologist until receiving a permanent license from the Board;

(H) proof that the requirements for licensure/certification as a psychologist in the other jurisdiction are substantially equal to those prescribed by the Psychologists' Certification and Licensing Act for the State of Texas;

(3) A completed application for

provisional license as a psychologist includes:

(A) an application and required fee(s) for provisional licensure as a psychologist;

(B) two current passport pictures of the applicant;

(C) official transcript from the regionally accredited educational institution which indicates that an applicant has received a doctoral degree in psychology and meets the requirements of the Psychologists' Certification and Licensing Act, §11(b) or (c) for the State of Texas;

(D) a statement which has a notary seal or a state seal from the appropriate psychology licensing agency in another jurisdiction confirming that the applicant has an active license to practice psychology and is in good standing with that jurisdiction;

(E) official notification directly from the Professional Examination Service that the applicant has passed the Examination for the Professional Practice of Psychology with a score that meets or exceeds the cut off score in Texas at the time the application is filed with the Board;

(F) a notarized statement from a psychologist licensed by the Board confirming that the psychologist sponsors the applicant;

(G) a notarized statement from a psychologist, licensed in the State of Texas, that the applicant will practice with the psychologist until receiving a permanent license as a psychologist from the Board;

(H) proof that the requirements for licensure/certification as a psychologist in the other jurisdiction are substantially equal to those prescribed by the Psychologists' Certification and Licensing Act for the State of Texas.

(4) In addition to the requirements stated in paragraphs (1)-(3) of this section, applicants for provisional license as a psychological associate or provisional certification as a psychologist must have taken and passed the Jurisprudence Examination as administered by the Texas State Board of Examiners of Psychologists prior to their receiving a provisional license/certificate; applicants for provisional license as a psychologist must have taken and passed the Jurisprudence Examination as well as the Oral Examination as administered by the

Texas State Board of Examiners of Psychologists prior to their receiving a provisional license as a psychologist.

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 November 10, 1993.

TRD-9332269

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

## Chapter 465. Rules of Practice

### • 22 TAC §465.7

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.7, concerning the Status of Psychological Associates/Certified Psychologists. The Board is amending this rule to more accurately reflect the Board requirements and standards of this profession.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to put everyone on notice that Certified Psychologists must also be under supervision to perform psychological services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

*§465.7. Status of Psychological Associates/Certified Psychologists.* A psychological associate/certified psychologist must remain under supervision and may not engage in independent practice.

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 November 10, 1993.

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Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.10

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.10, concerning Applicability of the Act and Rules of the Board. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§465.10 *Applicability of the Act and Rules of the Board.* Irrespective of any training other than that which is primarily psychological which the psychologist or psychological associate may have completed, or any other certification or licensure which the psychologist or psychological associate may possess, or any other professional title or label he or she may claim, anyone certified as a psychologist or licensed as a psychological associate is bound by the provisions of the Act and the rules of the Board

in rendering psychological services for compensation.

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 November 10, 1993.

TRD-9332271

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.16

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.16, concerning Use of Statements Regarding Services. The Board is amending this rule to more accurately reflect the Board requirements and standards of the profession.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to put everyone on notice that all individuals certified and licensed by the Board are accountable for statements made regarding psychological services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§465.16. *Use of Statements Regarding Services.* A psychologist/psychological associate may not make false, deceptive, or misleading statements regarding any psychological services

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 November 10, 1993.

TRD-9332272

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.19

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.19, concerning Persons with Criminal Backgrounds. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§465.19. *Persons with Criminal Backgrounds.*

(a) (No change.)

(b) No person currently serving a sentence in prison for a felony is eligible to obtain or renew his/her psychologist's certificate or license or a psychological associate's license [certificate].

(c) In determining whether a criminal conviction directly relates to the performance of a certified and/or licensed psychologist or licensed [certified] psychological associate, the Board shall consider the factors listed in the Texas Civil Statutes, Article 6252.13c(4)(b).

(d) Those crimes which the Board considers as directly related to the performance of a certified and/or licensed psychologist or a licensed [certified] psychological associate include, but are not limited to:

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

(e)-(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 November 10, 1993.

TRD-9332273

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.36

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.36, concerning the Ethics Code. The Board is amending this rule to conform to the changes in the law brought into effect by the 73rd Legislative Session and to clarify the definition of psychologist as referred to in this rule.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to put everyone on notice that all individuals under the jurisdiction of the Board are accountable to the general public for their professional and scientific activities and their ethical standards; and to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by

this rule.

§465.36. Ethics Code.

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

(c) Ethical Standards.

(1) General Standards. These General Standards are potentially applicable to the professional and scientific activities of all psychologists. For this rule, the term "Psychologists" will include not only licensed psychologists, but, also, certified psychologists, licensed [certified] psychological associates and applicants to the Board.

(A)-(AA) (No change.)

(2)-(8) (No change.)

(d) (No change.)

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

Issued in Austin, Texas, on November 10, 1993.

TRD-9332274

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
Chapter 471. Renewals

• 22 TAC §471.1

The Texas State Board of Examiners of Psychologists proposes an amendment to §471.1, concerning Notification of Renewal. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

§471.1. Notification of Renewal. All certificates and licenses issued by the Board shall be subject to annual renewal. Annual renewals are due on the last day of each person's birth month. Persons whose psychologists' certification, licensure, specialty certification, or psychological associate licensure [certification] is about to expire shall be notified once by regular mail at least 30 days before the last day of their birth month each year and shall be notified by registered mail if they fail to renew by the last day of their birth month. The second notice will not be mailed prior to the last day of their birth month.

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 November 10, 1993.

TRD-9332275

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §471.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §471.2, concerning Renewal Forms. The Board is amending this rule to more accurately reflect the Board requirements and standards of the profession.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be, with the elimination of contracts filed, to cut down on paper work required by the Board, thereby reducing expenses and allowing the Board to serve the public in a more cost efficient and timely manner. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§471.2. Renewal Forms.** Psychological Associate and certified psychologist renewal forms shall contain a space to indicate current employment setting. If the setting is exempt, as defined in the Psychologists' Certification and Licensing Act, §22, the supervisor's signature is not needed [and a contract of supervision need not be filed with the Board]. For non-exempt employment settings, the psychological associate and certified psychologist renewal form must include the name and signature of his/her supervisor [which must match the signature on the contract of supervision on file with the Board].

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 November 10, 1993.

TRD-9332276

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §471.4

The Texas State Board of Examiners of Psychologists proposes an amendment to §471.4, concerning Guaranteed Student Loan Requirements. The Board is amending this rule to include all student loan programs and to more accurately reflect the Board requirements and standards of the profession.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the requirement of persons to enter a repayment agreement with any student loan guarantor if in default and to file with the Board a certi-

cate from student loan guarantor certifying the repayment agreement. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

**§471.4. [Texas] Guaranteed Student Loan [Corporation] Requirement.** A licensee or certificand who is identified as a student loan defaulter is not eligible to apply for certification or licensure to renew his/her certificate or license until entering a repayment agreement with the appropriate [Texas] Guaranteed Student Loan Holder [Corporation (TGS LC)] and filing a certificate from said student loan holder [TGS LC] with the Board's office certifying this repayment agreement.

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 November 10, 1993.

TRD-9332277

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
Chapter 473. Fees

• 22 TAC §473.1

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.1, concerning Application Fees. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a

result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles or code are affected by the rule.

**§473.1. Application Fees (Not refundable).**

(a) Psychological Associate Licensure [Certification]—\$150.

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

(e) Provisional License/Certificate [Temporary Permit]—\$260.

(f) (No change.)

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

Issued in Austin, Texas, on November 10, 1993.

TRD-9332278

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §473.3

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.3, concerning Annual Renewal Fees. The Board is amending this rule in order to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

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

Ms. Forkner also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to conform to the new language of the law, therefore making it uniform and less confusing to

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

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

No statutes, articles, or code are affected by this rule.

*§473.3. Annual Renewal Fees (Not refundable).*

(a) Psychological Associate Licensure [Certification]-\$70.

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

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

Issued in Austin, Texas, on November 10, 1993.

TRD-9332279

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
**TITLE 25. HEALTH SERVICES**

**Part I. Texas Department of Health**

**Chapter 1. Texas Board of Health**

• **25 TAC §1.201**

The Texas Department of Health (department) proposes new §1.201, concerning investigations of reports of abuse, neglect, or exploitation of children or elderly or disabled persons. The new section is proposed pursuant to the Family Code, Chapter 34, relating to abuse or neglect of a child and the Human Resources Code, Chapter 48, relating to the abuse, exploitation, or neglect of an elderly or disabled person. In accordance with these laws, the department is required to investigate reports relating to abuse, neglect or exploitation in a facility operated, licensed, certified, or registered by the department.

Susan K. Steeg, General Counsel, has determined that for the first five-year period the

section is in effect, there will be fiscal implications as a result of administering the section. The effect on state government will be an estimated additional cost of approximately \$181,623 for each year of fiscal years 1994-1998. The additional cost also includes implementation of the memorandum of understanding referenced in the section. There will be no fiscal implications for local government as a result of administering this section.

Ms. Steeg also has determined that for each year of the first five years that the section will be in effect the public benefit that is anticipated as a result of administering this section will be to insure uniformity in investigations of abuse, neglect or exploitation performed by the department and compliance with laws relating to such investigations. There will be no fiscal implications for small businesses or persons as a result of enforcing or administering this section. There will be no impact on local employment.

Comments on the proposal may be submitted in writing to Susan K. Steeg, General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7236. Comments will be accepted for 30 days from the date of publication of the proposed section in the *Texas Register*.

The new section is proposed under the Health and Safety Code, §12.001, which provides the Board of Health with authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health; the Family Code, §34.22, requiring rules relating to the abuse or neglect of a child; and the Human Resources Code, §48.037, requiring rules relating to the abuse, exploitation, or neglect of an elderly or disabled person. This section implements the Family Code, Chapter 34, and the Human Resources Code, Chapter 48.

*§1.201 Investigations of Abuse, Neglect, or Exploitation.*

(a) This section addresses investigations of reports received by the Texas Department of Health (department) relating to a facility operated, licensed, certified, or registered by the department concerning:

(1) the abuse, exploitation, or neglect of an elderly or disabled person under the Human Resources Code, Chapter 48, or

(2) the abuse or neglect of a child under the Family Code, Chapter 34

(b) The department shall promptly notify the Department of Protective and Regulatory Services (DPRS) of

(1) each complaint and investigative report it receives relating to abuse, neglect, or exploitation in a facility operated by the department; and

(2) each complaint relating to an investigation conducted by the department.

(c) The department will only inves-

tigate complaints when:

(1) the act is reported to have occurred in such a facility and the victim was a patient or resident of the facility;

(2) the act is reported to have occurred in such a facility and the perpetrator was an employee, contractor, volunteer, or otherwise affiliated with the facility;

(3) the facility was responsible for the supervision of the patient or resident (the victim) at the same time the act occurred; or

(4) the facility was responsible for the supervision of the perpetrator at the time the act occurred

(d) Other complaints of abuse, neglect, or exploitation will be referred to the DPRS for appropriate investigation or action.

(e) The department shall make a thorough investigation promptly after receiving a complaint report.

(1) The primary purpose shall be the protection of the child or elderly or disabled person.

(2) The terminology and definitions used by the DPRS relating to abuse, neglect, or exploitation investigations shall also be used by the department.

(f) The department need not investigate a report which it determines is frivolous, not within the scope of this section, or clearly does not involve abuse, neglect, or exploitation.

(g) An investigation shall include:

(1) an interview with the alleged victim;

(2) a visit to the place of residence of the elderly or disabled person or child unless the visit is not required under applicable law or necessary to the investigation;

(3) an interview with the alleged perpetrator unless the investigator has already determined that there was no abuse, neglect, or exploitation or the risk of the same does not exist; and

(4) consultation with persons thought to have knowledge of the circumstances

(h) An investigation shall address the issues set forth in:

(1) the Human Resources Code, §48.038(a), relating to elderly or disabled persons, or

(2) the Family Code, §34.05(b), relating to children.

(i) If the investigation concludes that no abuse, neglect, or exploitation has occurred or is likely to occur, no further



investigation will be undertaken.

(j) If the department determines that the child or elderly or disabled person should be removed from the facility in order to protect the person from further abuse, neglect, or exploitation, the department shall promptly inform the DPRS.

(k) If the investigation reveals abuse, neglect, or exploitation, the written report of the investigation by the department, along with the department's recommendations, shall be submitted to the appropriate district or county attorney or law enforcement agency, as well as to the DPRS. The release of the written report of the investigation and all related documents to other persons shall be governed by the laws relating to open records, records of these investigations, and records relating to the facility involved.

(l) The department has adopted by reference a memorandum of understanding in §3.21 of this title (relating to Memorandum of Understanding with Department of Protective and Regulatory Services concerning Elderly Abuse).

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

Issued in Austin, Texas, on November 22, 1993.

TRD-9332473

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: February 27, 1994

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

### Chapter 3. Memorandums of Understanding With Other State Agencies

#### • 25 TAC §3.21

The Texas Department of Health (department) proposes new §3.21 concerning a memorandum of understanding (MOU) between the department and the Texas Department of Protective and Regulatory Services adopted pursuant to the Human Resources Code, Chapter 48. The MOU concerns the responsibilities and procedures of each agency regarding investigations of reports of abuse, exploitation, and neglect of the elderly or disabled occurring in facilities operated, licensed, certified or registered by the department.

Susan K. Steeg, General Counsel, has determined that there will be fiscal implications as a result of administering this rule. The effect on state government will be additional cost of approximately \$181,623 for each year of fiscal years 1994-1998. There will be no fiscal

implications for local government as a result of administering this section.

Ms. Steeg also has determined that for each year of the first five years that the section will be in effect, the public benefit that is anticipated as a result of administering this section will be to insure uniformity in investigations of abuse, neglect or exploitation performed by the department and compliance with laws relating to such investigations. There will be no fiscal implications for small businesses or persons as a result of enforcing or administering this section. There will be no impact on local employment.

Comments on the proposal may be submitted in writing to Susan K. Steeg, General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512)458-7236. Comments will be accepted for 30 days from the date of publication of the proposed section in the *Texas Register*.

The new section is proposed under the Human Resources Code, §48.022, which requires the Texas Department of Protective and Regulatory Services and the Texas Department of Health to enter into a memorandum of understanding to delegate responsibilities and procedures of each agency regarding investigations of reports of abuse, exploitation, and neglect occurring in licensed facilities; and the Health and Safety Code, §12.001, which provides the Board of Health with authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health. The section implements the Human Resources Code, Chapter 48.

#### §3.21. Memorandum of Understanding with Department of Protective and Regulatory Services Concerning Elderly Abuse.

(a) The Texas Department of Health (department) adopts by reference a memorandum of understanding entered into between the Texas Department of Health and the Texas Department of Protective and Regulatory Services clarifying each agency's responsibilities under the Human Resources Code, Chapter 48.

(b) The memorandum covers the responsibilities and procedures of each agency regarding investigations of reports of abuse, exploitation, and neglect occurring in facilities operated, licensed, certified, or registered by the department.

(c) Copies of the memorandum of understanding are filed in the office of the Associate Commissioner for Special Health Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and may be reviewed during regular business hours.

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

Issued in Austin, Texas, on November 22, 1993

TRD-9332469

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Earliest Proposed date of adoption: February 27, 1994

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

### Chapter 29. Purchased Health Services

#### Subchapter G. Hospital Services

##### • 25 TAC §29.601

On behalf of the State Medicaid Director, the Texas Department of Health proposes an amendment to §29.601, concerning payment for hospital services. The amendment states that outpatient hospital services will be reimbursed at 94.6% of cost during fiscal year 1994 and 89.4% of cost during fiscal year 1995. This amendment is required to comply with the Governor's Health Care Cost Containment Initiative in the fiscal year 1994-fiscal year 1995 appropriations act. In addition, the amendment changes the reference to the Texas Department of Human Services to the Texas Department of Health.

Mr. Gary Bego, health care financing budget director, has determined that for the two-year period the proposed section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated reduction in cost of \$3,832,740 for fiscal year 1994, and \$15,768,100 for fiscal year 1995. A fiscal impact for fiscal years 1996, 1997, and 1998, is not projected as this section only relates to payments made during fiscal years 1994 and 1995. There will be no fiscal implications for local government.

Mr. Bego also has determined that for each year of the two years the section is in effect the public benefit anticipated as a result of enforcing the section will be the department's compliance with state law. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section and no impact on local employment.

Comments on the proposed amendment may be submitted to Genie DeKneef, Program Specialist, NHIC Contract Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3168, (512) 338-6509. Ms. DeKneef will accept comments for 30 days after publication of the proposed amendment in the *Texas Register*. In addition, a public hearing will be held in the Lecture Hall of the Texas Department of Health, 1100 West 49th Street, Austin, on December 13, 1993, beginning at 2:00 p.m.

The amendment is proposed under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules

to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

The amendment affects Chapter 32 of the Human Resource Code; and Texas Civil Statutes, Article 4413(502), Section 16.

§29.601. *Payment for Hospital Services.*

(a) The Department of Health [Department of Human Services] or its designated agent reimburses hospitals approved for participation in the Texas Medical Assistance Program for covered Title XIX hospital services provided to eligible Medicaid recipients. The Texas Title XIX State Plan for Medical Assistance provides for reimbursement of covered hospital services to be determined as specified in paragraphs (1)-(3) of this subsection.

(1) (No change.)

(2) The amount payable for outpatient hospital services is determined under similar methods and procedures used in the Social Security Act, Title XVIII, as amended, effective October 1, 1982, by Public Law 97-248, except as may be otherwise specified by the department. Medicaid reimbursement for fiscal year 1994 will be at 94.6% of cost and for fiscal year 1995 at 89.4% of cost. Reimbursement for outpatient hospital surgery is limited to the lesser of the amount reimbursed to ambulatory surgical centers (ASCs) for similar services, the hospital's actual charge, or the hospital's customary charge, or the allowable cost determined by the department or its designee.

(3) (No change.)

(b) (No change.)

(c) The direct and indirect costs of caring for charity patients have no relationship to eligible recipients of the Texas Medical Assistance program and have never been and are not [now] allowable costs under the Texas Title XIX Medical Assistance Program. Obligations by hospitals to provide free care, under the Hill-Burton Act or any other arrangement as a condition to secure federal grants or loans, are not recognized as a cost under the Texas Medical Assistance Program.

(d) (No change.)

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

Issued in Austin, Texas, on November 22, 1993.

TRD-9332468

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: February 27, 1994

For further information, please call: (512) 338-6509

◆ ◆ ◆  
Chapter 98. HIV and STD  
Control

Subchapter C. Texas HIV  
Medication Program

General Provisions

• 25 TAC §98. 103

The Texas Department of Health (department) proposes an amendment to §98.103, concerning criteria for financial eligibility for the the Texas HIV Medication Program. The sections implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85.063, Subchapter C, concerning the Texas HIV Medication Program. The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover eligibility for participation and medication coverage. The amendment allows the program to adjust gross income of applicants by subtracting the Texas Department of Health cost of medication(s) that is (are) prescribed.

Anita Martinez, chief of staff services for the Disease Control and Prevention Association, Texas Department of Health, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state government or local government as a result of enforcing or administering the section as proposed.

Ms. Martinez also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to expand coverage of the program to include persons whose net income after subtracting the cost of medications does not exceed 200% of the most recently published poverty income guidelines. There is no anticipated economic cost to small or large businesses to comply with the sections as proposed; no anticipated cost for persons affected by this proposal; and no effect on local employment.

Comments on the proposal may be submitted to Jim Allen, R. Ph., Director, Texas Department of Health, Division of Pharmacy, Texas HIV Medication Program, 1100 West 49th Street, Austin, Texas 78756, (512) 458-6036. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; and Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

The amendment affects Chapter 85 of the Code.

§98.103. *Criteria for Financial Eligibility.* A person is financially eligible for the Texas HIV Medication Program (program) if he or she:

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

(4) has a net [an] income, when combined with his or her spouse, and adjusted downward by subtracting the Texas Department of Health cost of the medication(s) that is (are) being prescribed, that does not exceed 200% of the most recently published federal poverty income guidelines. For minors, the child's or parent's net income, adjusted downward by subtracting the Texas Department of Health cost of the medication(s) that is (are) prescribed, should not exceed 200% of the most recently published federal poverty income guidelines. The spouse or the parent must be living in the same household at the time of application. The Department of Health (department) will determine if the person satisfies this criterion from information provided by the person on a form developed by the department.

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 November 22, 1993.

TRD-9332464

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: February 27, 1994

For further information, please call: (512) 458-6036

◆ ◆ ◆  
Chapter 111. Special Health  
Services

• 25 TAC §111.1

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

The Texas Department of Health (department) proposes the repeal of §111. 1, concerning special health services. The section adopts by reference a memorandum of understanding (MOU) between the Texas Department of Human Services (TDHS) and the department concerning protective services for the elderly.

The section is being proposed for repeal because the MOU has been rewritten to reflect statutory changes in the Human Resources Code, Chapter 48, concerning responsibilities and procedures of each agency regarding investigations of reports of abuse, exploitation, and neglect of the elderly or disabled occurring in certain facilities and the transfer of responsibilities from TDHS to the Texas Department of Protective and Regulatory Services. The updated MOU is being proposed for permanent adoption in §3.21 under 25 TAC, Chapter 3, concerning memoranda of understanding between the department and other state agencies.

Susan K. Steeg, General Counsel, Texas Department of Health, has determined that for the first five year period the section will be in effect there will be no fiscal implications to state or local government as a result of administering the section as proposed.

Susan K. Steeg also has determined that for each year of the first five years that the section will be in effect the public benefit anticipated will be to allow the MOU to be updated and appropriately adopted and implemented by the department. There will be no anticipated cost to small business. There will be no cost to persons required to comply with this section and there will be no impact on local employment.

Comments on the proposal may be submitted to Susan K. Steeg, General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7236. Comments will be accepted for 30 days from the date of publication of the proposed rules in the *Texas Register*.

The repeal is proposed under the Human Resources Code, §48.022, which requires the Texas Department of Protective and Regulatory Services and the Texas Department of Health to enter into a memorandum of understanding to delegate responsibilities and procedures of each agency regarding investigations of reports of abuse, exploitation, and neglect occurring in licensed facilities; and the Health and Safety Code, §12.001, which provides the Board of Health with authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

#### *§111.1. Memorandum of Understanding Concerning Protective Services for the Elderly.*

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 November 22, 1993.

TRD-9332470

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Proposed date of adoption: February 27, 1994

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

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

### Chapter 401. System Administration

#### Subchapter G. Community Mental Health and Mental Retardation Centers

##### • 25 TAC §401.464

*(Editor's Note: The Texas Department of Mental Health and Mental Retardation proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)*

The Texas Department of Mental Health and Mental Retardation (TDMHMR) proposes new §401.464 of Chapter 401, Subchapter G, concerning community mental health and mental retardation centers.

The proposed section would provide a comprehensive and workable process when complying with the Texas Health and Safety Code, §534.0675, which calls for the establishment of uniform procedures for each local mental health or mental retardation authority to use when notifying consumers in writing of the denial, involuntary reduction, or termination of services and of the right to appeal those decisions.

Leilani Rose, director, Financial Services, has determined that the projected cost of implementation would be \$102,754 for mental retardation authorities and \$401,031 for mental health authorities for the first year. A one-time cost of \$25,220 for development of the notification forms would not occur after the first year.

Jaylon Fincannon, deputy commissioner, Mental Retardation Services and Steven Shon, M.D., deputy commissioner, Mental Health Services, have determined that the public benefit is the promulgation of rules in compliance with the Texas Health and Safety Code and the more equitable operation of community mental health and mental retardation centers.

Written comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The new section is proposed under the Texas Health and Safety Code, Title 7, §532.015,

which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

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 November 19, 1993.

TRD-9332433

Ann Utley  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 206-4670

### Chapter 405. Client (Patient) Care

#### Subchapter E. Electroconvulsive Therapy

##### • 25 TAC §§405.104-405.106

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes an amendment to §405.104, concerning general requirements, and new §405.105, concerning indications and contraindications for electroconvulsive therapy (ECT), and new §405.106, concerning medical evaluation required prior to use of ECT.

The amendment to §405.104 would add subsection (f) to prohibit the use of regressive, or depatterning, ECT; it would also indicate that the use of multiple-monitored ECT requires consultation with another board-certified psychiatrist with training and experience in the use of ECT. The new sections would replace existing sections. The main difference between sections proposed as new and sections proposed for repeal (see September 17, 1993, issue of *Texas Register*) are that the proposed new sections do not provide specific requirements and procedures but directly reference the guidelines of the American Psychiatric Association.

Leilani Rose, director, Office of Financial Services, has determined that there are no significant fiscal implications to state or local government as a result of administering the sections as proposed. There is no anticipated local economic impact.

William Reid, M.D., M.P.H., medical director, has determined the public benefit is the adoption of rules that update standards of care. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the sections as proposed.

Written comments on the proposal may be submitted to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

The amendment and new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

*§405.104. General Requirements.*

(a) Only a physician licensed to practice medicine in Texas may administer ECT and a physician may not delegate the act of administering the therapy. A nonphysician who administers ECT is considered to be practicing medicine in violation of the Medical Practice Act, Texas Civil Statutes, Article 4495b.

(b) No person under the age of 16 shall receive ECT.

(c) Prior to receiving ECT, every patient, voluntary or involuntary, competent or incompetent, shall be given full explanation of ECT consistent with the definition of ECT in §405.103 of this title (relating to definitions) and meeting the requirements of §405.108 of this title (relating to informed consent to electroconvulsive therapy).

(d) If any patient, without regard to competency, objects to ECT and there is an alternative method of treatment (that is not contraindicated and which has a reasonable potential for success) to which the patient does not object, the alternative method shall be considered and, if mutually acceptable to the patient or the guardian of the person of the patient and the treating physician, shall be used. It is not to be inferred, however, that ECT should be held as a treatment of "last resort." Full documentation of the factors considered in arriving at the decision to use ECT, the consent process, the treatment procedures, and patient response to treatment shall be entered into the patient's permanent medical record.

(e) The use of ECT for punishment, solely for control of behavior, for convenience of staff, in order to make patients more compliant, and the use of ECT in a discriminatory or abusive manner are explicitly prohibited.

(f) Consistent with prevailing standards of practice, and based on evidence of unacceptably high risks and hazards as reflected in biomedical literature, "regressive," or "depatterning" ECT is prohibited.

(g) A second opinion from a fully trained psychiatrist experienced in ECT is required before offering or providing multiple-monitored ECT. The opinion must be documented in the patient's medical record. When this technique is proposed, it is required that information describing the differences in benefits and risks of multiple-monitored ECT, compared to conventional ECT, be provided and documented as part of the informed

consent process.

*§405.105. Indications and Contraindications.*

(a) The department adopts as the reference of choice the guidelines of the American Psychiatric Association (APA), The Practice of Electroconvulsive Therapy, for indications and contraindications to ECT.

(b) Considerations relative to indications for use of ECT include APA recommendations and rationale for:

(1) when a referral for ECT should be made, both for primary and secondary use;

(2) major diagnostic indications, including:

(A) major depression;

(B) mania; and

(C) schizophrenia and other functional psychoses;

(3) other diagnostic indications, including:

(A) mental disorders;

(B) organic mental syndromes; and

(C) medical disorders.

(c) Considerations relative to contraindications to the therapeutic use of ECT include APA recommendations and rationale for:

(1) contraindications, and

(2) situations associated with substantial risk

*§405.106 Medical Evaluation Required Prior to a Course of ECT.*

(a) The department adopts as the reference of choice the guidelines of the American Psychiatric Association (APA), The Practice of Electroconvulsive Therapy, for medical evaluation required prior to a course of ECT

(b) Considerations relative to medical evaluation prior to ECT include the APA recommendations and rationale for

(1) a series of ECT treatments  
Considerations include.

(A) psychiatric history and evaluation,

(B) medical evaluation to determine risk factors;

(C) anesthetic evaluation;

(D) informed consent; and

(E) evaluation by the physician conducting ECT; and

(2) maintenance ECT. Considerations include the type of evaluations to be conducted:

(A) prior to treatment;

(B) at least every three months;

(C) at least every three treatments,

(D) at least every six months; and

(E) at least yearly.

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 November 19, 1993

TRD-9332425

Ann K Utley  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: December 27, 1993

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

◆ ◆ ◆  
**TITLE 28. INSURANCE**  
**Part I. Texas Department**  
**of Insurance**

**Chapter 3. Life, Accident and**  
**Health Insurance and**  
**Annuities**

**Subchapter V. Order of Bene-**  
**fit Determination for Insured**  
**Dependent Children in a**  
**Coordination of Benefits**  
**Provision**

• **28 TAC §3.3501, §3.3502**

*(Editor's note The text of the following sections proposed for repeal will not be published The sections may be examined in the offices of the Texas Department of Insurance or in the Texas Register office, Room 245, James Earl Rudder*

Building, 1019 Brazos Street, Austin.)

The State Board and Commissioner of Insurance propose the repeal of §§ 3501 and §3.3502, concerning Order of Benefit Determination for Insured Dependent Children in a Coordination of Benefits Provision, in order to allow for the authorization of publication of a new Subchapter V, Group Coordination of Benefits, §3.3501, et seq, which will include the order of benefit determination for dependent children, as well as other rules concerning coordination of benefits. The proposed new §3.3501, et seq are found in the Proposed Sections of this issue of the *Texas Register*. The repealed sections will remain in effect for the purpose of their applicability to policies issued prior to January 15, 1994.

Rhonda Myron, deputy commissioner, life/health, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule, and there will be no effect on local employment or the local economy. There is no anticipated loss or increase in revenue to state or local government as a result of the sections.

Ms. Myron also has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections is the benefit of allowing the publication of a new Subchapter V, Group Coordination of Benefits. There will be no effect on small businesses. There are no anticipated economic costs of this repeal.

Comments on the proposed repeal must be submitted in writing within 30 days after publication of the proposed repeal in the *Texas Register* in order to be considered by the State Board and Commissioner of Insurance. Comments should be submitted to Linda von Quintus-Dorn, Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Rhonda Myron, Deputy Commissioner, Life/Health, Mail Code 106-1A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104.

The repeals are proposed under the Insurance Code, Articles 3.42, 26.08, and 1.03A, and §1.23 of House Bill 1461, 73rd Legislature, Regular Session. Insurance Code, Article 3.42 contains filing requirements for policies, contracts, certificates and forms subject to that statute and specifically authorizes the board to adopt reasonable rules and regulations as necessary to implement and accomplish the provisions of that statute. Article 3.42(i) requires that any coordination of benefits provisions approved for use in this state must provide for the order of benefit determination for insured dependent children. The sections to be repealed contained that order of benefit determination and the new sections proposed to replace these existing sections will also contain that order of benefit determination. Article 26.08 provides that small employer health benefit plan coordination of benefit provisions must follow guidelines established by the commissioner. The repeal of these rules is necessary, in part, to allow for the publication of those guidelines in the new

proposed sections. Insurance Code, Article 1.03A contains the requirements for rules of general application and §1.23 of House Bill 1461 authorizes the promulgation and approval of rules relating to rates, policy forms and endorsements by the State Board of Insurance.

Statutes affected by this rule are Insurance Code, Article 3.42, -§3. 3501; Insurance Code, Article 3.42, -§3.3502.

§3.3501. *Purpose, Scope and Effective Dates.*

§3.3502. *Determination of Order of Benefits.*

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 November 19, 1993.

TRD-9332419

Linda K von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Earliest possible date of adoption December 27, 1993.

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

## Subchapter V. Group Coordination of Benefits

### • 28 TAC §§3.3501-3.3511

The State Board and Commissioner of Insurance propose new §§3.3501-3 3511, concerning group coordination of benefits. Section 3.3501 sets out the purpose and applicability of these sections, which permit but do not require coordination of benefits provisions, and, among other things, establish an order in which claims are paid when coordination of benefits provisions are used. Section 3.3502 identifies and incorporates Form COB TX, Coordination of Benefits, which is filed with the Office of the Secretary of State, Texas Register Section, and which can be obtained from the Texas Department of Insurance, Publications Department, MC 108-5A, P.O. Box 149104, Austin, Texas 78714-9104. Section 3.3503 contains the definitions of terms used in this section. Section 3.3504 describes the way in which allowable expenses are to be defined and used in plans with coordination of benefits provisions, and §3.3505 describes the way in which the claim determination period is to be defined and used in coordination of benefits provisions. Section 3.3506 describes the way in which the terms "plan," "primary plan," "secondary plan," and "this plan" are to be used in coordination of benefits provisions. Section 3.3507 describes the prototype COB contract provisions contained in Form COB TX, and allows for use of other provisions in accordance with that section. Section 3.3507 also describes prohibited provisions. Section 3.3508 sets out the rules for coordination of benefits and or-

der of benefits and §3.3509 sets out the procedures to be followed in connection with secondary plans in coordination of benefits provisions. Section 3.3510 sets out miscellaneous provisions. Among other things, that section describes requirements for including benefits in the form of services under a secondary plan, excess and other nonconforming provisions, the use of the terms "usual and prevailing," "reasonable and customary," "medical care," "dental care," "health care," and "necessary, reasonable and customary." Section 3.3510 also discusses subrogation. Section 3.3511 sets out the effective date, compliance by existing contracts, and continuation of prior sections which are applicable to policies delivered, issued for delivery or renewed prior to the effective date of the sections.

Rhonda Myron, deputy commissioner, life/health, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule, and there will be no effect on local employment or the local economy.

Ms. Myron also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the benefit of providing increased uniformity in the area of coordination of benefits. Based upon the cost per hour of labor, the cost of compliance for small businesses affected by the proposed sections will be the same as the cost of compliance for the largest businesses. There are anticipated to be few economic costs to most insurers required to comply with these provisions because these sections are based upon existing industry-wide practices. The anticipated economic costs to insurers who may need to make minor adjustments to bring provisions into compliance with these sections and for those insurers writing policies not previously subject to coordination of benefits, is \$10 to \$200,000 for each of the first five years the sections are in effect, depending upon the nature of adjustments needed.

Comments on the proposal must be submitted in writing within 30 days after publication of the sections in the *Texas Register*, in order to be considered by the State Board and Commissioner of Insurance. Comments should be submitted to Linda von Quintus-Dorn, Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Rhonda Myron, Deputy Commissioner, Life/Health, Mail Code 106-1A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104.

The new sections are proposed under the Insurance Code, Articles 3.42, 26.08, 1.03A; and §1.23 of House Bill 1461, 73rd Legislature, Regular Session. Insurance Code, Article 3.42 contains filing requirements for policies, contracts, certificates and forms subject to that statute and specifically authorizes the board to adopt reasonable rules and regulations as necessary to implement and accomplish the provisions of that statute. Article 3.42(i) requires that any coordination of bene-

fits provisions approved for use in this state must provide for the order of benefit determination for insured dependent children. These sections include the required order of benefit determination for insured dependent children. Article 26.08 provides that small employer health benefit plan coordination of benefit provisions must follow guidelines established by the commissioner. Insurance Code Article 1.03A contains the requirements for rules of general application and §1.23 of House Bill 1461 authorizes the promulgation and approval of rules relating to rates, policy forms and endorsements by the State Board of Insurance.

Statutes affected by this rule are as follows: Insurance Code, Article 3.42, Article 26.08--§§3.3501-3.3511.

### §3.3501. Purpose and Applicability.

(a) The purpose of this regulation is to:

(1) permit, but not require, insurers to include a coordination of benefits (COB) provision in their plans;

(2) establish an order in which plans pay their claims;

(3) provide the authority for the orderly transfer of information needed to pay claims promptly;

(4) reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan, pursuant to rules established by this regulation, does not have to pay its benefits first;

(5) reduce claims payment delays; and

(6) make all contracts that contain a coordination of benefits provision consistent with this regulation.

(b) This subchapter applies to group health coverage. It also applies to group-type health contracts described in §3.3506 of this title (relating to Use of the Terms "Plan", "Primary Plan", "Secondary Plan" and "This Plan" in Policies, Certificates and Contracts).

§3.3502. *Identification of Form.* Form COB TX is filed with the Office of the Secretary of State, Texas Register Section and adopted and incorporated in these rules by reference. It can be obtained from the Texas Department of Insurance, Publications Department, MC 108-5A, P.O. Box 149104, Austin, Texas 78714-9104. Form COB TX is the prototype form for coordination of benefits.

§3.3503. *Definitions.* The following words and terms, when used in this regulation, shall have the following meanings, unless the context clearly indicates otherwise.

**Allowable expense**—The necessary, reasonable and customary item of expense

for health care when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition.

**Claim**—A request that benefits be provided or paid. The benefits claimed may be in the form of services (including supplies); payment for all or a portion of the expenses incurred; a combination of services and payment of expenses; or an indemnification.

**Claim Determination Period**—The period of time, which must not be less than 12 consecutive months, over which allowable expenses are compared with total benefits payable in the absence of a coordination of benefits to determine whether overinsurance exists and how much each plan will pay or provide.

**Coordination of Benefits (COB)**—A provision establishing an order in which plans pay their claims.

**Group-type Contracts**—The contracts described in §3.3506 of this title (relating to Use of the Terms "Plan", "Primary Plan", "Secondary Plan" and "This Plan" in Policies, Certificates and Contracts).

**Hospital Indemnity Benefits**—Benefits not related to expenses incurred. This term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

**Insurer**—An entity authorized under the Insurance Code to provide group or group-type accident or health coverage, including an insurance company, a group hospital service corporation authorized under the Insurance Code, Chapter 20 or a stipulated premium company under the Insurance Code, Chapter 22.

**Plan**—A form of coverage with which coordination is allowed. Provisions relating to the proper use in policies of the terms "plan", "primary plan", "secondary plan" and "this plan" are found at §3.3506 of this title (relating to Use of the Terms "Plan", "Primary Plan", "Secondary Plan" and "This Plan" in Policies, Certificates and Contracts).

### §3.3504. Allowable Expenses.

(a) If an insurer chooses to include a coordination of benefits (COB) provision, allowable expense shall have the definition given in §3.3503 of this title (relating to Definitions).

(b) Notwithstanding the definition of "allowable expense", items of expense under coverages such as dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of "allowable expense." A plan which provides benefits only for any such items of expense may limit its definition of "allowable expenses" to like items of expense.

(c) When a plan provides benefits in the form of service, the reasonable cash value of each service will be considered as both an "allowable expense" and a benefit paid.

(d) The difference between the cost of a private hospital room and the cost of a semi-private hospital room is not considered an "allowable expense" under this section unless the covered person's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.

(e) When COB is restricted in its use to specific coverage in a contract (for example, major medical or dental), the definition of "allowable expense" must include the corresponding expenses or services to which COB applies.

(f) When benefits are reduced under a primary plan because a covered person does not comply with the plan provisions, the amount of such reduction will not be considered an "allowable expense." Examples of such provisions are those related to second surgical opinions or precertification of admissions or services.

(1) Only benefit reductions based upon provisions similar in purpose to those described in this subsection and which are contained in the primary plan may be excluded from "allowable expenses."

(2) This provision shall not be used by a secondary plan to refuse to pay benefits because an HMO member has elected to have health care services provided by a non-HMO provider and the HMO, pursuant to its contract, is not obligated to pay for providing those services.

(3) This section does not allow a secondary plan to exclude expenses that are applied towards the satisfaction of the deductible, copayments or coinsurance amounts required by the primary plan, except for the benefit reductions expressly described in this section.

§3.3505. *Claim Determination Period.* The claim determination period as described in §3.3503 of this title (relating to Definitions) may be used in a plan, with respect to coordination of benefits (COB), in accordance with the following paragraphs (1)-(2) of this subsection.

(1) The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during the claim determination period.

(2) As each claim is submitted, each plan is to determine its liability and

pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. That determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.

*§3.3506. Use of the Terms "Plan", "Primary Plan", "Secondary Plan" and "This Plan" in Policies, Certificates and Contracts.*

(a) As used in policies, certificates and contracts relating to coordination of benefits (COB), "plan" means a form of coverage with which coordination is allowed. The definition of "plan" in the group contract must state the types of coverage which will be considered in applying the COB provision of that contract. The right to include a type of coverage is limited by the rest of this section.

(1) The definition of "plan" in Form COB TX, which is adopted and incorporated by reference in this rule, is an example of what may be used. Any definition that satisfies this subsection may be used.

(2) This subchapter uses the term "plan." However, a group contract may, instead, use "program" or some other term.

(3) The term "plan" or any substitute for that term may include:

(A) group insurance and group subscriber contracts;

(B) uninsured arrangements of group or group-type coverage;

(C) group or group-type coverage through HMOs and other prepayment, group practice and individual practice plans;

(D) group-type contracts which are contracts that are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated (for example, "franchise" or "blanket").

(i) If the contract may not be renewed if the insured leaves the particular employer or organization, the contract would meet the definition of group-type coverage.

(ii) If the contract allows for renewal regardless of continued employment or participation in an organization, the contract would meet the definition of group-type coverage only until such time that the insured leaves the particular employer or organization.

(E) the amount by which group or group-type hospital indemnity benefits exceed \$100 per day;

(F) the medical benefits coverage in group, group-type and individual automobile "no fault" and traditional automobile "fault" type contracts; and

(G) Medicare or other governmental benefits, except as provided in paragraph (4)(G) of this subsection. That part of the definition of "plan" may be limited to the hospital, medical and surgical benefits of the governmental program.

(4) The term "plan" or any substitute for that term shall not include:

(A) individual or family insurance contracts;

(B) individual or family subscriber contracts;

(C) individual or family coverage through Health Maintenance Organizations (HMOs);

(D) individual or family coverage under other prepayment, group practice and individual practice plans;

(E) group or group-type hospital indemnity benefits of \$100 per day or less;

(F) school accident-type coverages which cover grammar, high school and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis; and

(G) a state plan under Medicaid;

(H) plans when, by law, their benefits are in excess of those of any private insurance plan or other non-governmental plan.

(b) When used in policies, certificates or contracts relating to COB, the term "primary plan" shall mean a plan whose benefits for a person's health care coverage

must be determined without taking the existence of any other plan into consideration. A plan is a "primary plan" if either of the following conditions is true:

(1) the plan either has no order of benefit determination rules, or it has rules which differ from those permitted by this subchapter. There may be more than one "primary plan"; or

(2) all plans which cover the person use the order of benefit determination rules required by this regulation, and under those rules the plan determines its benefits first.

(c) When used in policies, certificates or contracts relating to COB, the term "secondary plan" shall mean a plan which is not a "primary plan." If a person is covered by more than one "secondary plan", the order of benefit determination rules of these sections decide the order in which their benefits are determined in relation to each other. The benefits of each "secondary plan" may take into consideration the benefits of the "primary plan" or plans and the benefits of any other plan which, under the rules of this regulation, has its benefits determined before those of that "secondary plan."

(d) When used in policies, certificates or contracts relating to COB, the term "this plan" shall refer to the part of the group or group-type contract providing the health care benefits to which the COB provision applies and which may be reduced because of the benefits of other plans. Any other part of the group or group-type contract providing health care benefits is separate from the part referred to as "this plan." A group or group-type contract may apply one COB provision to certain of its benefits (such as dental benefits), coordinating only with like benefits, and may apply other separate COB provisions to coordinate other benefits

*§3.3507. Prototype COB Contract Provisions and Prohibited Provisions*

(a) Form COB TX incorporated by reference in these rules contains a prototype form of coordination of benefits provision for use in group or group-type contracts. The use of this prototype and its provisions is subject to the provisions of the following subsections (a)-(d) of this section and the provisions of §3.3508 of this title (relating to Rules for Coordination of Benefits and the Order of Benefits).

(b) A group or group-type contract's COB provision does not have to use the words and format shown in the prototype Form No. COB TX. Changes may be made to fit the language and style of the rest of the group or group-type contract or to reflect the difference among plans which

provide services, which pay benefits for expenses incurred, and which indemnify. No other substantive changes are allowed.

(c) A group or group-type contract may not reduce benefits on the basis that:

- (1) another plan exists;
- (2) a person is or could have been covered under another plan; or
- (3) a person has elected an option under another plan providing a lower level of benefits than another option which could have been elected.

(d) No contract may contain a provision that its benefits are "excess" or "always secondary" to any plan as defined in this regulation, except in accord with the rules permitted by this regulation.

### §3.3508. Rules for Coordination of Benefits and Order of Benefits.

(a) The general order of benefits is as follows.

(1) The primary plan must pay or provide its benefits as if the secondary plan or plans did not exist. A plan that does not include a coordination of benefits provision may not take the benefits of another plan as described in §3.3506 of this title (relating to the Use of the Terms "Plan", "Primary Plan", "Secondary Plan" and "This Plan" in Policies, Certificates and Contracts) into account when it determines its benefits. There is one exception. A contract holder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder.

(2) A secondary plan may take the benefits of another plan into account only when, under this subchapter, it is secondary to that other plan.

(b) In determining the order of benefit, the insurer must use the first of the following rules which applies.

(1) With respect to categories of non-dependent as related to dependent coverage, the benefits of the plan which covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent. There is one exception. If the person is also a Medicare beneficiary, and as a result of the rule established by Title XVIII of the Social Security Act and implementing regulations, Medicare is secondary to the plan covering the person as a dependent and primary to the plan covering the person as other than a dependent (e.g. a retired employee), then the benefits of the plan covering the person as a dependent are determined before those of the plan cover-

ing that person as other than a dependent.

(2) With respect to a dependent child whose parents are not separated or divorced, the benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year. If both parents have the same birthday, the benefits of the plan which covered the parent longer are determined before those of the plan which covered the other parent for a shorter period of time. As used in this paragraph, the word "birthday" refers only to month and day in a calendar year, not the year in which the person was born. If the plan does not have the rule based upon the parent's birthday, but instead has a rule based upon the gender of the parent; and if, as a result, the plans do not agree on the order of benefits, the rule based upon gender of the parent will determine the order of benefits.

(3) With respect to a dependent child whose parents are separated or divorced, where two or more plans cover the child, benefits for the child are determined in this order:

(A) first, the plan of the parent with custody of the child;

(B) then, the plan of the spouse of the parent with the custody of the child; and

(C) finally, the plan of the parent not having custody of the child.

(D) if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the secondary plan. This paragraph does not apply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge;

(E) if the specific terms of the court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child shall follow the order of benefit determination rules outlined in paragraph (2) of this subsection.

(4) With respect to active as related to inactive employees, the benefits shall be determined in the following order. The benefits of a plan which covers a person as an employee who is neither laid off

nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule; and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(5) With respect to continuation coverage, if a person whose coverage is provided under a right of continuation pursuant to federal or state law also is covered under another plan, the following shall be the order of benefit determination:

(A) first, the benefits of a plan covering the person as an employee, member or subscriber (or as that person's dependent);

(B) second, the benefits under the continuation coverage.

(C) if the other plan does not have the rule described in subparagraphs (A) and (B) of this paragraph, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

(6) Where none of the rules determine the order of benefits, the benefits of the plan which covered an employee, member, or subscriber longer are determined before those of the plan which covered that person for the shorter term.

(A) To determine the length of time a person has been covered under a plan, two plans shall be treated as one if the claimant was eligible under the second within 24 after the first ended.

(B) The start of a new plan does not include:

(i) a change in the amount or scope of a plan's benefits;

(ii) a change in the entity which pays, provides or administers the plan's benefits; or

(iii) a change from one type of plan to another (such as, from a single employer plan to that of a multiple employer plan).

(C) The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group shall be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.



**§3.3509. Procedure To Be Followed by Secondary Plan.**

(a) When it is determined, pursuant to §3.3508 of this title (relating to Rules for Coordination of Benefits and Order of Benefits), that this plan is a secondary plan, it may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced shall be used by the secondary plan to pay allowable expenses, not otherwise paid, which were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for allowable expenses based on all claims which were submitted up to that point in time during the claim determination period.

(b) The benefits of the secondary plan will be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of this COB provision and the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made, exceeds those allowable expenses in a claim determination period. In that case, the benefits of the secondary plan will be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

(1) When the benefits of this plan are reduced as described in this subsection, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

(2) Paragraph (1) of this subsection may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided

**§3.3510. Miscellaneous Provisions.**

(a) A secondary plan which provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services.

(b) This subsection concerns excess and other nonconforming provisions.

(1) Some plans have order of benefit determination rules not consistent with this subchapter which declare that the plan's coverage is "excess" to all others, or

"always secondary." This occurs because certain plans may not be subject to insurance regulation, or because some group or group-type contracts have not yet been conformed with this subsection.

(2) A plan with order of benefit determination rules which comply with this subchapter (complying plan) may coordinate its benefits with a plan which is "excess" or "always secondary" or which uses order of benefit determination rules which are inconsistent with those contained in this regulation (noncomplying plan) on the following basis.

(A) If the complying plan is the primary plan, it shall pay or provide its benefits on a primary basis.

(B) If the complying plan is the secondary plan, it shall, nevertheless, pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, such payment shall be the limit of the complying plan's liability.

(C) If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay its benefits accordingly. However, the complying plan must adjust any payments it makes based on such assumption whenever information becomes available as to the actual benefits of the noncomplying plan

(3) If the noncomplying plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than he or she would have received had the coordination of benefits occurred in compliance with the provisions of this subchapter, then the complying plan shall advance to or on behalf of the employee, subscriber or member an amount equal to such difference. However, in no event shall the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid. In consideration of such advance, the complying plan shall be subrogated to all rights of the employee, subscriber or member against the noncomplying plan, in accordance with applicable subrogation provisions. Such advance by the complying plan shall also be without prejudice to any claim it may have against the noncomplying plan in the absence of such subrogation.

(c) With respect to allowable expenses, a term such as "usual and customary," "usual and prevailing," or "reasonable

and customary," may be substituted for the term "necessary, reasonable and customary." Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the COB provisions apply.

(d) The COB concept clearly differs from that of subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

**§3.3511. Effective Date; Compliance by Existing Contracts.**

(a) This subchapter is applicable to every group or group-type contract which provides health care benefits and which is issued on or after January 15, 1994

(b) A group or group-type contract which provides health care benefits and was issued before the effective date of this subchapter shall be brought into compliance with this subchapter on the next anniversary date or renewal date of the group contract, or the expiration of any applicable collective bargaining contract pursuant to which it was written

(c) A group contract that was delivered, issued for delivery, or renewed before the effective date of this subchapter is governed by the law including the prior regulations which were found at §3.3501 and §3.3502 of this title (relating to the Order of Benefit Determination for Insured Dependent Children in a Coordination of Benefits Provision) in effect immediately before the effective date of this subchapter, and that law is continued in effect for this purpose.

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 November 19, 1993

TRD-9332418

Linda K von Quintus-Dom  
Chief Clerk  
Texas Department of  
Insurance

Earliest possible date of adoption December 27, 1993

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

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**Chapter 5. Property and Casualty**

**Subchapter O. Flexible Rating Program for Certain Insurance Lines**

**• 28 TAC §5.11000**

The State Board of Insurance of the Texas Department of Insurance and the Commis-

sioner of Insurance propose new §5.11000, concerning the definition of the term "small and medium-sized insurers" as that terminology is used in the Insurance Code, Article 5.101 §3(c). Section 3(c) of Article 5.101 was amended by House Bill 1461, as enacted by the 73rd Texas Legislature, to provide that a trade association that does not collect historical data and that does not provide statistical plans, prospective loss costs, or supplementary rating information to its members may, on behalf of its members that are small and medium sized insurers, as defined by the Commissioner of Insurance, present rate making data and make recommendations to the State Board of Insurance at benchmark rate hearings. The proposed new section in subsection (a) outlines the purpose of the section; subsection (b) defines what constitutes small and medium-sized insurers based on the total annual direct written premiums for all states in which the insurer transacts the business of property and casualty insurance, and subsection (c) defines lines of property and casualty insurance for purposes of determining the total annual direct written premiums.

Lyndon Anderson, associate commissioner, property and casualty program, has determined that for the first five-year period the section is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or local economy

Mr. Anderson also has determined that for each year for the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is the assurance that presentation of rate making data and recommendations at benchmark rate hearings by trade associations on behalf of small and medium-sized insurers will be allowed only for those insurers that cannot otherwise participate in the hearings because of costs associated with these presentations; and that the determination of what constitutes small and medium-sized insurers is based on a fair and reasonable definition established by the Commissioner of Insurance. As a result, a broader spectrum of insurers will be able to participate in the benchmark-flex rating hearings process. There will be no effect on small businesses. Any possible costs to persons required to comply with this proposed section are the result of legislation enacted by the 73rd Texas Legislature and not as a result of this section.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property Casualty Program, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to the Insurance Code, Articles 5.101, 5.98, and

1.03A, §123 of House Bill 1461, and the Government Code, §2001.004 et seq. Article 5.101, §3(c) authorizes the Commissioner of Insurance to define small and medium-sized insurers on whose behalf a trade association that does not collect historical data and that does not provide statistical plans, prospective loss costs, or supplementary rating information to its members may present rate making data and make recommendations to the State Board of Insurance at a benchmark rate hearing. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code (Rating and Policy Forms). New Article 1.03A, as enacted in House Bill 1461, provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. Section 1.23 of House Bill 1461 (Act of May 27, 1993, 73rd Legislative, Regular Session, Chapter 685, 1993 Texas Session Law Service 2575 (Vernon)) provides that on September 1, 1993, the State Board of Insurance shall relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and hearings, proceedings, and rules related to these activities; such authority shall be exercised by the Board until no later than September 1, 1994. The Government Code §2001.004 et seq. (Administrative Procedure Act, 73rd Legislative, Regular Session, Chapter 268, §1, 1993 Texas General Laws 737) authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption for rules by a state agency.

The following articles are affected by this rule: Insurance Code, Article 5.101.

*§5.11000. Definition of Small and Medium-Sized Insurers as Referenced in the Insurance Code, Article 5.101.*

(a) Purpose. The purpose of this section is to define the term "small and medium-sized insurers" as that terminology is used in the Insurance Code, Article 5.101 §3(c), relating to the Flexible Rating Program for Certain Insurance Lines, with regard to presentation of rate making data and recommendations at benchmark rate hearings by a trade association on behalf of its members that are small and medium-sized insurers.

(b) What Constitutes a Small and Medium-Sized Insurer. A small and medium-sized insurer is any individual insurer subject to the Insurance Code, Article 5.101, with total annual direct written premiums for all states in which the insurer transacts the business of property and casualty insurance of less than \$50 million for all lines of property and casualty insurance for that insurer. Such insurer, however,

shall not qualify as a small or medium-sized insurer if the insurer is an affiliate of another insurer with total annual direct written premiums for all states in which the insurer transacts the business of property and casualty insurance of more than \$50 million for all lines of property and casualty insurance. For purposes of this section, the term "affiliate" is defined in accordance with the Insurance Code, Article 21.49-1, §2.

(c) Definition of Lines of Property and Casualty Insurance. "Lines of property and casualty insurance" means those lines of business for which financial data for direct business was reported by the insurer, including any line written in by the insurer, in the Fire and Casualty Annual Statement Form 2, Part 2B--Premiums Written, page 8, Underwriting and Investment Exhibit, or any duly promulgated equivalent page, most recently filed by the insurer with the Texas Department of Insurance.

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 November 22, 1993.

TRD-9332472 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Earliest possible date of adoption: December 27, 1993

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

## Chapter 5. Property and Casualty

### Subchapter E. Texas Catastrophe Property Insurance Association Building Code Advisory Committee

#### • 28 TAC §5.4002

The Texas Department of Insurance proposes new 28 TAC §5.4002, concerning the Building Code Advisory Committee, which is appointed pursuant to the Insurance Code, Article 21.49, §6A(f), to advise and make recommendations to the Commissioner of Insurance on building specifications in the plan of operation of the Texas Catastrophe Property Insurance Association (TCPPIA), as set forth in §5.4001 of this title. Proposed pursuant to Texas Civil Statutes, Article 6252-33, which governs State Agency Advisory Committees, the new section is necessary to specify the purpose, task, reporting requirements, membership composition, and duration of the Building Code Advisory Committee. Enacted by the 73rd Texas Legislature in Senate Bill 383, Article 6252-33, requires a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the

committee, and the manner in which the committee will report to the agency. Article 6252-33, §1, defines "advisory committee" to mean a committee, council, commission, task force, or other entity in the executive branch of state government that is not a state agency, is created by or under state law, and has as its primary function the advising of a state agency.

Lyndon Anderson, associate commissioner, property and casualty program, has determined that for each year of the first five years the proposed section will be in effect, any fiscal implications to state government are the result of the legislative enactment of the Insurance Code, Article 21.49, §6A(f), and are not as a result of the adoption and implementation of this section.

Mr. Anderson also has determined that for each year of the first five years the proposed section will be in effect, there will be no fiscal implications to local government nor to small business as a result of enforcing or administering the section, and there will be no effect on local employment or local economy.

Mr. Anderson has determined that for each year for the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section is development of sound and reasonable building code requirements along the Texas seacoast by knowledgeable individuals of the building and professional trades, local government, and consumers affected by changes in building construction standards, which will promote long-term reductions in property losses for residents of the 14 first tier coastal counties who are provided windstorm and hail insurance through the TCPIA, and will also promote future availability of insurance in the coastal area. There will be no economic costs to any persons required to comply with the proposed section.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-8104. An additional copy of the comment is to be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Program, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to Texas Civil Statutes, Article 6252-33, the Insurance Code, Articles 21.49, 1.03A, and 1.04C, and the Government Code, 2001.004 et seq Texas Civil Statutes, Article 6252-33, §5, requires a state agency that is advised by an advisory committee to adopt rules stating the purpose of the committee, the tasks of the committee, and the manner in which the committee will report to the agency. The Insurance Code, Article 21.49, §6A(f), provides that the Commissioner of Insurance shall appoint an advisory committee to advise and make recommendations on building specifications in the plan of operation of the Texas Catastrophe Property Insurance Association. Article 21.49, §6A(f), by its terms delegates

appointment authority to the State Board of Insurance; however, this authority is interpreted to be delegated to the Commissioner of Insurance under the Insurance Code, Article 1.02 as amended by the 73rd Texas Legislature in House Bill 1461, which provides that a reference in the Insurance Code or another insurance law to the State Board of Insurance means the Commissioner of Insurance or the Texas Department of Insurance, as consistent with the respective powers and duties of the Commissioner and the Department under Article 1.02; and under §1.23 of House Bill 1461, as enacted by the 73rd Texas Legislature, which provides that as of September 1, 1993, the Commissioner of Insurance shall assume authority over any area of activity of the Texas Department of Insurance not subject to the authority of the State Board of Insurance. Section 1.23 provides that on September 1, 1993, the Board shall relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and hearings, proceedings, and rules related to these activities; such authority shall be exercised by the Board until no later than September 1, 1994. New Article 1.03A, as enacted in House Bill 1461, provides that the Commissioner of Insurance may adopt rules and regulations, which must be for general and uniform application, for the conduct and execution of the duties and functions of the Texas Department of Insurance only as authorized by a statute. New Article 1.04C of the Insurance Code, as enacted in House Bill 1461, requires the Commissioner of Insurance to develop and implement policies that provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the Commissioner's jurisdiction. The Government Code §2001.004 et seq. (Administrative Procedure Act) authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption for rules by a state agency.

CROSS REFERENCE TO STATUTE. The following statutes are affected by this rule Insurance Code, Article 21.49, Texas Civil Statutes, Article 6252-33

#### §5.4002 Building Code Advisory Committee

(a) Purpose and Scope of this Section. Adopted pursuant to Texas Civil Statutes, Article 6252-33, which governs State Agency Advisory Committees, the purpose of this section is to specify the purpose, task, reporting requirements, membership composition, and duration of the Building Code Advisory Committee, which operates pursuant to the Insurance Code, Article 21.49, §6A(f)

(b) Purpose of the Advisory Committee. The purpose of the Building Code Advisory Committee is to advise and make recommendations to the Commissioner of Insurance on building specifications in the plan of operation of the Texas Catastrophe

Property Insurance Association (TCPIA) as set forth in §5.4001 of this title.

(c) Tasks. The tasks of the Advisory Committee are determined by the Commissioner of Insurance and include the writing, revising, updating, and otherwise advising the Commissioner on building specifications in the TCPIA plan of operation for residents of the 14 first tier counties who are provided windstorm and hail insurance through the TCPIA. These 14 counties are: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio and Willacy Counties. The Advisory Committee also assists the Texas Department of Insurance staff in informing interested groups about any proposed building code revisions for the purpose of soliciting their comments prior to adoption of the revisions.

(d) Reporting Requirements. The Advisory Committee will provide written progress reports quarterly to the Commissioner of Insurance. The first such report shall be made during January 1994, and subsequent reports for 1994 and the following years shall be made during the months of March, June, September, and December.

(e) Membership. Appointed by the Commissioner of Insurance, the Advisory Committee is composed of thirteen members: six members of the public, two representatives of municipal building officials in the catastrophe area, one representative of the TCPIA, one representative of the residential building industry in the catastrophe area, a registered professional engineer who is a resident of the catastrophe area with knowledge of building codes, a county commissioner or county judge, and a representative of the Commissioner of Insurance. Other members may be appointed to the Advisory Committee as may be deemed appropriate by the Commissioner.

(f) Duration. Pursuant to the Insurance Code, Article 21.49, §6A(f), the members appointed to the Advisory Committee shall continue to serve on the Committee at the discretion of the Commissioner of Insurance. Upon the completion of any project or task, the Commissioner may terminate the Committee in its entirety or may continue the Committee or appoint a new Committee as needed. Any appointee resigning from the Committee shall be replaced by the Commissioner with another appointee representing the same constituency as the resigning appointee.

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 November 22, 1993.

Earliest possible date of adoption: December 27, 1993.

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

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 330. Municipal Solid Waste

##### Subchapter A. General Information

###### • 30 TAC §330.4

The Texas Natural Resource Conservation Commission (TNRCC) proposes an amendment to §330.4(d), concerning municipal solid waste management. The amended section will apply to the municipal solid waste rules which were published in the June 18, 1993, issue of the *Texas Register* (18 TexReg 4030).

The proposed changes are in response to House Bill 2043, Regular Session, 73rd Legislature (1993). On May 30, 1993, House Bill 2043 was passed by the Legislature and became effective June 20, 1993. The bill exempts certain municipal solid waste management facilities involved in the transfer of municipal solid waste from TNRCC municipal solid waste permit requirements. In order to qualify for one of the delineated exemptions, the facility must comply with design and operational requirements established by the TNRCC and must hold a public meeting regarding the siting of the facility in the municipality or county where the facility is to be located.

Section 330.4(d) relating to permit requirement is proposed to be amended and replaced with new language which states that a permit is not required for a municipal solid waste management facility that is used in the transfer of municipal solid waste from one of the following: a municipality with a population of less than 50,000; a county with a population of less than 85,000, a facility used in the transfer of municipal solid waste that will transfer 125 tons per day or less. House Bill 2043 also provides certain exemptions for material recovery facilities, which will be the subject of a separate rulemaking. The TNRCC will register those facilities which the executive director determines have met the operation and design requirements in §330.65.

Stephen Minick, division of budget and planning, has determined that for the first five years this section is in effect there will be fiscal implications as a result of administration and enforcement of the section. The

costs to the state of processing municipal solid waste permits will be reduced. The actual savings are prospective and cannot be determined at this time but will be reflected by the number of registrations for transfer stations sought by local governments. Cost savings will potentially be realized by local governments of between 5,000 and 85,000 in population. These savings also cannot be estimated but will depend on the individual circumstances in each jurisdiction and the potential savings from avoiding the costs of permit application and approval. No impacts are anticipated to small businesses.

Mr. Minick also has determined that for the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcement of and compliance with the section will be improvements in the management and control of municipal solid waste, the processing of municipal solid waste permits and compliance with commission rules relating to municipal solid waste. There are no known costs to individuals required to comply with the section as proposed.

Comments on the proposal may be submitted to Ronald L. Bond, P.E., Director, Municipal Solid Waste Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted for a period of 30 days following the date of this publication. A public hearing to receive comments has also been scheduled for December 6, 1993, at 1:30 p.m. in Room 563 of Building E, 12015 IH-35 North, Austin.

The amended section is proposed under the authority of the Texas Water Code (Vernon 1992), §5.103, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and under House Bill 2043, as passed by the 73rd Legislature. Additionally, they are promulgated pursuant to the Texas Solid Waste Disposal Act §361.024, (the Act), Texas Health and Safety Code (Vernon 1992), which provides the Texas Natural Resource Conservation Commission with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management and control of solid waste under its jurisdiction.

###### §330.4 Permit Required

(a)-(c) (No change)

(d) A permit is not required for a municipal solid waste transfer station facility that is used in the transfer of municipal solid waste to a solid waste processing or disposal facility from:

- (1) a municipality with a population of less than 50,000;
- (2) a county with a population of less than 85,000; or
- (3) a facility used in the transfer of municipal solid waste that will transfer 125 tons per day or less. [provides service for an area of less than 5,000

persons or population equivalent as determined by the most recent federal decennial census.] Facilities exempted from a permit under this subsection shall be registered with the executive director in accordance with §330.65 of this title (relating to Requirements of an Application for Registration of Solid Waste Facilities (Type V)). Failure to operate such registered facilities in accordance with the requirements established in §§330.150-330.159 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites) may be grounds for revocation of the registration.

(e)-(o) (No change.)

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

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Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

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## Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

The Texas Natural Resource Conservation Commission proposes amendments to §§335.9, 335.13, 335.15, and 335.71, concerning summary reporting. These sections are amended to clarify reporting requirements, encourage correct, complete, and timely reporting of required waste management information from the regulated community and align state reporting requirements with Federal requirements. Furthermore, penalties may be assessed for incomplete, incorrect, or late reports. A Total Quality Management Quality Action Team study found over 50% of the summary forms submitted contain errors. Resolving these errors requires a substantial amount of staff resources and creates a delay in processing the summary forms. This modification is intended to clarify that it is the responsibility of the reporting community to submit correct and complete summaries by the due dates. No additional reporting requirements are being added.

References to specific information required on summaries have been deleted. The proposed rule requires that summary information be provided in a format provided or approved by the executive director.

Language stating that summaries should be complete, correct, and submitted by their due dates has been added.

Section 335.71(C) was moved to §335.13(g)

The requirement remains unchanged.

Section 335.71 has been changed to contain only federal biennial report requirements.

To simplify the reporting of unmanifested waste, it will now be reported on the Monthly Waste Receipt Summary in addition to the manifested waste. In the past, unmanifested waste was reported by submitting a separate letter. A reference number assigned by the receiver (invoice number, bill of lading number, etc) will be used as the manifest number on the summary.

System Type Codes will be replacing Handling Type Codes. Units of measure will be restricted to pounds, kilograms, and tons.

A summary is considered incorrect if it is incomplete and/or contains discrepancies and/or errors. A letter requesting corrections will be sent to the reporting facility for the first two summaries found to be incorrect. The third incorrect summary will result in a letter requesting corrections accompanied by a warning letter. The fourth and subsequent incorrect summaries will result in a letter requesting corrections and a financial penalty.

In an effort to support and encourage electronic reporting, summaries submitted using electronic reporting systems which incorporate Commission edit checks will not be subject to most penalties. Electronic reports in which incorrect information is submitted (example—wrong Commission solid waste registration number) or required information is omitted (example—a shipment is not included on the summary that should have been) may be subject to some penalties

All reporters, including electronic reporters, are subject to penalties for late reporting and failure to report. For summaries which are mailed, a postmark date shall be considered the submittal date. However, reporters submitting late summaries or supplemental summaries prior to written notification by the commission will not be penalized for late reporting. Penalties may be reduced, modified, waived, and/or deferred by the executive director. Fines for incorrect reporting are based on the number of incorrect summaries submitted, not on the individual errors on each summary. However, no fine shall result in a penalty greater than \$10,000 per day.

This proposed rule does not increase the regulated community's reporting requirements. It is the responsibility of the facility to submit a correct, accurate and timely summary. In order to assist the community with meeting their reporting requirements the TNRCC will offer detailed instructions on filing correct summaries. The TNRCC will continue to provide training at the trade fairs and seminars conducted throughout the state. More extensive hands-on training is currently being offered by the Industrial and Hazardous Waste Division. In addition, the commission will make electronic reporting available to generators and receivers of hazardous and nonhazardous industrial waste.

Stephen Minick, office of budget and planning, has determined that for the first five-year period the sections will be in effect, there could be direct fiscal implications for state, local government, or small businesses as a

result of enforcing or administering the sections. If a state agency, local government, or small business submits repeated incorrect, incomplete, or late reports, a monetary penalty could be assessed. The executive director will have the ability to waive such a penalty.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public will benefit anticipated as a result of enforcing the sections there will be increased environmental protection through more accurate and timely information on the management of hazardous and solid wastes in the state; a more accurate Biennial Report and capacity assurance plan (as required by the United States Environmental Protection Agency); and a more accurate assessment of state need for management capacity (as required by state statute). More accurate fee billing for fee fund 549 will also be a realized benefit which will save resources for both the affected community and the state. Also foresees an increase in the use of electronic reporting in order to comply with the requirement to report in a correct, complete, and timely manner. Finally, Mr. Minick has determined that wider use of electronic reporting will save the state at least \$30,000 per year in temporary personnel and have additional cost savings realized by the increased efficiency of commission staff through the use of automated reporting. There is no anticipated economic cost to persons who are required to comply with the sections as proposed

There will be a public meeting to obtain comments on the proposed rule on December 22, 1993, from 9:00 a.m. until Noon, Room 201A, Building B (Annex) at the Technical Park Center, 12015 Park 35 Circle, Austin, Texas 78753. Written comments on the proposal may be submitted to Grace M. Montgomery Faulkner, Waste Evaluation Section, Texas Natural Resource Conservation Commission, 1700 North Congress Avenue, Austin, Texas 78701. Comments will be accepted for 30 days after the date of this publication

### Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management In General

#### • 30 TAC §§335.9, 335.13, 335.15

The amendments are proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Natural Resources Conservation Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. The amendments are also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provide the commission with authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Natural Resource Conservation Commission is desig-

nated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

#### §335.9. Record Keeping [Recordkeeping] and Annual Reporting Procedures Applicable to Generators.

(a) Except with regard to nonhazardous recyclable materials regulated pursuant to §335.24(h) of this title (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials), each generator of hazardous waste or industrial solid waste shall comply with the following:

(1) The generator shall keep records of all hazardous waste and industrial solid waste activities regarding the quantities generated, stored, processed, and disposed of on-site or shipped off-site for storage, processing, or disposal and which, at a minimum, includes the information described in subparagraphs (A)-(G) of this paragraph. These records may be maintained in any format provided they are retrievable and easy to copy. The required records must be sufficiently detailed and complete to support any contentions or claims made by the generator with respect to:

(A) the description, character, and classification of each waste, and any changes and additional information required under §335.6(c) and (d) of this title (relating to Notification Requirements);

(B) the quantity generated;

(C) except for conditionally exempt small quantity generators regulated under §335.78 of this title (relating to Special Requirements for Hazardous Waste Generated By Conditionally Exempt Small Quantity Generators), the quantity held in on-site storage as of December 31 of each calendar year;

(D) the quantity processed or disposed of at each on-site facility unit during the calendar year;

(E) the method of storage, processing, or disposal as described by codes listed on the form or instructions [as described by codes in Appendix I, Ta-

ble 2, titled Handling Codes for Storage, Processing and Disposal Methods, of 40 Code of Federal Regulations, Parts 264 and 265];

(F) the quantity shipped off-site for storage, processing, or disposal each calendar year, including the name, address, and location of each off-site facility and transporter receiving shipments;

(G) the location of all hazardous waste accumulation areas, situated at or near any point of generation, where hazardous wastes under the control of the operator of the process generating the wastes are placed in containers and initially accumulated without a permit or interim status in accordance with §335.69(d) of this title (relating to Accumulation Time)

(2) The generator shall submit to the Texas Natural Resource Conservation Commission on or before January 25 of each year a complete and correct Annual Waste Summary detailing the management of each hazardous waste and class I waste generated on site during the previous calendar year. The Annual Waste Summary shall be submitted in a form provided or approved by the executive director. Upon written request by the generator, the executive director may authorize an extension to the report due date. [The generator shall submit to the Texas Water Commission on or before January 25 of each year an annual generation, storage, processing, and disposal summary for all hazardous and Class I wastes. The summary shall be submitted on forms furnished or approved by the executive director and shall contain at a minimum the information specified in paragraph (1) of this subsection. Upon written request by the generator, the executive director may authorize a modification in the reporting period.]

(3)-(4) (No change)

(b) (No change)

**§335.13. Record Keeping [Recordkeeping] and Reporting Procedures Applicable to Generators Shipping Hazardous Waste or Class I [Class I] Waste and Primary Exporters of Hazardous Waste.**

(a) The generator or primary exporter shall retain a copy of each manifest required by §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class I [Class I] Waste and Primary Exporters of Hazardous Waste) for a minimum of three years from the date of shipment by the generator or primary exporter

(b) Generators or primary exporters who ship to other states, or import shipments from outside the United

States through Texas to other states, or export hazardous waste to a foreign country, shall prepare a complete and correct Waste Shipment Summary from the manifests. The Waste Shipment Summary shall be prepared in a form provided or approved by the executive director and submitted to the Texas Natural Resource Conservation Commission on or before the 25th of each month for shipments originating during the previous month. The generator or primary exporter must keep a copy of each summary for a period of at least three years from the due date of the summary. A generator or primary exporter required to comply with this subsection shall prepare and submit a Waste Shipment Summary for only those months in which shipments were actually made. [Generators or primary exporters who ship to other states, or import shipments from outside the United States through Texas to other states, or export hazardous waste to a foreign country, shall prepare a shipment summary from the manifests, summarizing the quantity and classification of each waste shipment itemized by manifest document number. Such shipment summary shall be prepared on forms provided or approved by the executive director and submitted to the Texas Water Commission on or before the 25th day of each month for shipments originating during the previous month. A generator or primary exporter must keep a copy of each summary for a period of at least three years from the due date of the summary. A generator or primary exporter required to comply with this subsection shall prepare and submit a shipment summary for only those months in which he actually made shipments.] Conditionally exempt small quantity generators shipping municipal hazardous waste are not subject to the requirements of this subsection.

(c) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste or class I [Class I] waste

(d) A generator must submit an exception report to the commission if he has not received a copy of the manifest with the handwritten signatures of the owner or operator of the designated facility within 45 days of the date that the waste was accepted by the initial transporter. Primary exporters of hazardous waste must submit an exception report to the executive director as set forth in §335.76(c) of this title (relating to Additional Requirements Applicable to International Shipments). The exception report must be retained by the generator or

primary exporter for at least three years from the date the waste was accepted by the initial transporter and must include:

(1) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

(2) a copy of a letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste or class I [Class I] waste and the results of those efforts.

(e) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

(f) The requirements of subsections (c) and (d) of this section do not apply to generators generating hazardous waste or class I [Class I] waste in quantities less than 100 kilograms in a calendar month, or acute hazardous waste in quantities specified in §335.78(e)(1) or (2) of this title (relating to Conditionally Exempt Small Quantity Generators)

(g) Primary exporters of hazardous waste must submit an annual report in accordance with the requirements set out in the regulations contained in 40 Code of Federal Regulations, §262.56, which are in effect as of November 8, 1986.

**§335.15 Record Keeping [Recordkeeping] and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities.** This section applies to owners and operators that receive hazardous waste or class I waste from off-site sources or have notified that they intend to receive hazardous waste or class I waste from off-site sources. [This section does not apply to owners and operators that store, process or dispose of hazardous waste or Class I waste on-site and do not receive any hazardous waste or Class I waste from off-site sources.]

(1) The owner or operator of the storage, processing, or disposal facility designated on the manifest shall retain a copy of each manifest or, in the case of shipments by rail or water (bulk shipment), a copy of each manifest and shipping paper, for a minimum of three years from the date of initial shipment by the generator or primary exporter where appropriate

(2) Except as provided in paragraph (5) of this section, the owner or operator shall prepare a complete and correct Monthly Waste Receipt Summary for all hazardous waste or class I waste shipments received. The Monthly Waste Receipt Summary shall be prepared in a form provided or approved by the executive director and submitted to the Texas

Natural Resource Conservation Commission on or before the 25th of each month for wastes or manifests received during the previous month. (The appropriate abbreviations for method of storage, processing and disposal of waste and for units of measure may be found on the form or accompanying instructions.) An owner or operator of a storage, processing or disposal facility required to comply with this subsection shall prepare and submit a Monthly Waste Receipt Summary in each month even if no waste was received. [Except as provided in paragraph (6) of this section, the owner or operator shall prepare a monthly summary from his copy of all manifests received during the month (in those cases where a manifest is required), summarizing the quantity, character, transporter identity, and the method of storage, processing, and disposal of each hazardous waste or Class I waste shipment received, itemized by manifest document number. Such monthly summary report shall be prepared on forms provided or approved by the executive director and submitted to the Texas Water Commission on or before the 25th day of each month for wastes or manifests received during the previous month. The appropriate abbreviations from Appendix I, Tables 1 and 2 of 40 Code of Federal Regulations, Parts 264 or 265 are to be used for units of measure and for handling codes for storage, processing, and disposal methods. An owner or operator receiving hazardous waste shall prepare a monthly summary form which also includes the following information:

[(A) the Environmental Protection Agency (EPA) identification number, name and address of the facility;

[(B) the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the month year; for imported shipments, the report must give the name and address of the foreign generator;

[(C) a description and the quantity of each hazardous waste the facility received during the month year. This information must be listed by EPA identification number of each generator; and

[(D) the method of processing, storage, or disposal for each hazardous waste.

[(3) The owner or operator shall submit a report on forms provided or approved by the executive director summarizing the types and volumes of any hazardous waste or Class I waste received without manifests, or, in the case of shipments by rail or water (bulk shipments), without ship-

ping papers. This report shall be submitted within 15 days of receiving the waste, regardless of quantity, and shall include the following information:

[(A) the Environmental Protection Agency (EPA) identification number (applicable to hazardous waste only), name, and address of the facility;

[(B) the date the facility received the waste;

[(C) the EPA identification number (applicable to hazardous waste only), name, and address of the generator and the transporter, if available;

[(D) a description and the quantity of each hazardous waste or Class I waste the facility received which was not accompanied by a manifest;

[(E) the method of storage, processing, or disposal for each hazardous waste or Class I waste;

[(F) the certification signed by the owner or operator of the facility or his authorized representative; and

[(G) a brief explanation of why the waste was unaccompanied by a manifest, if known ]

(3)[(4) The owner or operator shall retain a copy of each summary required by paragraph [paragraphs] (2) [and (3)] of this subsection for a minimum of three years from the date of each summary.

(4)[(5) The periods of record retention required by this section are automatically extended during the course of any unresolved enforcement action regarding the regulated activity.

(5) [(6) An owner or operator reclaiming hazardous wastes received from conditionally exempt small quantity generators is subject to the requirements of this section requiring completion of a Monthly Waste Receipt Summary, from his copy of all manifests received during the month, unless he has requested in writing a modification in the reporting requirements. A modification relieving the owner or operator of having to report each manifested shipment on the Monthly Waste Receipt Summary may be granted at the discretion of the executive director on a case-by-case basis.

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

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### Subchapter C. Standards Applicable to Generators of Hazardous Waste

#### • 30 TAC §335.71

The amended section is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Natural Resources Conservation Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Water Code and other laws of this state and to establish and approve all general policies of the commission. The amendments are also proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provide the commission with authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of municipal hazardous waste and industrial solid waste. Under the Solid Waste Disposal Act, §3(b), the Texas Natural Resource Conservation Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

*§335.71. Biennial [Annual] Reporting.* In addition to annual reporting which is required under §335.9 of this title (relating to Record Keeping and Annual Reporting Procedures Applicable to Generators), in every even-numbered year facilities subject to the United States Environmental Protection Agency biennial reporting requirements shall submit to the commission information as required by 40 Code of Federal Regulations, §262.41. Upon request, this supplemental information shall be prepared in a form provided or approved by the executive director and submitted within the specified timeframe. Activities covered in the report shall be for the previous odd-numbered report year. Facilities subject

to the United States Environmental Protection Agency biennial reporting requirements include all Large Quantity Generators of hazardous waste for any month during the previous odd-numbered report year.

[(a) Any generator or primary exporter who ships hazardous waste off-site shall prepare and submit a single copy of an annual report to the executive director by January 25 of each year. The annual report must cover facility activities during the previous calendar year and must include the following information:

[(1) the Environmental Protection Agency (EPA) identification number, name, and address of the generator;

[(2) the calendar year covered by the report;

[(3) the EPA identification number, TWC registration number, name, and address for each off-site processing, storage, or disposal facility within the United States to which waste was shipped during the year;

[(4) the name and EPA identification number and TWC registration number of each transporter used during the reporting year for shipments to a processing, storage, or disposal facilities within the United States,

[(5) the TWC hazardous waste code and a description, EPA hazardous waste number (from 40 Code of Federal Regulations, Part 261, Subpart C or D), United States Department of Transportation (DOT) hazard class, and quantity of each hazardous waste shipped off-site for shipments to a processing, storage, or disposal facility within the United States. This information must be listed by EPA identification number of each off-site facility to which waste was shipped,

[(6) a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

[(7) a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

[(8) the certification signed by the generator or his or her authorized representative.

[(b) Any generator who processes, stores, or disposes of hazardous waste on-site must submit a report in accordance with the provisions of §335.114 of this title (relating to Reporting Requirements) and §335.154 of this title (relating to Reporting Requirements for Owners and Operators).

[(c) Primary exporters of hazardous waste must submit an annual report in ac-

cordance with the requirements set out in the regulations contained in 40 Code of Federal Regulations, §262.56, which are in effect as of November 8, 1986.

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

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Texas Natural Resource  
Conservation  
Commission

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For further information, please call (512) 463-8069

### Subchapter O. Land Disposal Restrictions

#### • 30 TAC §335.431

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §335.431 under Subchapter O (relating to Land Disposal Restrictions). It should be noted that the federal CAMU rule is currently being challenged in the federal courts, and that if the federal rule were to be vacated by the federal court, the TNRCC CAMU rule adopting the federal regulation by reference would no longer be effective, and other portions of the TNRCC rules may need to be amended, depending on the outcome of the federal suit

Section 335.431(c)(1) and (3) are proposed to be amended to change the date through which the 40 Code of Federal Regulations, Part 268 regulations are adopted by reference, to February 16, 1993, in 58 FedReg 8685. This regulation contains the conforming change in the definition of "land disposal," such that the term does not include placement in a corrective action management unit

Comments may be submitted to Raymond Austin, Manager, Rules Development Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, within 30 days of publication

Stephen Minick, division of budget and planning, has determined that for the first five years the proposed rules will be in effect there will be fiscal implications as a result of enforcement and administration of the rules. There are no significant effects anticipated for state government. These rules may result in some shift in workload requirements related to submission of additional permit modification requests and the execution of additional formal compliance orders by the commission. Any actual increases in workload are anticipated to be small and will be satisfied within existing resources. There are no anticipated effects on local governments

Under these rules persons cleaning up hazardous waste facilities with releases of hazardous constituents are allowed to request

that certain contaminated areas be designated as corrective action management units not subject to certain stringent restrictions on land disposal. Statewide cost savings to the affected regulated community over the first five years of implementing the rule is estimated to total between \$1.0 billion to \$1.67 billion or an average of between \$200 million and \$334 million per year. These savings are primarily attributable to avoided costs during remediation activities of off-site incineration and disposal of clean-up residues. There are no direct effects on small businesses anticipated. Generally, only large businesses would be affected by the proposed rules. The affected businesses are mostly large industrial or manufacturing concerns that have practiced hazardous waste disposal on-site. Virtually no small businesses are engaged in operation of on-site hazardous waste land disposal facilities and would not be affected by these proposed rules.

Mr Minick also has determined that for the first five years these rules are in effect the public benefits anticipated as a result of enforcement of or compliance with the rules will be increased economic stability of businesses engaged in clean-up of on-site contamination; stimulation of remediation technology and related business activities; increased levels of remediation activity and resulting decreases in the number of contaminated sites, and reduction in the amounts of hazardous waste transported to and disposed at off-site facilities. There are no known costs anticipated for persons required to comply with these rules as proposed.

Comments on the proposed sections may be submitted to Raymond Austin, Manager, Rules Development Section, Waste Policy Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-6814.

The amended section is proposed under the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the commission with authority to adopt any rules necessary to carry out its powers, duties, and policies and to protect water quality in the state. The sections are also promulgated under the Texas Health and Safety Code, Texas Solid Waste Disposal Act, §361.017 and §361.024, which provides the commission the authority to regulate industrial solid wastes and hazardous municipal wastes and to adopt and promulgate rules consistent with the general intent and purposes of the Act

§335.431. Purpose, Scope, and Applicability.

(a) Purpose. The purpose of this subchapter is to identify hazardous wastes that are restricted from land disposal and define those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(b) Scope and Applicability.

(1) Except as provided in paragraph (2) of this subsection, the requirements of this subchapter apply to persons



who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

(2) The requirements of this subchapter do not apply to any entity that is either specifically excluded from coverage by this subchapter or would be excluded from the coverage of 40 Code of Federal Regulations (CFR), Part 268 by 40 CFR, Part 261, if those parts applied.

(c) Adoption by Reference

(1) Except as provided in paragraph (2) of this subsection, and subject to the changes indicated in subsection (d) of this section, the regulations contained in 40 CFR, Part 268, as amended through February 16, 1993, in 58 FedReg 8685 [June 26, 1992, in 57 FedReg 29632] are adopted by reference

(2) The following sections of 40 CFR, Part 268 are excluded from the sections adopted in paragraph (1) of this subsection §§268.5, 268.6, 268.7(a)(10), 268.10-268.13, 268.42(b), and 268.44.

(3) Appendices I-IX of 40 CFR, Part 268 are adopted by reference as amended through February 16, 1993, in 58 FedReg 8685 [June 26, 1992, in 57 FedReg 29632]

(d) (No change)

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

Issued in Austin, Texas, on November 22, 1993.

TRD-9332482

Mary Ruth Holder  
Director, Legal Services  
Texas Natural Resource  
Conservation  
Commission

Earliest possible date of adoption December 27, 1993

For further information, please call (512) 463-8069

**TITLE 34. PUBLIC FINANCE**

**Part IX. Texas Bond Review Board**

**Chapter 190. Allocation of the State's Limit on Certain Private Activity Bonds**

**Subchapter A. Program Rules**

**• 34 TAC §190.3, §190.8**

The Texas Bond Review Board proposes amendments to §190.3 and §190.8, concerning program rules. The amendments will clarify the application process and allow sufficient

time for compliance after closing. The Texas Bond Review Board amends these sections to facilitate maximum efficiency in the usage of allocation for private activity bonds.

Beverly S. Bunch, interim executive director of the Bond Review Board, has determined that for the first five-year period the sections are in effect there will be negligible fiscal implications on state government as a result of enforcing or administering the sections. There will be no fiscal impact on local government for each year of the first five years that the sections are in effect.

Ms Bunch also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more efficient use of the state's ceiling on private activity bonds. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the sections as proposed will be limited to the application and closing fees required by state law.

Comments on the proposal may be submitted to Jeanne Talerico, Program Administrator, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292

The amendments are proposed under Texas Civil Statutes, Article 5190.9a, which give the Texas Bond Review Board the authority to propose rules governing the implementation and administration of the allocation of the state's ceiling on private activity bonds.

No code, article, or statute is affected by these amendments.

*§190.3. Filing Requirements for Applications for Reservation*

(a)-(c) (No change.)

(d) Closing fee. The remaining two-thirds of the fee must be paid simultaneously with closing on the bonds. The issuer should submit the fee to the board not later than the fifth business [calendar] day after the day on which the bonds are closed.

(e) Closing documents. Not later than the fifth business [calendar] day after the day on which the bonds are closed the issuer shall file with the board:

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

(f)-(g) (No change.)

*§190.8. Notices, Filings, and Submissions*

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

(c) Fees should be sent by overnight delivery and addressed as follows: Texas State Treasury, Item Processing-Lockbox Section, 200 East Tenth Street, [the Bond Review Board, c/o First City Texas, 823 Congress Avenue, Fourth Floor, Item Processing-Lockbox Department.] Austin, Texas 78701.

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 November 18, 1993.

TRD-9332362

Beverly S. Bunch  
Interim Executive Director  
Texas Bond Review Board

Earliest possible date of adoption: December 27, 1993

For further information, please call: (512) 463-1741

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 10. Family Self-Support Services**

**Child Care Management Services Statewide Implementation**

- 40 TAC §§10.3416, 10.3424, 10.3427, 10.3438, 10.3446, 10.3462-10.3465

The Texas Department of Human Services (DHS) proposes amendments to §§10.3416, 10.3424, 10.3427, 10.3438, 10.3446, and 10.3462-10.3465, concerning child care service delivery to families in all client groups in its Family Self-Support Services chapter. The purpose of the amendments to §10.3416 and §10.3446 is to clarify policy requiring placement of Child Protective Services children in designated vendor child care facilities, and to delete reference to placement of other children with special needs, in order to comply with the Americans with Disabilities Act.

The purpose of the amendment to §10.3424 is to comply with federal regulations that exempt Food Stamp Employment and Training participants from being assessed a parent fee for child care. The purpose of the amendments to §§10.3427, 10.3438, and 10.3464 is to change child care policies regarding services to children with disabilities to clarify which children are eligible to receive services funded by the Child Care and Development Block Grant, to revise rate-setting procedures in order to comply with the Americans with Disabilities Act, and to clarify the requirements for writing and implementing an Inclusion Plan for children with disabilities. The purpose of the amendments to §§10.3462-10.3465 is to ensure that Child Care Management Services contractor intake staff resources will be targeted to clients participating in Job Opportunities and Basic Skills, Food Stamp Employment and Training, Transitional Child Care, Aid to Families with Dependent Children Self-Initiated Employment and Training, and Department of Protective and Regulatory Services Child Protective Services. This will not change the way in which intake service priority is as-

signed to various client groups.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing §10.3424 will be that parents who participate in the Food Stamp Employment and Training Program are exempt from paying parent fees. The public benefit anticipated as a result of enforcing §10.3427 will be that the team approach fostered by the new inclusion plan will promote community involvement and awareness. The amendments to §§10.3416, 10.3438, 10.3446, and 10.3462- 10.34 65 will clarify and simplify existing policy. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Shelley Bjorkman at (512) 450-4174 in DHS's Child Care and Development Unit. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-267, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 44, which provides the department with the authority to administer public assistance and day care programs. The amendments implement the Human Resources Code, §22.002(c) and §44.002(a).

*§10.3416 Child Care for Abused and Neglected Children*

(a) The Texas Department of Human Services (DHS) purchases child care for abused and neglected children who are in either:

(1) open protective cases managed by a Texas Department of Protective and Regulatory Services (TDPRS) [DHS] Child Protective Services (CPS) caseworker; or

(2) closed protective cases managed by a CPS in-home case management contractor.

(b) TDPRS [DHS] CPS caseworkers or CPS in-home case management contractors must authorize child care for these clients. They must use the forms and procedures required by the DHS child care program.

(c) TDPRS child protective services clients receive child care for the following reasons:

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

(d) In-home CPS clients must be enrolled with a Child Care Management Services (CCMS) designated vendor; CPS clients in foster care may be enrolled in vendor facilities or may self-arrange care in regulated facilities.

*§10.3424. Parent Fees.*

(a) The Child Care Management Services (CCMS) contractor must assess parent fees based on the family's gross monthly income with the following exceptions.

(1) Parents who receive aid to families with dependent children (AFDC), [or] supplemental security income (SSI), or who participate in the Food Stamp Employment and Training Program, are exempt from paying fees.

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

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

*§10.3427. Inclusion Plan Requirements for Children with Disabilities. [Enrollment Requirements for Special Needs Children.]*

(a) The Child Care Management Services (CCMS) contractor must keep on file an inclusion plan for all CCMS vendor enrolled children:

(1) who meet the eligibility criteria listed in §10.3464(4) of this title (relating to Eligibility for Child Care and Development Block Grant (CCDBG) Funded Child Care);

(2) whose child care provider receives an inclusion assistance rate, as in §10.3438 of this title (relating to Maximum Payment Rates);

(3) who have been identified by an Early Childhood Intervention program or by a school district as having a disability; or

(4) for whom a CCMS vendor, CCMS vendor management specialist (VMS), or parent have requested a plan due to concerns about the child's development.

(b) An inclusion plan is based on recommendations made by a Texas Department of Human Services (DHS) - approved professional who has assessed the child's developmental needs. The CCMS contractor must ensure that the child's care is consistent with the inclusion plan for that child.

(c) An inclusion plan will be developed and implemented according to DHS child care policies. [The Child Care Management Services (CCMS) contractor must keep on file for all children with special needs a developmental plan based on recommendations made by a specialist who

evaluated the child. The CCMS contractor must ensure that the child's care is consistent with the developmental plan for that child.]

*§10.3438. Maximum Payment Rates.*

(a) The Texas Department of Human Services (DHS) establishes maximum rates for each unit of service by age group, based on the following criteria:

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

(3) identified need for adult assistance based upon DHS's Assessment Information for Child Care Services form [special needs of the child]

(b) Vendors that provide additional adult assistance for a child with disabilities may be paid an inclusion assistance rate up to 190% of their regular contracted rate for that child. Before the vendor is paid an inclusion assistance rate, the Child Care Management Services (CCMS) contractor must ensure that: [Vendors that care for special needs children may be paid up to 190% of their contracted rate if they provide enhanced services to these children. Before the vendor is paid a higher amount, the Child Care Management Services (CCMS) contractor must ensure that the vendor has the following documents on file:]

(1) a DHS assessment information for child care services form has been completed by a DHS approved professional and signed by the approved professional and a parent; and [a completed screening and assessment form signed by a licensed physician or a specialist approved by the department, and]

(2) a DHS budget worksheet has been completed and signed. [a developmental plan.]

(c) (No change.)

*§10.3446. Designated Vendors* Child Care Management Services (CCMS) vendors may volunteer to become designated vendors by agreeing to meet quality criteria published by the Texas Department of Human Services (DHS) in excess of licensing minimum standards. The vendor must complete an application for designated vendor assessment and must document that prerequisite criteria are met. The CCMS contractor must provide the vendor with the designated vendor criteria to review prior to assessment. [Vendors may volunteer to become designated providers of care for child protective services referrals including children in foster care, children with special needs or disabilities and other children at risk. The suitability of the vendor to provide appropriate care must be assessed; however, the

vendor must be given the opportunity to review the criteria before agreeing to an assessment.]

**§10.3462. Priority for Intake Services.** The Child Care Management Services (CCMS) contractor must allocate intake staff resources proportionately among all client groups so that priority for intake services is assured for the following clients: Texas Department of Protective and Regulatory Services (PRS) Child Protective Services cases, Job Opportunities and Basic Skills (JOBS) and other Aid to Families with Dependent Children (AFDC) cases, Food Stamp Employment and Training cases, and Transitional Child care cases. [The Child Care Management Services (CCMS) contractor provides intake services to clients in the following eligibility categories according to the order of priorities indicated:

[(1) Child Protective Services (CPS)-General CPS (Priority 1);

[(2) CPS-Aid to Families with Dependent Children (AFDC) foster care (Priority 2);

[(3) CPS-State-paid Foster Care (Priority 3);

[(4) Job Opportunities and Basic Skills Training (JOBS) participant (Priority 4);

[(5) Transitional Child Care (Priority 6);

[(6) AFDC recipient-non-JOBS (Priority 7);

[(7) Supplemental Security Income recipient (Priority 8);

[(8) AFDC Recipient-Approved Self-Initiated Education or Training in non-JOBS counties (Priority 5);

[(9) Food Stamp Employment and Training participant (Priority 9);

[(10) Food Stamp recipient-Working (Priority 10);

[(11) Income Eligible-Working-Not Before/After School (Priority 12);

[(12) Food Stamp recipient-Training (Priority 11);

[(13) Income Eligible-Training-Not Before/After School (Priority 13);

[(14) Category Reserved for Future Use;

[(15) Income Eligible Developmentally Delayed-Not Before/After School (Priority 15);

[(16) Income Eligible Developmentally Delayed-Before/After School (Priority 15);

[(17) Former CPS-Not Be-

fore/After School (Priority 16);

[(18) Former CPS-Before/After School (Priority 16);

[(19) Income Eligible Teen Parents-Not Before/After School (Priority 14);

[(20) Income Eligible Teen Parents-Before/After School (Priority 14);

[(21) Income Eligible-Working-Before/After School (Priority 12); and

[(22) Income Eligible-Training-Before/After School (Priority 13) .]

**§10.3463. Eligibility for Title XX Funded Child Care.**

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

(c) Clients eligible for Title IV-A (Job Opportunities and Basic Skills Training, Transitional Child Care, and At-risk Child Care), Food Stamp Employment and Training, or Child Care and Development Block Grant funding access Title XX funds only after these funding sources are depleted. [Clients in eligibility categories identified in §10.3462(4), (5), (8)-(10), (12), (15), and (16) of this title (relating to Priority for Intake Services) receive Title XX funding only after the following funding sources for which they are eligible are depleted:

[(1) Title IV-A (Job Opportunities and Basic Skills Training, Transitional Child Care, and At-risk Child Care);

[(2) Title IV-A Approved Self-Initiated Education or Training in non-JOBS counties;

[(3) Food Stamp Employment and Training; and

[(4) Child Care and Development Block Grant.]

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

**§10.3464. Eligibility for Child Care and Development Block Grant (CCDBG) Funded Child Care.** The Texas Department of Human Services (DHS) uses Child Care and Development Block Grant (CCDBG) funds to purchase child care for clients who meet the requirements stated for the following client groups:

(1) Children in families whose family income is at or below 150% of the federal poverty income level (FPIL) and whose parents are either working or are in training or school. These children will continue to receive child care for one year after the family income exceeds 150% of the FPIL, provided the family income remains at or below 185% of the FPIL.

(2) Children of teen parents whose family income is at or below 200% of the FPIL and who need child care in

order to complete high school or the equivalent.

(3) Children whose Transitional Child Care eligibility has ended and whose family income does not exceed 185% of the FPIL. These children may be transferred to CCDBG funded child care and continue to receive child care for one year after Transitional Child Care ends.

(4) [Developmentally delayed children] Children with disabilities in families whose income is at or below 150% of the FPIL and whose parents are working or are in training or school. DHS will reserve 10% of the CCDBG funds available for child care to purchase care for these children. The cost of children's ongoing medical expenses must be deducted from the family's income before determining the family's income eligibility status. These children will continue to receive child care for one year after the family income exceeds 150% of the FPIL, provided the family income remains at or below 185% of the FPIL.

(5) Children receiving DHS-purchased child care as specified in §10.3416 of this title (relating to Child Care for Abused and Neglected Children). This group may receive CCDBG funded child care without regard to income for up to six months after they are no longer eligible to receive Title XX funded protective services child care. The Texas Department of Protective and Regulatory Services (TDPRS) [DHS] child protective services (CPS) caseworkers or CPS in-home case management contractors must authorize child care for these clients. They must use the forms and procedures required by TDPRS and the DHS child care program.

**§10.3465. Self-Arranged Child Care.**

(a) (No change.)

(b) Eligibility for self-arranged child care (SACC) must be determined and authorized according to §10.3460 and §10.3461 of this title (relating to Determination of Client Eligibility for Purchased Child Care Services and Authorization of Child Care Services) with the exception of clients in open in-home child protective services cases, who are not eligible for SACC, and are managed by the Texas Department of Protective and Regulatory Services (PRS) CPS caseworkers. [Clients in the eligibility categories specified in §10.3462 (2)-(22) of this title (relating to Priority for Intake Services) are eligible to receive reimbursement for child care arrangements they make with providers that do not have Child Care Management Services (CCMS) vendor agreements provided that child care was authorized according to §10.3461 of this title (relating to Authorization of Child Care

Services).]

(c) Clients who use foster care child care are only eligible for SACC with providers who are licensed or registered by PRS child care licensing or another approved state regulating body and are subject to routine monitoring. [A provider of self-arranged child care for the categories of clients listed in §10.3462(2) and (3) of this title (relating to Priority for Intake Services) must meet DHS licensing requirements and be subject to routine monitoring by DHS.]

(d) All other clients are eligible for care with a provider of self-arranged child care who is at least 18 years of age and satisfies one of the following requirements: [A provider of self-arranged child care for the categories of clients listed in §10.3462(4)-(22) of this title (relating to Priority for Intake Services) must be at least 18 years of age and satisfy one of the following requirements ]

(1)-(2) (No change)

(e) (No change.)

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

Issued in Austin, Texas, on November 18, 1993.

TRD-9332292

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

Proposed date of adoption: March 1, 1994

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

◆ ◆ ◆  
**Chapter 19. Long Term Care  
Nursing Facility  
Requirements for Licensure  
and Medicaid Certification**

The Texas Department of Human Services (DHS) proposes amendments to §§19 1701, 19 1702, and 19.1807, concerning vendor payment (items and services included), additional charges (items and services excluded from vendor payment), and rate setting methodology, in its Long Term Care Nursing Facility Requirements rule chapter. The purpose for the amendments is to add the cost of oxygen as a Medicaid-covered prescription drug. The amendments result from a directive by the Health Care Financing Administration (HCFA).

Burton F Raiford, commissioner, has determined that for the first five-year period the amendments will be in effect there will be fiscal implications as a result of enforcing or administering the amendments. The effect on state government for the first five-year period the amendments will be in effect is an esti-

mated increase in cost of \$2,292,480 for fiscal year (FY) 1994, \$3,522,240 for FY 1995; \$3,731,722 for FY 1996; \$3,945,288 for FY 1997; and \$4,174,296 for FY 1998. There will be no fiscal implications for local government as a result of enforcing or administering the amendments

Mr. Raiford also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be that Medicaid recipients living in nursing facilities will receive medically-necessary oxygen as a Medicaid-covered benefit, and neither nursing facilities nor the recipient's family will have to absorb this cost. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendments.

Questions about the content of the proposal may be directed to Geri Bischoff at (512) 450-3171 in DHS's Institutional Programs Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-249, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

**Subchapter R. Vendor Payment**

• **40 TAC §19.1701, §19.1702**

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendments implement the Human Resources Code, §22 001 and §§32 001-32 040

*§19 1701 Vendor Payment (Items and Services Included)*

(a) (No change)

(b) The daily rate is compatible with reasonable charges consistent with efficiency, economy, and quality of total care. The facility must ensure that care meets the health needs and promotes the maximum well-being of recipients. It includes

(1)-(4) (No change)

(5) Medical accessories and equipment.

(A) The following items must be prescribed by the attending physician

(i) (No change)

(ii) medical equipment includes but is not limited to wheelchairs, crutches, canes, chest respirators, mattresses, hospital-type beds, enteral pumps, trapeze bars, walkers, and equip-

ment necessary to provide oxygen, including but not limited to tanks, concentrators, tubing, masks, valves, and regulators. See §19.1807(f) of this title (relating to Rate Setting Methodology) for information about covered oxygen costs. [See §19 1702(a) of this title (relating to Additional Charges (Items and Services Excluded from Vendor Payment) for information concerning charging for the oxygen gas only.)]

(B) (No change.)

(6) (No change)

(c)-(o) (No change)

*§19.1702. Additional Charges (Items and Services Excluded from Vendor Payment).*

[(a) The cost of oxygen, the gas only, is not included in the daily vendor rate. A nursing facility may charge for the oxygen only if prescribed by the physician, the cost of oxygen may be charged to the recipient, the rate to be determined as follows

[(1) Oxygen must be charted in the recipient's clinical record as to time and quantity. To substantiate the amount charged, the facility must document in the recipient's financial record the time used, quantity used, and amount charged the facility by the supplier and the amount charged the recipient by the facility

[(2) Facilities are allowed the option of charging by the cost per tank for oxygen when it is used exclusively by one recipient on a recurring basis, or charging by the partial tank when used by more than one recipient.

[(3) In no case shall the facility charge the recipient more for oxygen than was the facility's cost.

[(4) Sample formula to be used when charging for partial use of a tank: Rate per liter (from supplier) x liters per hour (3,4,etc) x hours used = charge to recipient

[(5) The recipient may be charged for oxygen that the facility provides, or arranges to be delivered, via an oxygen concentrator, or by any other means. The recipient may not be charged for purchase, rental, or servicing of an oxygen concentrator or any other delivery apparatus (such as, liquid oxygen)

[(A) Charges for oxygen via a concentrator or any other means may be less than, but must not exceed, the documentable price per liter of oxygen via a 244 cubic foot tank charged by oxygen suppliers in the locale of the nursing facility

[(B) When the facility charges the recipient for oxygen received via an oxygen concentrator or any other means, documentation must be maintained that accurately reflects actual recipient usage (such as: 2 hours, 35 minutes @ 2 liters per minute = 310 liters. Then 310 liters @ \$.08 (equal to or less than the charge per liter to fill a large tank) = \$24.80).

[(C) If the facility receives revenue from charging recipients for oxygen received via a concentrator or any other means, the amount must be reported on line 103 of the cost report. When a facility is charged for oxygen via a tank and bills the recipient the same amount per liter, the revenue does not have to be reported on the cost report.

[(6) When a recipient, responsible party, or family member wants oxygen provided via a system that is more expensive than the cost of providing oxygen via a 244 cubic foot tank, the following applies:

[(A) the total cost is an allowed incurred medical expense, for purposes of determining applied income, only if the requested system is medically necessary and specifically ordered by the physician; and

[(B) if the chosen alternate system is not medically necessary or not ordered by the physician, then none of the cost of oxygen per liter is an allowed incurred medical expense]

(a)[(b)] The Texas Department of Human Services (DHS) does not make vendor payments when a Title XIX recipient is absent from the facility because of:

(1) therapeutic home visits that extend beyond three days; or

(2) hospital inpatient services. However, DHS makes vendor payments for periods when a recipient is a hospital outpatient subject to the following limitations.

(A) DHS makes vendor payments when a Title XIX recipient is absent from the nursing facility past midnight for outpatient hospital services, including services resulting from hospital outpatient observation. In these cases the facility must document in the clinical record that the recipient was not admitted as an inpatient in the hospital.

(B) If the recipient is admitted to the hospital for inpatient services anytime during a hospital outpatient observation period, a patient transaction notice showing discharge must be submitted effective the date the recipient left the nursing

facility.

(b)[(c)] The facility may enter into a written agreement with the recipient or responsible party to reserve a bed, according to the specifications of §19.303 of this title (relating to Notice of Bed-hold Policy and Readmission).

(1) The facility may charge the recipient an amount not to exceed the DHS daily vendor rate according to the recipient's classification at the time the individual leaves the facility.

(2) The facility must document all bed-hold charges in the recipient's financial record at the time the bed-hold reservation services were provided.

(3) The facility may charge a bed-hold fee only if the recipient has left the physical premises of the building structure. A bed-hold fee may not be charged if the recipient is in another part of the same facility.

(4) The facility may not charge a bed-hold fee if the Texas Department of Human Services (DHS) is paying for the same period of time, as in a three day therapeutic home visit.

(c)[(d)] The facility may charge for transportation beyond normal transportation as defined in §19.1931 of this title (relating to Medical Transportation).

(d)[(e)] The billing of flu shots to recipients by the nursing facility is not allowed.

(e)[(f)] Vendor payments are not made to Medicaid nursing facilities for Medicaid recipients who have not been screened by the Texas Department of Mental Health and Mental Retardation (TXMHMR) [TDMHMR]. Vendor payments made inadvertently to a nursing facility are immediately recouped.

(f)[(g)] A facility must bill for charges not covered by Medicaid at least once a month. Each bill must itemize all extra charges by general category.

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 November 18, 1993

TRD-9332291

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

Proposed date of adoption: February 1, 1994

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



## Subchapter S. Reimbursement Methodology for Nursing Facilities

### • 40 TAC §19.1807

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §22.001 and §§32.001-32.040.

#### §19.1807. Rate Setting Methodology.

(a)-(e) (No change.)

(f) Oxygen costs.

(1) DHS reimburses nursing facilities for the actual costs of oxygen. Payments are based on cost reimbursement vouchers that are to be submitted quarterly. Allowable costs are limited to expenses incurred for:

(A) actual oxygen expenses up to a set amount determined by DHS; and

(B) liquid oxygen and tank refills (oxygen only).

(2) Durable medical equipment, including, but not limited to, tanks, concentrators, tubing, masks, valves, and regulators are included in the per diem (see §19.1701(b)(5)(A)(ii) of this title (relating to Vendor Payment (Items and Services Included)) for an explanation of covered durable medical equipment).

(3) The facility must accept payment by DHS as payment in full for services, and neither the oxygen provider nor the facility may charge the recipient, his family, or his trust fund an additional fee.

(4) Claims for services must be received by the 95th day from the date of service.

(A) Rejected or adjusted claims may be resubmitted. These claims must be received by the 180th day from the date of the claim rejection.

(B) Corrected claims must be received by the 180th day from the date of the paid claim.

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

Issued in Austin, Texas, on November 18, 1993.

TRD-9332290

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

Proposed date of adoption: February 1, 1994

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

◆ ◆ ◆  
Chapter 72. Memorandum of  
Understanding with Other  
State Agencies

Memorandum of Understanding  
Concerning Coordination of  
Services to Persons with  
Disabilities

• 40 TAC §72.205

The Texas Department of Human Services (DHS) proposes an amendment to §72.205, concerning the memorandum of understanding for coordination of services to persons with disabilities. The purpose of the amendment is to clarify the responsibilities of the Texas Rehabilitation Commission (TRC) in relation to persons with disabilities.

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

Mr. Railford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that policy regarding TRC's responsibilities to persons with disabilities will be clearer. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Dixie G. Camp at (512) 450-3301 in DHS's Office on Services to Persons with Disabilities. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-282, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs. The amendment implements the Human Resources Code, §22. 002(f).

§72.205. *Texas Rehabilitation Commission.*

(a) Direct service responsibilities to persons with disabilities.

(1) Vocational Rehabilitation Program.

(A) (No change.)

(B) Individuals served must have a physical or mental disability which [that] results in [a] substantial problems in getting and keeping a job; and vocational rehabilitation services are required by that person to prepare for, get or keep a job [barrier to employment, and there must be a reasonable expectation that services will result in employment].

(2) Extended rehabilitation services program (ERS).

(A) (No change.)

(B) To be eligible, the individual must have a physical or mental disability that results in a substantial barrier to employment. This disability must require some type of ongoing support service in order for the client to obtain and maintain employment. [There are no minimum number of hours worked or amount of wages earned.] The individual must be at least age 16. Eligible ERS clients, at the conclusion of employment training and placement, must be able to earn 15% of minimum wage.

(3) Independent living (IL) program [centers].

(A) Independent living centers.

(i)[(A) IL centers are] Non-residential centers [which] help persons with disabilities [to] live in the community as independently as possible. [The] IL centers are directed and staffed by a majority of persons with disabilities. Core services, mandated by the Rehabilitation Act of 1992, as amended, are information and referral, advocacy, peer counseling and independent living skills training. Services are either provided directly, or through referral, and may include [for assistance in areas such as] attendant services, housing referral, transportation, [advocacy, peer counseling,] recreational activities, and interpreter services.

(ii)[(B)] Services are available to persons with disabilities as well as individuals who are interested in disability-related issues

(iii)[(C)] IL centers funded through the Texas Rehabilitation Commission (TRC) with state general revenue funds, are located in Austin, Dallas, El Paso, Houston, San Antonio, Amarillo, Crockett, Fort Worth, Lubbock, and Pharr [at sites located in the Lower Rio Grande Valley] An eleventh center in Odessa receives only direct federal fund-

ing.

(B) Independent living services.

(i) Ten IL counselors statewide deliver IL services directly to clients in their immediate areas. IL services are available in the same cities where TRC-funded IL centers are located.

(ii)[(D)] IL services include adaptive equipment such as wheelchairs and environmental control systems, communication aids, modification of vehicles, and sponsorship of medical rehabilitation services.

(iii)[(E)] Eligible individuals must have a severe physical or mental disability which interferes with their ability to function independently, and there must be a reasonable expectation that IL services will substantially improve the individual's ability to function independently. Also, the individuals must have an economic need and cannot be eligible for either the vocational [vocation] rehabilitation or extended rehabilitation services programs of the Texas Rehabilitation Commission (TRC). [The IL program is available in the same cities as IL centers.]

(4) Comprehensive rehabilitation services

(A) This program provides in-patient medical rehabilitation services [, specifically] for persons with spinal cord [or brain] injuries.[.] It also provides in-patient and out-patient medical rehabilitation services for persons with traumatic brain injuries. It is designed to assist patients to achieve higher [to enable them to obtain greater] levels of independence and self-care.

(B) Individuals served must have recently sustained a traumatic spinal cord or traumatic brain injury, not be eligible for services through other resources, have an economic need, and be reasonably expected to improve their independent functioning

(5) Services for persons who are deaf-blind and have multiple disabilities. [Deaf-blind multi-disabled services ]

(A) Services include a residential program, a summer camp program, and [outdoor training program (which is a one-week summer camp);] parent training/counseling, in conjunction with the Texas School for the Blind; and respite services, in conjunction with the Texas School for the Blind and Visually Impaired

and Texas Commission for the Blind]. Residential services are for adults (age 18 and older) who are deaf-blind, have multiple disabilities, and who need 24-hour support for their daily living. Camp participants must be deaf-blind, have multiple disabilities, and be age six or older. Camp is provided in two locations and during various weeks throughout the summer. Parent training is provided through an annual conference held in conjunction with the Texas School for the Blind and the Deaf-Blind Multihandicapped Association of Texas. Participants are parents of people who are deaf-blind and have multiple disabilities. Respite is provided for all siblings during this weekend conference. [The age requirement for summer camp is age six and above, and respite services are for school-aged children who live in family homes. Respite services are provided during a two-week summer session on the campus of the Texas School for the Blind. Parent training is provided through an annual conference held in conjunction with the Texas School for the Blind in the Deaf-Blind Multi-handicapped Association of Texas.

[(B) Individual case services may be provided for clients who are deaf-blind in the Extended Rehabilitation Program and Independent Living Program. This support may include such services as independent living skills training, day programming, equipment, and personal attendant services

[(C) Eligible individuals must have both visual and hearing impairments which substantially impede their ability to live independently.]

(6) Personal attendant services. Personal attendant services is a state-funded program designed to provide assistance on a sliding scale to persons who are severely disabled and have a job that is at risk, or for whom employment is unlikely without support. It is a pilot project that is only available in 19 counties. The program is a client-managed program that stresses independence and responsibility of the person with the disability. The program is limited to a maximum of 35 hours per week. [This program helps eligible individuals with severe disabilities to enter the work force by helping them pay for personal attendant services while they work in order to maintain employment. Services are provided through a contract with a service provider. Eligible individuals contribute to the cost of services on a co-pay basis. An individual annual evaluation establishes the rate of co-payment. As the individual's earnings increase, a larger share of the cost of attendant services is expected.]

(b) Service delivery data. For information on TRC programs call Special Services at (512) 483-4060.

[(1) TRC has information available on the demographic characteristics of clients served and on services provided.

[(2) Budget and planning data is available through the Commission's Budget and Planning Office at (512) 483-4601. Program information is available through the Special Services Office at (512) 483-4060.]

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 November 18, 1993.

TRD-9332289 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: February 15, 1994

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

◆ ◆ ◆  
**Chapter 90. Nursing Facilities  
and Related Institutions**

**Subchapter H. Enforcement**

• 40 TAC §90.235

The Texas Department of Human Services (DHS) proposes an amendment to §90.235, concerning administrative penalties, in its Nursing Facilities and Related Institutions rule chapter. The purpose of the amendment is to clarify that only one of the criteria listed in subsection (b)(1)-(4) needs to be met for an administrative penalty to be assessed.

Burton F. Raiford, commissioner, 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. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clearer policies concerning invoking administrative penalties in facilities licensed under the Health and Safety Code, Chapter 242. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Rodger Love at (512) 834-6770 in DHS's Institutional Policy Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-298, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*

The amendment is proposed under the Health and Safety Code, Chapter 242 which provides the department with the authority to license long-term care nursing facilities; and under Texas Civil Statutes, Article 4413 (502), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to long-term care licensing, certification, and surveys from the Texas Department of Health to the Texas Department of Human Services.

The amendments implement the Health and Safety Code, §§242.061-242.069.

§90.235. *Administrative Penalties.*

(a) (No change.)

(b) When a violation cited by the department is determined to be within the scope and description of the penalty schedules as stated in subsection (i) of this section, known as Schedule A and Schedule B, the violation is cause for assessment of a penalty as described in this section and as listed in the schedules. In determining whether a violation limits the facility's ability to comply with the law, a violation must be:

(1) of a number of existing simultaneous occurrences such that a pattern or trend is established; or

(2) recurrent in nature and type; or

(3) of a type presenting danger to the health and safety of at least one resident; or

(4) of a magnitude or nature that constitutes a health and safety hazard having a direct or imminent adverse effect on resident health, safety, or security, or which presents even more serious danger or harm.

(c)-(i) (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 November 19, 1993.

TRD-9332404 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: February 1, 1994

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

◆ ◆ ◆  
**Part II. Texas  
Rehabilitation  
Commission**

**Chapter 101. General Rules**

• 40 TAC §101.10

The Texas Rehabilitation Commission (TRC) proposes an amendment to §101 10, concerning Confidentiality. The purpose of this amendment is to implement Texas Human Resource Code, §111.057.

Charles Harrison, deputy commissioner for financial and planning services, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

John Rehm has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide the public with information on the rules for information sharing by the Texas Rehabilitation Commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section.

Questions about the content of the amendment may be directed to John Rehm, Publications and Records Management, at (512) 463-4299, in the Texas Rehabilitation Commission Comments on the amendment may also be submitted to John Rehm, Publications and Records Management, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 4343, Austin, Texas 78751-2399, within 30 days of publication in the *Texas Register*

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

This amendment implements the Texas Human Resources Code §111 057, unlawful use of lists of names

*§101 10 Confidentiality [of Client Records]*

(a) Client Records.

[(a)](1) All personal information made available to commission employees in the course of the administration of rehabilitation services programs, including lists of names, addresses, and records of agency evaluation, is confidential

[(b)](2) The use of such information and records is limited to purposes directly connected with the administration of the rehabilitation programs

[(c)](3) Information is not to be disclosed directly or indirectly, other than in the administration of the rehabilitation programs, unless the consent of the client has been obtained in writing, in compliance with a court order, or in accordance with a federal or state law or regulation

[(d)](4) Upon a client's request, information is released to a client or, as appropriate, his parent, guardian, or other representative. If, in the opinion of the counselor, release of a particular document in the client case file will have a harmful effect on the client, the client shall be notified that there is information in the case file that can only be released to an appropriate representative designated in writing by the client.

[(e)](5) All client information is the property of the commission

(b) Other Records.

(1) Release of client records must be made pursuant to federal law and regulations.

(2) The commission may provide to and receive from, any state agency, other non-confidential information for the purpose of increasing and enhancing services to clients and improving agency operations.

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 November 10, 1993

TRD-9332401

Charles W. Schiesser  
Associate Commissioner  
for Legal Services  
Division  
Texas Rehabilitation  
Commission

Earliest possible date of adoption December 27, 1993

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



**Texas Department of Insurance Exempt Filing**

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 notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.*

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance, of the Texas

Department of Insurance at a Board meeting scheduled for 9:00 a.m., December 15, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a form filing by the Texas Parks and Wildlife Department for a new surety bond form entitled "Public Official Bond" for Boat Agent. This bond form is required by Acts of the 73rd Legislature.

The proposed new "Public Official Bond" for Boat Agent is required by the provisions of Acts 1993, 73rd Legislative, Section 1, Senate Bill 901 amending the Texas Parks and Wildlife Code, §31.003, effective September 1, 1993. The authorized agent is required to file a surety bond in an amount set by the department to insure against loss to the department for fees and taxes.

Copies of the full text of the proposed bond form for the Texas Parks and Wildlife Department are available for review in the Office of the Chief Clerk of the Texas Department of

Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Angie Arizpe at (512) 322-4124 (refer to Reference Number O-1093-27).

The notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, 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 November 19, 1993

TRD-9332415

Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance



For further information, please call: (512) 463-6328

◆ ◆ ◆  
The State Board of Insurance, of the Texas Department of Insurance at a Board meeting Scheduled for 9:00 a.m., December 15, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a form filing by the Texas Department of Banking for a new surety bond form entitled "Currency Exchange Bond, Form Number 092293 CEX." This bond form is required in accordance with Texas Civil Statutes, Article 350.

The proposed new "Currency Exchange Bond" is a requirement of Article 350, Texas Civil Statutes (the Act). The Act requires persons who engage in the currency exchange or transmission business to be licensed by the department and a requirement of being licensed is to provide a "Currency Exchange Bond." The bond amount will be determined by the Commissioner for the Department of Banking and will be based on the dollar volume of the licensee's currency exchange or transmission business, with a minimum of \$25,000.

Copies of the full text of the proposed bond form for the Texas Department of Banking are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number O-1093-28).

The notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, 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 November 19, 1993.

TRD-9332416

Linda K von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

For further information, please call: (512) 463-6328

◆ ◆ ◆  
The State Board of Insurance, of the Texas Department of Insurance at a Board meeting scheduled for 9:00 a.m., December 15, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a form filing by the Texas Department of Transportation for a surety bond form entitled "Motor Vehicle Dealer's Surety Bond," Form Number D12-150 (Rev September 1993)

The revised Motor Vehicle Dealer's Surety Bond will enable a motor vehicle dealer or a wholesale motor vehicle auction (collectively "the Principal") to comply with bond requirements stipulated by the 73rd Legislature under House Bill 1932, which went into effect

June 19, 1993. Comparable to the initial Motor Vehicle Dealer's Surety Bond which became effective on December 28, 1991, the revised bond is conditioned on the Principal paying all valid bank drafts, including checks, drawn by the Principal for the purchase of motor vehicles and transfer of good title to each motor vehicle that the Principal purports to sell. However, under the revised Motor Vehicle Dealer's Surety Bond, the liability of the surety is limited to the face amount of the Motor Vehicle Dealer's Surety Bond, which is \$25,000. In addition, the surety is not liable for successive claims in excess of the bond amount, regardless of the number of claims made against the bond or the number of years the bond remains in force

Copies of the full text of the proposed form for the Texas Department of Transportation are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number O-1093-29)

The notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.

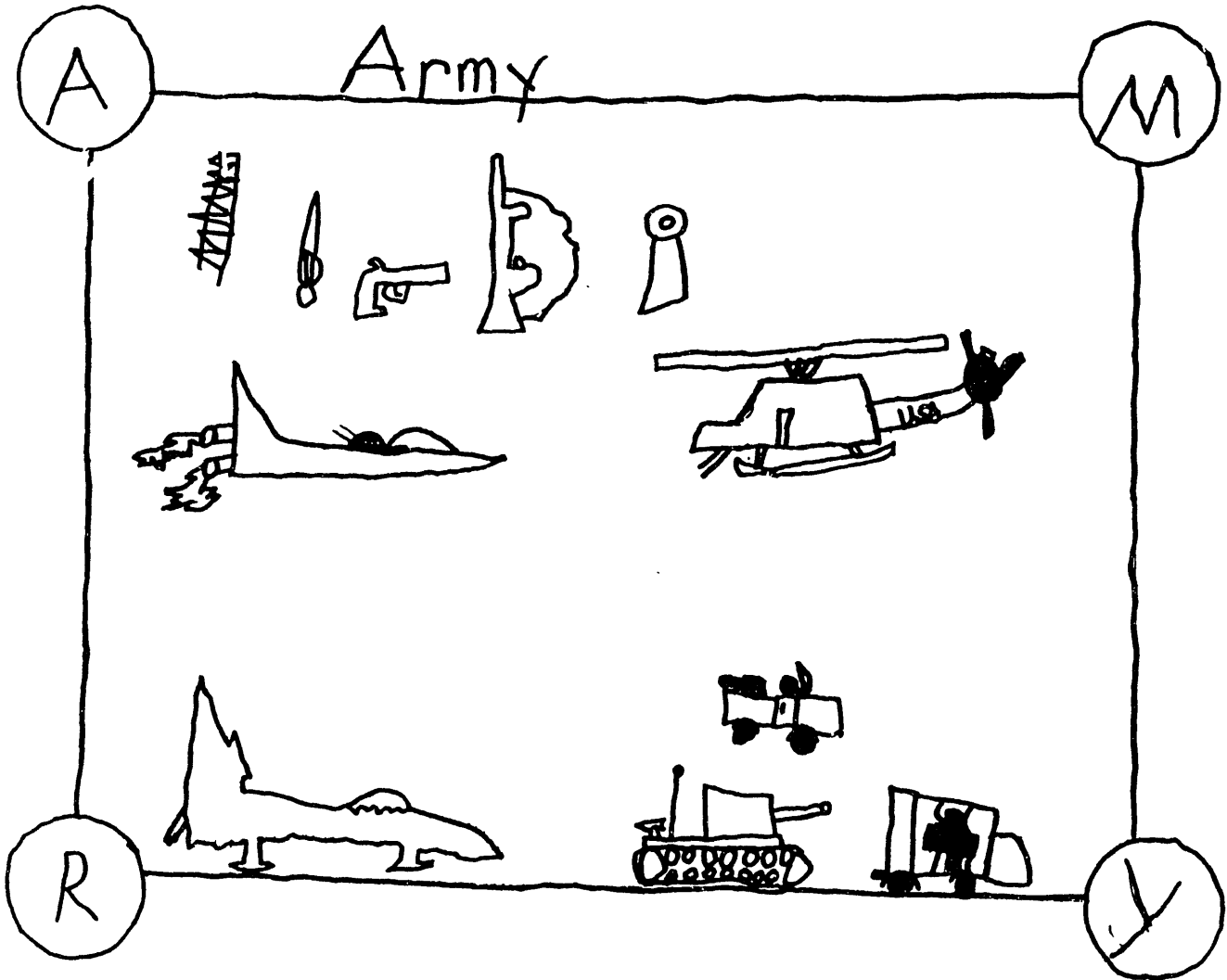
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on November 19, 1993

TRD-9332417

Linda K von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

For further information, please call (512) 463-6328



Name: Jay Perry  
Grade: 3  
School: Woodview Elementary, Spring Branch ISD

# Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after 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 16. ECONOMIC REGULATION

### Part IV. Texas Department of Licensing and Regulation

#### Chapter 74. Elevators

##### • 16 TAC §74.65

The Texas Department of Licensing and Regulation has withdrawn from consideration for permanent adoption a proposed new §74.65 which appeared in the November 16, 1993, issue of the *Texas Register* (18 TexReg 8442). The effective date of this withdrawal is November 19, 1993.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332366

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

Effective date: November 19, 1993

For further information, please call: (512) 463-3127

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

#### Subchapter C. Texas HIV Medication Program

##### General Provisions

##### • 25 TAC §98.104, §98.105

The Texas Department of Health has withdrawn the emergency effectiveness of amendments to §98.104 and §98.105, concerning HIV and STD Control. The text of the emergency amendments §98.104 and

§98.105 appeared in the September 17, 1993, issue of the *Texas Register* (18 TexReg 6252). The effective date of this withdrawal is November 30, 1993

Issued in Austin, Texas, on November 19, 1993.

TRD-9332396

Susan K Steeg  
General Counsel  
Texas Department of  
Health

Effective date: November 30, 1993

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

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

#### Chapter 401. System Administration

#### Subchapter G. Community Mental Health and Mental Retardation Centers

##### • 25 TAC §401.464

The Texas Department of Mental Health and Mental Retardation has withdrawn the emergency effectiveness of new §401.464, concerning System Administration. The text of the emergency amendment §401.464 appeared in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5177). The effective date of this withdrawal is November 30, 1993

Issued in Austin, Texas, on November 19, 1993.

TRD-9332434

Ann K Utley  
Chair  
Texas Department of  
Mental Health and  
Mental Retardation

Effective date: November 30, 1993

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

The Texas Department of Mental Health and Mental Retardation has withdrawn from consideration for permanent adoption a proposed new §401.464 which appeared in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5190). The effective date of this withdrawal is November 30, 1993

Issued in Austin, Texas, on November 19, 1993.

TRD-9332435

Ann K Utley  
Chair  
Texas Department of  
Mental Health and  
Mental Retardation

Effective date: November 30, 1993

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

#### Chapter 405. Client (Patient) Care

#### Subchapter E. Electroconvulsive Therapy

##### • 25 TAC §405.105, §405.106

The Texas Department of Mental Health and Mental Retardation has withdrawn the emergency effectiveness of repeal to §405.105 and §405.106, concerning Electroconvulsive Therapy. The text of the emergency repeals appeared in the September 17, 1993, issue of the *Texas Register* (18 TexReg 6276). The effective date of this withdrawal is December 12, 1993

Issued in Austin, Texas, on November 19, 1993

TRD-9332424

Ann K Utley  
Chair  
Texas Department of  
Mental Health and  
Mental Retardation

Effective date: December 12, 1993

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



Name: Mary Reese  
Grade: 4  
School: Jenkins Elementary, Spring ISD

# Adopted Sections

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

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

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

### Chapter 5. Quarantines

#### Pink Bollworm Quarantine

##### • 4 TAC §§5.172, 5.175-5.179

The Texas Department of Agriculture adopts amendments to §§5.175, 5.178, and 5.179, with changes to the proposed text as published in the July 6, 1993, issue of the *Texas Register* (18 TexReg 4371). Sections 5.172, 5.176, and 5.177 are adopted without changes and will not be republished. The amendments as adopted clarify the language that is unclear relating to the date when cotton destruction must occur, the extension request procedure, and the destruction methodology to be utilized by farmers. In addition, the amendments are made to distinguish these zones from those established under Chapter 6 of this title.

Section 5.175(a) has been changed for purposes of clarification.

For purposes of clarification, the referral to "whole" counties in §5.178 is deleted throughout the section.

For purposes of clarification, the language in §5.179 referring to stalk destruction deadlines in each zone has been changed from "by" to "on or before" and establishes rules for requesting extensions to the planting and destruction deadlines.

Section 5.172 defines mechanical destruction, and §§5.175 and 5.176 delete the requirement for the commissioner to regulate movement of quarantined articles. Section 5.177 deletes redundant language, and §5.178 deletes all counties from these zones that are already covered under the boll weevil control act in Chapter 6 of this title.

One comment was received regarding changes to the destruction deadline for Zone 4. The producers in that zone requested a deadline extension of one month to allow additional time for cotton stalk destruction. The department is not in favor of extending the destruction deadline because the department believes that the date currently established for Zone 4 is necessary to ensure the early destruction of the pink bollworm habitat.

The amendments are adopted under the Texas Agriculture Code, §74.054, which provides the Texas Department of Agriculture with the authority to adopt rules which govern the growing of a host plant; and §74.006, which provides the department with the au-

thority to adopt rules which are necessary for the efficient enforcement and administration of Chapter 74.

#### §5.175. *Movement of Quarantined Articles.*

(a) Within quarantined areas. There are no restrictions to the movement of quarantined articles within quarantined areas under normal conditions. However, if an inspector determines that the movement of quarantine articles may result in expansion of the quarantined area or in increased infestation, a permit may be required.

(b) Within free areas. There are no restrictions to the movement of quarantined articles within free areas under normal conditions. However, if an inspector determines that such movement may result in expansion of the quarantined area or in increased infestation, a permit may be required.

(c) From a quarantined area to a free area. A permit is required except when an inspector determines that there will be little or no danger of increased infestation or expansion of the quarantined area by such movement, in which case a permit may be waived.

(d) From a free area into or through a quarantined area. No permit is required except when an inspector determines that the movement may cause an increase in infestation or expansion of a quarantined area. A permit may then be required.

#### §5.178. *Quarantine Zones.*

(a) Zone 1. Includes the following counties: Atascosa, Bexar, DeWitt, Frio, Goliad, Karnes, Kinney, Live Oak, Maverick, Medina, Uvalde, Val Verde, Wilson, and Zavala.

(b) Zone 2. Includes the following counties: Chambers, Colorado, Fayette, Galveston, Gonzales, Harris, Jefferson, Lavaca, Liberty, Orange, Waller, and Washington.

(c) Zone 3. Includes the following counties: Bastrop, Caldwell, Comal, Guadalupe, Hays, Lee, Travis, and Williamson.

(d) Zone 4. Includes the following counties: Anderson, Angelina, Bell, Bosque, Brazos, Burleson, Burnet, Coryell, Cherokee, Ellis, Falls, Freestone, Grimes, Hamilton, Hardin, Henderson, Hill, Hood,

Houston, Jasper, Johnson, Lampasas, Leon, Limestone, McLennan, Madison, Milam, Montgomery, Nacogdoches, Navarro, Newton, Panola, Polk, Robertson, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Somervell, Trinity, Tyler, and Walker.

(e) Zone 5. Includes the following counties: Pecos, Ward, and Reeves.

#### §5.179. *Authorized Planting and Stalk Destruction Dates.*

(a) All cotton plants in any of the quarantine zones set forth in §5.178 of this title (relating to Quarantine Zones) must be planted and mechanically destroyed by the authorized planting and stalk destruction deadlines indicated for each zone. This must be accomplished by shredding or plowing-out the plants in such a way as to absolutely prevent further growth and to the point where there are no standing cotton stalks or regrowth.

##### (1) Zone 1.

(A) Planting dates: March 5-May 10.

(B) Stalk destruction date: on or before October 10.

##### (2) Zone 2.

(A) Planting dates: March 10-May 20.

(B) Stalk destruction date: on or before October 20.

##### (3) Zone 3.

(A) Planting dates: March 10-May 20.

(B) Stalk destruction date: on or before October 31.

##### (4) Zone 4.

(A) Planting dates: March 20-May 31.

(B) Stalk destruction date: on or before November 30.

(5) Zone 5. Stalk destruction date: on or before February 1.

(b) Granting extensions of dates. The department may, on written request by a farm owner or operator, grant an extension of the planting or stalk destruction dates.

(1) A written request must include the ASCS Farm/Tract Number, the reason for the request, the amount of acreage subject to the request, and the amount of time needed to complete planting or destruction. If an extension is requested on more than one farm, the farm operator or farm owner must submit a separate request for each farm or tract.

(2) All requests for extensions must be postmarked prior to the last planting date or stalk destruction date, whichever is applicable.

(c) Responsibility for compliance. The owner of the land in question and the tenant, if any, leasing such land to grow cotton shall be jointly and/or severally responsible for conducting cotton production within the limitation of these regulations and any infraction of the law as incorporated in these regulations as a part of the pink bollworm law shall apply against both the owner, or his duly authorized agent, and tenant involved.

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 November 10, 1993.

TRD-9332222

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: December 8, 1993

Proposal publication date: July 6, 1993

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

## TITLE 22. EXAMINING BOARDS

### Part III. Texas Board of Chiropractic Examiners

#### Chapter 76. Investigations

##### • 22 TAC §§76.1-76.7

The Texas Board of Chiropractic Examiners adopts new §§76.1-76.7, concerning investigations. Section 76.1 and §76.3 are adopted with changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5829). Sections 76.2, 76.4-76.7 are adopted without changes and will not be republished.

The sections were adopted to protect the public from those licensees of this Board who may be in violation of the Chiropractic Act. Section 76.1 and §76.3 were changed to reflect correct Government Codes and to change terminology to make the chapter more understandable.

The sections will clarify the investigatory authority of the Board and will set appropriate parameters under which investigations may be conducted.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules as deemed necessary.

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

Act—Texas Civil Statutes, Article 4512b, Practice of Chiropractic.

APA—Chapter 2001 of the Government Code.

Board—The Texas Board of Chiropractic Examiners.

Board member—One of the appointed members of the decision-making body defined in this section as the board.

Licensee—An individual who has been granted a license to practice chiropractic by the Texas Board of Chiropractic Examiners and whose license is active and not under suspension.

Practitioner—A doctor of chiropractic, who is licensed and authorized to practice under the Act.

**§76.3. Request for Information and Records from Practitioners.**

(a) Chiropractic records. The patient, or other person authorized to consent, has the right to withdraw his consent to the release of any information. Withdrawal of consent does not affect any information disclosed prior to the written notice of the withdrawal. Any person who received information made confidential by this Act may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release information was obtained. These records shall be furnished to the board within two weeks of the date of the board's request. A licensee shall furnish copies of chiropractic records, or a summary or narrative of the records, or the original records if the board provides the licensee with a medical record release form signed by the patient, or a parent or legal guardian if the patient is a minor, or a legal guardian if the patient has been adjudicated incompetent to manage his personal affairs, or an attorney ad litem appointed for the patient, as authorized by the Texas Mental Health Code (Texas Civil Statutes,

Article 5547-1 et seq); the Mentally Retarded Persons Act of 1977 (Texas Civil Statutes, Article 5547-300); Section 9, Chapter 411, Acts of the 53rd Legislature, Regular Session, 1953 (Texas Civil Statutes, Article 5561c); Section 2, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Texas Civil Statutes, Article 5561c-1); Chapter 5, Texas Probate Code; and Chapter 11, Family Code; or a personal representative if the patient is deceased, provided that the written consent specifies the following:

(1) the information or chiropractic records to be covered by the release;

(2) the reasons or purposes for the release; and

(3) the person to whom the information is to be released.

(b) Renewal of licenses. A licensee shall furnish a written explanation of his or her answer to any question asked on the application for license renewal, if requested by the board. This explanation shall include all details as the board may request and shall be furnished within two weeks of the date of the board's request.

(c) Impaired practitioners.

(1) The board shall require a licensee to submit to a mental and/or physical examination by the appropriate health care provider designated by the board if the board has probable cause to believe that the licensee is impaired. An impaired practitioner is considered to be one who is unable to practice chiropractic with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material; or as a result of any mental or physical condition.

(2) Probable cause may include, but is not limited to, any one of the following:

(A) sworn statements from two people, willing to testify before the board, that a certain licensee is impaired;

(B) evidence that a licensee left a treatment program for alcohol or chemical dependency before completion of that program;

(C) evidence that a licensee is guilty of intemperate use of drugs or alcohol;

(D) evidence of repeated arrests of a licensee for intoxication;

(E) evidence of recurring temporary commitments to a mental institution of a licensee; or

(F) chiropractic records showing that licensee has an illness or condition which results in the inability to function properly in his or her practice.

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 November 17, 1993.

TRD-9332333

Patte B. Kent  
Executive Director  
Texas Board of  
Chiropractic Examiners

Effective date: December 9, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 305-6700

## Part XVII. Texas State Board of Plumbing Examiners

### Chapter 361. Administration

#### General Provisions

##### • 22 TAC §361.1, §361.6

The Texas State Board of Plumbing Examiners adopts amendments to §361.1 and §361.6, concerning Water Supply Protection Specialist Endorsement and Medical Gas Endorsement, without changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6410).

The adoption of the amendments is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water because of water supply systems inspected by qualified inspectors and by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases.

The amendments to §361.1 and §361.6 concern appropriate syntax additions, definitions, and fee structures.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332225

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: September 21, 1993

For further information, please call: (512) 458-2145

The Texas State Board of Plumbing Examiners adopts an amendment to §361.1, concerning prerequisite continuing professional education programs/courses for practicing plumbers to renew their licenses annually and clarification of language concerning the plumbing apprentice; and an amendment to §361.6, to delete verbiage, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6721).

The adoption of the amendments is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water and clean air because of plumbing installed and maintained by competent plumbers and inspected by competent plumbing inspectors.

The amendment to §361.1 concern appropriate syntax additions and definitions whereas the amendment to §361.6 delete wordiness.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332224

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 458-2145

### Petition For Adoption of Rules • 22 TAC §361.22

The Texas State Board of Plumbing Examiners adopts an amendment to §361.22, concerning Water Supply Protection Specialist Endorsement and Medical Gas Endorsement, without changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6412).

The adoption of the amendment is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water because of water supply systems inspected by qualified inspectors and by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases.

The amendment to §361.22 concerns appropriate syntax additions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332228

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: September 21, 1993

For further information, please call: (512) 458-2145

### Chapter 363. Examinations Qualifications

##### • 22 TAC §§363.1, 363.5, 363.7, 363.9, 363.11

The Texas State Board of Plumbing Examiners adopts amendments to §§363.1, 363.5, 363.7, 363.9, and 363.11, concerning Water Supply Protection Specialist Endorsement and Medical Gas Endorsement, without changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6412).

The adoption of the amendments is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water because of water supply systems inspected by qualified inspectors and by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases.

The amendments to §363.1, 363.5, 363.7, 363.9, and 363.11 concern appropriate syntax additions, criteria to obtain the water supply protection specialist endorsement and the medical gas technician endorsement, and criteria to offer a training program in water supply protection and medical gas installation.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332228

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: September 21, 1993

For further information, please call: (512) 458-2145

◆ ◆ ◆  
• 22 TAC §363.1, §363.9

The Texas State Board of Plumbing Examiners adopts amendments to §363.1 and §363.9, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6722).

The adoption of the amendments is justified because public health, safety, and welfare will be enhanced by ensuring each person has access to clean water and clean air because of plumbing installed and maintained by competent plumbers and inspected by competent plumbing inspectors.

The amendment to §363.1 sets forth the rules regarding qualifications to apply for the master plumber's license, the journeyman plumber's license, and the plumbing inspector's license. With regard to the master plumber's license, the amendment sets forth (a) the age requirements and (b) the number of years an individual must have held the journeyman's license before applying for the master's license. With regard to the journeyman plumber's license, the amendment sets forth the age requirements, the education requirements, and the number of hours of work experience required before applying for the journeyman's license. With regard to the plumbing inspector's license, the age requirement to apply for the plumbing inspector's license is amended. The amendment also deletes archaic rules. The amendment to §363.9 sets forth the qualifications for re-examination.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332227

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 458-2145

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Chapter 365. Licensing

• 22 TAC §§365.1, 365.3-365.6,  
365.9, 365.10

The Texas State Board of Plumbing Examiners adopts amendments to §§365.1, 365.3-365.6, 365.9, and 365.10, concerning Water Supply Protection Specialist Endorsement and Medical Gas Endorsement, without changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6413).

The adoption of the amendments is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water because of water supply systems inspected by qualified inspectors and by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases.

The amendments to §§365.1, 365.3-365.6, 365.9, and 365.10 concern definitions of water supply protection specialist and medical gas piping technician regarding each's respective license endorsement, qualifications and procedures for the initial issuance and renewal of each endorsement, and appropriate syntax additions.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332229

Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiner

Effective date: December 8, 1993

Proposal publication date: September 21, 1993

For further information, please call: (512) 458-2145

◆ ◆ ◆  
• 22 TAC §§365.2, 365.5, 365.14

The Texas State Board of Plumbing Examiners adopts amendments to §365.2 and §365.5, concerning clarification of language regarding the plumbing apprentice and prerequisite continuing professional education programs/courses for practicing plumbers to renew their licenses annually; new §365.14, concerning approval criteria for prospective providers of continuing education programs/courses; and a "cleanup" of

§365.11(d), with changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6723).

The adoption of the amendments is justified because public health, safety, and welfare will be enhanced by ensuring each person has access to clean water and clean air because of plumbing installed and maintained by competent plumbers and inspected by competent plumbing inspectors.

The amendment to §365.2 concerns an appropriate syntax addition. The amendment to §365.5 sets forth the rule whereby any journeyman plumber, master plumber, or plumbing inspector wishing to renew his/her license must submit to the administration of the Texas State Board of Plumbing Examiners Board-approved documentation of successful completion within the previous license year of six hours of Board-approved continuing education. The new §365.14 sets forth the criteria for Board approval of prospective providers of continuing education programs/courses. The "cleanup" of §365.11(d) makes the rule consistent with the adopted amendment to companion rule §363.1.

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

The amendments and new section are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

§365.2. *Apprentice Registration.* A registered plumber's apprentice must be at least 16 years of age and may record employment by applying to the board for registration.

§365.5. *Renewals.*

(a) The board shall inform a licensee of the impending expiration of a license or endorsement by sending written notice at least 30 days before its expiration date to the licensee's last known mailing address according to board records.

(b) A licensee may renew an unexpired license or endorsement before its expiration date by paying the fee required by the board.

(c) The licensee's failure to receive the notice of expiration will not alter the licensee's responsibility to renew the license each year or endorsement every three years by its expiration date.

(d) In the case of the renewal of a plumbing inspector's license, the licensee must submit written proof of employment by a political subdivision along with the required renewal fee.

(e) Beginning September 1, 1994, any journeyman plumber, master plumber, or plumbing inspector wishing to renew a license must submit to the administrator board-approved documentation of successful completion within the previous license



year of six hours of board-approved continuing education.

#### §365.14. Continuing Education Programs.

(a) Any person wishing to offer continuing education in plumbing to the public must meet criteria as prescribed by the board. Such persons shall provide to the board instructor credentials for board approval. The board will approve a course and textbook.

(b) Instructors must be licensees of the board, attend an instructor certification each year conducted by the board, be certified by the Central Education Agency, and be employed by a program that meets exemption or certification requirements of the Central Education Agency.

(c) Continuing education programs shall be reviewed annually by the board to ensure that programs have been provided equitably across the State of Texas.

(d) Periodically, the board shall review continuing education programs for quality in content and instruction. The board shall also respond to complaints regarding approved programs.

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 November 8, 1993.

TRD-9332223      Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 458-2145

## Chapter 367. Enforcement

### • 22 TAC §367.1

The Texas State Board of Plumbing Examiners adopts an amendment to §367.1 concerning plumbing codes for the State of Texas, with changes to the proposed text as published in the October 1, 1993 issue of the *Texas Register* (18 TexReg 8724).

The adoption of the amendment is justified because public health, safety, and welfare will be enhanced by ensuring each person has access to clean water and clean air because of plumbing installed and maintained in compliance with the standards in the Southern Standard Plumbing Code, the Uniform Plumbing Code, and the National Standard Plumbing Code.

The amendments to §367.1 set forth the criteria for compliance and the types of entities that must comply with the amendments.

Comments were received regarding adoption of the amendments from the Texas Rural Water Association. Those comments were reviewed and accepted by the Texas State Board of Plumbing Examiners and incorporated as changes to the proposed amendments to §367.1.

The amendments are adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

#### §367.1. General Provisions.

(a) Enforcement of all applicable laws including the act, board rules, and board orders vests in the board.

(b) Enforcement of the act, local codes, and ordinances, and local standards of competency vests in local authorities. The board may take disciplinary actions as specified in Chapter 365 of this title (related to licensing) in the event of any violation of any of these requirements.

(c) Each locally designated plumbing inspector may enforce the act and municipal ordinances and may file complaints with the board and with local prosecutors.

(d) The board may appoint a person knowledgeable of plumbing practice and law as field representative to assist in the enforcement of the act. The field representative may:

- (1) inspect plumbing work sites to assess compliance with the law;
- (2) inquire into consumer complaints and reported violations of the law;
- (3) assist municipal authorities in enforcing the act; and
- (4) issue citations for violations of the act.

(e) The board adopts the Southern Standard Plumbing Code, the Uniform Plumbing Code, and the National Standard Plumbing Code as approved plumbing codes for the State of Texas.

(f) A city, town, or village must adopt a plumbing code that does not substantially vary with the approved state codes, conflict with other state laws, or reduce the overall standards of a minimum code. Political subdivisions may require higher minimum standards as needed in order to protect the health and safety of their citizens.

(g) Any owner of a public water system other than a city, town, or village may adopt a plumbing code that does not substantially vary with the approved state codes, conflict with other state laws, or reduce the overall standards of a minimum code, and shall otherwise ensure that standards for the design, installation, and main-

tenance of water utility systems comply with the minimum requirements promulgated by the Texas Natural Resource Conservation Commission, including but not limited to those provisions ensuring detection and elimination of cross connections and those provisions preventing the use of pipes and pipe fittings containing unacceptable levels of lead.

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 November 8, 1993.

TRD-9332231      Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiners

Effective date: December 8, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 458-2145

### • 22 TAC §367.7

The Texas State Board of Plumbing Examiners adopts an amendment to §367.7 concerning Water Supply Protection Specialist Endorsement and Medical Gas Endorsement, without changes to the proposed text as published in the September 21, 1993 issue of the *Texas Register* (18 TexReg 6415)

The adoption of the amendment is justified because the public health, safety, and welfare will be enhanced by ensuring each person has access to clean water because of water supply systems inspected by qualified inspectors and by ensuring medical gas systems have been installed in such a manner as to prevent infection and/or to prevent an unintended cross-connection of breathable and lethal gases.

The amendment to §367.7 concern appropriate syntax additions.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

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

Issued in Austin, Texas, on November 8, 1993.

TRD-9332230      Gilbert Kissling  
Administrator  
Texas State Board of  
Plumbing Examiner

Effective date: December 8, 1993

Proposal publication date: September 21, 1993

For further information, please call: (512) 458-2145

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**Part XXI. Texas State  
Board of Examiners of  
Psychologists**

**Chapter 463. Applications**

• 22 TAC §463.5

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.5, with changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6725). The following paragraphs are being adopted with changes: (1)(D) and (4)(C) and (H).

The amendment is necessary to clarify that at least two of the reference letters for applicants must be from licensed psychologists, to dispense with contracts for supervision, to move the requirement for the Jurisprudence Examination for applicants by reciprocity to a more appropriate rule, to change the wording to conform to the new law brought into effect by the 73rd Legislative Session, and to clarify the requirements for applications for certification and licensure by reciprocity.

The amendment will function to ensure that consumers receive quality psychological services by guaranteeing at least two of the reference letters will be from those who are already licensed, to cut down on the amount of paper work required by the Board thereby reducing expenses and allowing the Board to serve the public in a more cost efficient and timely fashion, and to bring the rule into line with the new law brought into effect by the 73rd Legislative Session.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.5. Application File Requirements.** An application file must be complete and contain whatever information or examination results the Board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If certification or licensure is sought again, a new application and filing fee must be submitted. An applicant cannot have two types of applications for certification or licensure pending before the Board.

(1) A completed application for certification as a psychologist or licensure as a psychological associate includes:

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

(D) three acceptable reference letters from three different psychologists, two of whom are licensed. An applicant whose file contains any negative reference letters will be asked to provide a written explanation and/or meet with the Board prior to final approval of the application file.

(E) supportive documentation and other materials the Board may deem necessary, including the names of all jurisdictions where the applicant currently holds a certificate or license to practice psychology.

(2) A completed application for the Oral Exam includes an application and required fee.

(3) A completed application for licensure as a psychologist includes:

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

(D) a written explanation and/or meeting with the Board, prior to final approval, if the application file contains any negative reference letters;

(E) supportive documentation and other materials the Board may deem necessary.

(4) A completed application for certification and licensure by reciprocity as a psychologist includes:

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

(C) if providing psychological services in Texas before receiving license, must be employed in an exempt agency, or must have a temporary permit, or must be supervised by a licensed psychologist in an acceptable setting which is appropriate for the education/experience background of the applicant;

(D)-(G) (No change.)

(H) three professional reference letters from three separate psychologists, two of whom are licensed, each of whom must attest without reservation to the applicant's professional competence, ethics, and current fitness to practice. An applicant whose file contains any negative reference letters will be asked to provide a written explanation and/or to meet with the Board prior to final approval of the application file;

(I) If licensed in a foreign country, proof that the requirements of

§463.17 of this title (relating to Foreign Graduates) have been satisfied.

(5) For an applicant who is practicing psychology under a temporary permit, supervision, or employment in a statutorily exempt agency and a complaint is filed against the applicant, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. The applicant will be permitted to take all required exams as scheduled but will not be certified until approved by the Board.

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

Issued in Austin, Texas, on November 10, 1993.

TRD-9332280

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: December 9, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.11

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.11, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6725).

The amendment is necessary to allow the Board to waive a failure to appear for an examination, one time only, for good cause on the part of the applicant.

The amendment will allow applicants who have good cause to transfer the fee toward another exam, thereby allowing qualified persons to become certified and licensed with a minimum financial burden and allowing the public to receive services from qualified practitioners as soon as possible.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 November 10, 1993.

TRD-9332281

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: December 9, 1993

Proposal publication date: October 1, 1993  
For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.30

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.30, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6726).

The amendment is necessary to ensure that applicants by reciprocity be required to pass the Jurisprudence Examination prior to certification and licensure.

The amendment will help ensure that consumers receive quality psychological services, that applicants by reciprocity know the laws, ethics, rules, and regulations governing the profession in the State of Texas, and that the rules are easier to understand and follow for applicants for certification and licensure by reciprocity and the general public.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 November 10, 1993.

TRD-9332282      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: December 9, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
Chapter 465. Rules of Practice

• 22 TAC §465.26

The Texas State Board of Examiners of Psychologists adopts repeal of §465.26, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6726).

The repeal of the section is necessary to bring the rules in line with the new law brought into effect by the 73rd Legislative Session.

The repeal of the section will bring the rules in line with the new law thereby making sure that correct and consistent information is available to the general public as well as certificands/licensees of the Board.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 November 10, 1993.

TRD-9332283      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: December 9, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
Chapter 467. Announcements

• 22 TAC §467.5

The Texas State Board of Examiners of Psychologists adopts repeal of §467.5, without changes to the proposed text as published in the October 1, 1993, issue of the *Texas Register* (18 TexReg 6727).

The repeal of the rule is necessary to bring the rules in line with the current requirements of the Board.

The repeal of the rule will cut down on paperwork by the Board and make it easier for the public to have access to psychological services in the State by repealing the requirements that local professional societies ask for permission to advertise in the yellow pages.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 November 10, 1993.

TRD-9332284      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: December 9, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 835-2036

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 29. Purchased Health Services

##### Subchapter Q. Nurse-Midwife Services

• 25 TAC §29.1601

On behalf of the State Medicaid Director, the Texas Department of Health (TDH) submits a federally mandated adopted amendment to §29.1601, concerning benefits and limitations of certified nurse midwife services in its Purchased Health Services rules.

The amendment is adopted under federal mandate to comply with the Omnibus Budget Reconciliation Act of 1993, §13605.

The amendments expand coverage of nurse midwife services to include those services that midwives are authorized to perform under State law that are outside the maternity cycle. Such services must be consistent with the rules and regulations promulgated by the Board of Nurse Examiners for the State of Texas or other appropriate state licensing authority.

The amendment is adopted under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991). The amendments are adopted in compliance with federal requirements to be effective October 1, 1993.

*§29.1601. Benefits and Limitations.* Subject to the specifications, conditions, requirements, and limitations established by the department or its designee and according to state and federal laws, rules, and regulations, and in the case of services furnished in an institution, hospital or other facility to the extent permitted by the institution, hospital, or facility, nurse-midwife services are limited as follows.

(1) (No change.)

(2) Nurse-midwife services are covered if the services:

(A) are within the scope of practice for certified nurse midwives, as defined by state law;

(B) are consistent with rules and regulations promulgated by the Board

of Nurse Examiners for the State of Texas or other appropriate state licensing authority; and

(C) would be covered by the Texas Medical Assistance Program if provided by a licensed physician (M.D. or D.O.)

(3) (No change.)

(4) To be directly reimbursed by the Texas Medical Assistance Program, a CNM who manages the medical aspects of a case under a physician's control and supervision according to the rules of the State Board of Nurse Examiners and the Medical Practice Act must perform the services according to the written protocols required by the State Board of Nurse Examiners and the services must not be duplicative of other charges to the Medicaid Program. For services other than nurse-midwife services, other provisions of the state plan apply.

(5) (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 November 22, 1993.

TRD-9332466

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Effective date: October 1, 1993

For further information, please call: (512) 338-6509

## Chapter 85. Community Health Services

### Local Public Health

- 25 TAC §85.14

The Texas Department of Health (department) adopts an amendment to §85.14, concerning public health regions. The amendment changes the number of public health regions from eight to eleven.

The amendment implements the provisions of House Bill 7, 72nd Texas Legislature, which requires the Commissioner of the Health and Human Services Commission to establish uniform boundaries for all health and human services agencies.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of Texas Civil Statutes, Article 4413(502), which provide the Commissioner of Health and Human Services Commission with authority to establish and enforce uniform regional boundaries for all health and human services agencies; the Health and Safety Code, §121.007, which provides the Board of

Health with authority to designate public health regions; and §12.001, which provides the board with authority to adopt rules to implement every duty imposed by law on the board.

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

Issued in Austin, Texas, on November 22, 1993.

TRD-9332465

Susan K. Steeg  
General Counsel, Office of  
General Counsel  
Texas Department of  
Health

Effective date: December 13, 1993

Proposal publication date: October 1, 1993

For further information, please call: (512) 458-7770

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

The following adoptions submitted by the Texas Department of Mental Health and Mental Retardation will be serialized beginning in the December 3, 1993, issue of the *Texas Register*. The effective date of these adoptions is December 10, 1993.

### Chapter 401. System Administration

#### Subchapter G. Community Mental Health and Mental Retardation Centers

- 25 TAC §§401.453, 401.460, 401.463, 401.465, and 401.466 (new and amendment)
- 25 TAC §401.463, §401.464 (repeal)

#### Subchapter H. Interstate Transfer

- 25 TAC §§403.221-403.237 (repeal)
- 25 TAC §403.221, §403.232 (new)

#### Subchapter K. Client-Identifying Information

- 25 TAC §§403.291-403.308 (repeal)
- 25 TAC §§403.291-403.308 (new)

#### Subchapter N. Administrative Hearings Arising Under the

### Persons with Mental Retardation Act

- 25 TAC §§403.401-403.419 (new)

### Chapter 404. Protection of Clients and Staff

#### Subchapter E. Rights of Persons Receiving Mental Health Services

- 25 TAC §§404.151-404.166 (repeal)
- 25 TAC §§404.151-404.167 (new)

### Chapter 405. Client (Patient) Care

#### Subchapter D. Comprehensive Diagnosis and Evaluation

- 25 TAC §§405.81-405.92 (repeal)

#### Subchapter D. Determination of Mental Retardation and Appropriateness for Admissions to Mental Retardation Services

- 25 TAC §§405.81-405.92 (new)

#### Subchapter E. Electroconvulsive Therapy

- 25 TAC §§405.101-405.104, 405.107-405.110, 405.112, 405.113 (new and amendment)
- 25 TAC §405.108, 405.114 (repeal)

#### Subchapter J. Surrogate Decision-making for Community-based ICF/MR and ICF/MR/RC Facilities

- 25 TAC §§405.231-405.249 (new)

#### Subchapter AA. Practice and Procedure with Respect to Administrative Hearings of the Department Arising under the Mentally Retarded Persons Act of 1977

- 25 TAC §§405.661-405.678 (repeal)

Chapter 409. Medicaid Programs

Subchapter H. Diagnostic Services for Persons with Potential of Mental Retardation • 25 TAC §§409.301-409.306 (new)

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part XV. Texas Low-Level Radioactive Waste Disposal Authority

Chapter 450. Planning and Implementation Fees

Subchapter A. Assessment of Fees

• 31 TAC §§450.1-450.4

The Texas Low-Level Radioactive Waste Disposal Authority adopts amendments to §§450.1-450.4, concerning assessment of fees, without changes to the proposed text as published in the October 8, 1993, issue of the Texas Register (18 TexReg 6918).

These rules are needed to implement planning and implementation fees required by Chapter 402, Health and Safety Code.

The amended rules assess planning and implementation fees for state fiscal years 1994-1995, specify the low-level radioactive waste generators who must pay the fees, and provide for the collection and deposit of fees in the state treasury.

Supporting comments were received by Houston Industries, Incorporated and TU Services. The agency agrees with the comments received.

The amendments are adopted under the Health and Safety Code, §402.054, which provides the agency with the authority to adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act, and specifically, to implement planning and implementation fees.

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 November 19, 1993.

TRD-9332406

Lee H. Mathews
Deputy General Manager
and Legal Counsel
Texas Low-Level
Radioactive Waste
Disposal Authority

Effective date: December 10, 1993

Proposal publication date: October 8, 1993

For further information, please call: (512) 451-5292

Subchapter B. Expenditures for Local Public Projects

• 31 TAC §§450.11-450.19

The Texas Low-Level Radioactive Waste Disposal Authority adopts new §§450.11-450.19, concerning expenditures for local public projects, with changes to the proposed text as published in the October 8, 1993, issue of the Texas Register (18 TexReg 6919).

These rules are needed to implement the requirements of Subchapter I, Chapter 402, Health and Safety Code, that the Authority adopt guidelines for the expenditure of planning and implementation fee surcharges received by a county commissioners court.

The rules authorize funding of local public projects contained in a county master plan, specify what proposals for such projects must contain, and authorize a county commissioners court to contract with other entities to provide such projects.

One commenter suggested that the master plan for local public projects should provide for local employment to implement the plan, where possible.

The agency agrees that local public projects should employ local citizens where possible. The rules have been revised to reflect the change.

The new rules are adopted under Health and Safety Code, §402.054 and §402.252, which provides the authority to adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act, and to provide guidelines for the expenditure of planning and implementation fees surcharges.

§450.11. Purpose. The purpose of this subchapter is to adopt guidelines under the Health and Safety Code, §402.252, for the expenditure by the host county commissioners court or its contractors of funds generated by planning and implementation fee surcharges and waste disposal fees.

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

Local Public Project—Any undertaking, including traditional services and functions, that benefits the public, including the following:

- (A) police protection and detention services;
(B) fire protection;
(C) streets, roads and drainage;

(D) sewage and water systems;

(E) medical and emergency response facilities and/or services;

(F) public health and welfare;

(G) parks and recreation;

(H) library and museum services, facilities, and capital improvements;

(I) records center services;

(J) municipal waste disposal;

(K) housing development activities;

(L) industrial development activities;

(M) job training and social service support programs;

(N) organizational training and technical assistance;

(O) small business development activities;

(P) public education, including program development, facilities, and capital improvements; and

(Q) convention and/or community facilities.

Public Non-Profit Corporation—A non-profit corporation that has been duly incorporated in Texas to do business in the state and has received a tax exempt status under §501(c)(3) of the United States Internal Revenue Code.

Entities—Those organizations which have been organized in the State of Texas to do business in the state or have been classified as political subdivisions.

Host County Commissioners Court or Commissioners Court—The commissioners court of Hudspeth County, Texas.

Board—The Board of Directors of the Texas Low-Level Radioactive Waste Disposal Authority.

§450.13. Restriction on Surcharge Use. Planning and implementation surcharges assessed by the board for the 1994-1995 biennium only under the Health

and Safety Code, §402.2721, must be used only for local public projects that are located within ten miles of the Authority's disposal facility site.

**§450.14. Plan for Local Public Projects.**

(a) Prior to board consideration of funding for individual local public projects, the commissioners court shall submit to the board a master plan for providing local public projects.

(b) The plan should:

- (1) propose local public projects that will enhance the quality of life;
- (2) include local public projects that will enhance educational opportunities;
- (3) provide for community services which are currently unavailable or are limited;
- (4) improve the existing infrastructure;
- (5) encourage cooperation with lenders and community based organizations to maximize the leverage potential of local financial and staff resources;
- (6) support and encourage comprehensive solutions to community and area-wide economic needs;
- (7) to the extent practicable, provide for local employment to implement the plan; and

(8) provide projects that have the potential to become self-sufficient or attract continuing financial support.

(c) At a minimum, the plan should include:

- (1) a listing of local public projects proposed for funding;
- (2) projected costs and schedule of implementation;
- (3) available alternative or supplemental funding, including state or federal matching funds; and
- (4) priority ranking of each proposed project.

(d) The board may approve, disapprove, amend or specify any conditions for approval of the plan as may be required.

(e) The commissioners court shall select local public projects for funding from the plan's priority list or as agreed to by the board.

**§450.15. Scope and Content of Local Public Project Proposals.**

(a) Any proposed local public project must address the following:

- (1) planning;
- (2) start-up;
- (3) replication;
- (4) expansion;

(5) training and technical assistance; and

(6) administrative costs.

(b) Proposed local public projects will not be approved which:

- (1) primarily benefit individuals;
- (2) emphasize political or religious goals;
- (3) include or promote advertising; or
- (4) include expenditures for research, conferences, travel, films, videos, or publications, unless such items are an integral part of a larger project or undertaking that benefits the public and that the commissioners court supports.

**§450.16. Contracts for Local Public Projects.**

(a) A community development corporation or other entity seeking to provide a local public project must file an application with the commissioners court. The application shall be substantially in the form set out in Appendix A.

(b) If the commissioners court finds that the local public project is included in an approved plan under §450.14 of this title (relating to Plan for Local Public Projects) and the application is approved by the commissioners court, the commissioners court shall enter into a contract with the applicant to provide the local public project.

**APPENDIX A**

**PUBLIC PROJECTS APPLICATION OUTLINE**

**1. APPLICANT**

**Name**

**Street Address**

**2. PROJECT AND LOCATION**

**Project and title, street address**

**Is the project included in a master plan approved by the county commissioners court?**

3. **CONTACT INFORMATION**

Contact person, title, and phone number

4. **TOTAL PROJECT BUDGET**

Total project cost

5. **PURPOSE OF GRANT**

What specifically will the funds pay for? (Salaries, equipment, etc.)

What is the overall objective of the project?

What population will benefit by the project?

What are the expected outcomes of the project?

6. **STATEMENT OF NEED**

What is the problem being addressed?

How many people in the service area need this service?

Why is this project important to this community?

Was a needs assessment conducted? If so, what data was collected?

What other agencies are doing similar kinds of work?

Will there be other organizations involved in the project? What will be their role?

7. **PROJECT GOALS AND OBJECTIVES**

What are the goals, objectives, and timelines for the project?

What is the project methodology?

8. **EVALUATION MEASURES**

What specific measures will be used to evaluate the project?

9. **PERSONNEL**

What are the qualifications of the personnel and board of directors (if any) to carry out the program?



10. APPLICANT FINANCIAL INFORMATION

BUDGET

What is the total annual operating budget of the applicant?

PROJECT BUDGET

What is the total project budget?

APPLICANT SUPPORT

What money has been committed and from where?

PROJECT SUPPORT

What money has been committed and from where?

PENDING APPLICANT

PROPOSALS

Where else are proposals pending?

PENDING PROJECT

PROPOSALS

Where else are proposals pending?

BUDGET NARRATIVE

Rationale for the amount being recommended.

What is the unit cost, if applicable for services, and how does that compare to other, similar services?

COMMUNITY SUPPORT

1. Provide any letters from unrelated persons or organizations in the community.
2. Provide any letters of support from other regional or state organizations.

STATEMENT OF APPROVAL

The undersigned affirms that the responsible governing body approved this application on \_\_\_\_\_ (date) and is aware of, and concurs with, the information contained in the application. Further, if the proposed contract is executed, the undersigned agrees to use the funds only for the purpose granted and to provide any reports or information that may be requested by the County of Hudspeth or the Texas Low-Level Radioactive Waste Disposal Authority.

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Date: \_\_\_\_\_

§450.17. Transfer of Funds.

(a) The board shall quarterly transfer money in the low-level waste fund to the commissioners court for funding of local public projects approved in §450.14 of this title (relating to Plan for Local Public Projects).

(b) The commissioners court shall maintain an interest-bearing account separate from all other county accounts into which the money will be transferred.

(c) Funds may be drawn from the account as needed to fund the approved local public projects. If the commissioners court contracts with other entities or public non-profit corporations to provide local public projects, the commissioners court is still accountable to the board for the use of the funds, and only those projects included in the plan may be undertaken by the entities or public non-profit corporations.

§450.18. Audit.

(a) At least once a year, the commissioners court shall provide to the board an independent financial audit by a certified public accountant acceptable to the board, of the funds expended for local public projects.

(b) The commissioners court may expend funds from the interest-bearing account established under §450.17(b) of this title (relating to Transfer of Funds) to pay for the audit.

§450.19. Withholding of Funds. If the board determines, as a result of information provided by an audit or some other reliable source, that:

- (1) funds have not been applied to a local public project;
- (2) funds have not been spent according to the approved plan; or
- (3) funds have been negligently or fraudulently disbursed; the board may withhold further funding and require the repayment of funds already spent, or take other appropriate action.

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 November 19, 1993.

TRD-9332405

Lee H. Mathews  
Deputy General Manager  
and Legal Counsel  
Texas Low-Level  
Radioactive Waste  
Disposal Authority

Effective date: December 10, 1993

Proposal publication date: October 8, 1993

For further information, please call: (512) 451-5292

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part I. Texas Department of Public Safety**

**Chapter 23. Vehicle Inspection**

**Commercial Motor Vehicle Compulsory Inspection Program**

• 37 TAC §23.101

The Texas Department of Public Safety adopts new §23.101, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6940).

The new section ensures that all commercial motor vehicles meet the minimum equipment requirements of the state and federal motor carrier safety regulations.

The new section provides that commercial motor vehicles registered in this state shall be

required to pass an annual inspection of all safety equipment required by federal safety regulations.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6701d, §140A and §142(c)(1), which provide the Public Safety Commission with the authority to establish an inspection program for commercial motor vehicles that meets the requirements of federal safety regulations.

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 November 12, 1993.

TRD-9332218 James R. Wilson  
Director  
Texas Department of  
Public Safety

Effective date: December 8, 1993

Proposal publication date: October 8, 1993

For further information, please call: (512) 465-2000

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part V. Veterans Land Board

#### Chapter 175. General Rules

##### • 40 TAC §175.2

The Veterans Land Board adopts an amendment to §175.2, concerning application/eligibility, with changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5570). The changes which have been made are grammatical only.

The proposed amendment reduces the five-year residency requirement from five years to two years, and provides for the eligibility of the spouses of veterans who are missing in action.

The class of eligible veterans will expand to include those who have resided in Texas for two years, as well as the spouses of veterans who are missing in action.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the provisions of the Natural Resources Code, §161.061 and §161.063, which provide the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable.

##### §175.2. Application/Eligibility.

(a) Applications material to participate in the Veterans Land Program must be

made on forms furnished by the Board. These forms and other materials may be obtained from the Veterans Land Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701.

(b) For purposes of this program, a veteran is someone who:

- (1) is at least 18 years of age;
- (2) is a citizen of the United States;
- (3) has served not less than 90 continuous days in the Army, Navy, Air Force, Coast Guard, Marine Corps, or United States Public Health Service, unless discharged earlier because of a service-connected disability, which service must have been after September 16, 1940, or have completed at least 20 years of active or reserve military service in any of the above branches of service, as computed when determining the person's eligibility to receive retired pay, or have enlisted or received an appointment in the Texas National Guard after completing all initial active duty training required as a condition of enlistment or appointment, and who has not been dishonorably discharged from the Texas National Guard;

(4) has not been dishonorably discharged;

(5) has not previously participated in the land or housing program as a veteran. For purposes of this chapter one may have participated in the Veterans Housing Assistance Program, including its home improvement loan component, and still be eligible for participation in the Veterans Land Program. However, an eligible veteran is entitled to no more than one of each kind of loan as a veteran purchaser/borrower;

(6) was a bona fide resident of the State of Texas at the time of his or her enlistment, induction, commissioning, appointment or drafting, or have been a legal resident of Texas at least two years immediately prior to the date of filing his or her application; and

(7) is a bona fide resident of Texas at the time the application is filed.

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

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

(e) If an eligible Texas veteran dies after he has filed an application and contract of sale with the Board, but before the purchase has been completed, the surviving spouse may complete the transaction. In addition, the unmarried surviving spouse of a veteran who dies in the line of duty or is missing in action shall be eligible to participate in the program if the following requirements are satisfied:

(1) the surviving spouse has not remarried and is a bona fide resident of Texas at the time of filing the application with the Board;

(2) at the time of enlistment, induction, commissioning, appointment or drafting, the deceased veteran was a bona fide resident of Texas (the two years residence alternative is not available);

(3) the deceased veteran was a citizen of the United States at time of death;

(4) the deceased veteran had served on active duty in the Army, Navy, Air Force, Coast Guard, Marine Corps, or Public Health Service, after September 16, 1940, or had completed 20 years of reserve military service in any of the above branches of service, which is creditable for retirement under applicable federal laws, or enlisted or received an appointment in the Texas National Guard. The deceased veteran need not have served at least 90 continuous days of active duty;

(5) neither the deceased veteran nor the unmarried surviving spouse previously participated in the Veterans Housing Assistance Program or the Veterans Land Program; and

(6) the Board must be furnished certification from the United States Veterans Administration that the unmarried surviving spouse is currently entitled to benefits as the spouse of a veteran who died in the line of duty. The Board may also determine that the line of duty requirement is satisfied upon presentation of other evidence.

(f)-(k) (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 November 17, 1993.

TRD-9332389 Garry Mauro  
Chairman  
Veterans Land Board

Effective date: December 10, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-5007

## Chapter 177. Veterans Housing Assistance Program

##### • 40 TAC §177.5

The Veterans Land Board adopts an amendment to §177.5, concerning loan eligibility requirements, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5571).

The proposed amendment reduces the five-year residency requirement from five years to two years.

The class of eligible veterans will expand to include those who have resided in Texas for two years.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the provisions of the Natural Resources Code, §162.003(b), which provides that the Veterans Land Board shall adopt rules governing the administration and the fund and program.

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

Issued in Austin, Texas, on November 17, 1993.

TRD-9332388 Garry Mauro  
Chairman  
Veterans Land Board

Effective date: December 10, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-5007

## Chapter 179: Farm and Ranch Finance Program

### • 40 TAC §§179.1-179.23

The Veterans Land Board adopts the repeal of §§179.1-179.23, concerning the Farm and Ranch Finance Program, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5572).

Under recent legislation the Farm and Ranch Finance Program has been transferred to the Texas Department of Agriculture.

The repeals will allow for the adoption of new rules governing the Farm and Ranch Finance Program by the Texas Department of Agriculture.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the provisions of Natural Resources Code, §163.037, which provides the Veterans Land Board with the authority to adopt rules that it considers necessary or advisable.

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 November 17, 1993.

TRD-9332390 Garry Mauro  
Chairman  
Veterans Land Board

Effective date: December 10, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-5007

The State Board of Insurance of the Texas Department of Insurance at a public hearing, under docket number 2042 held at 9:00 a.m. on November 3, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin adopted amendments as proposed by Staff to the Texas Automobile Rules and Rating Manual (the Manual), extending discounts to collectible and special interest autos as well as antique autos. Under current rules and endorsements in the Manual, an automobile must be at least 25 years old to be eligible for the reduced liability rate for antique autos. These rules are being expanded to include all collectible and special interest autos, regardless of whether they are 25 years old. This change is justified because the limited use of the vehicle, rather than its age, produces the limited exposure. An auto will not qualify unless its use is limited in the same manner as currently required in the rules for antique autos. Manual Rules 78 and 123, and Endorsements 586 and TE 20 32A are the ones being amended. Staff's petition (Reference Number A-0593-18) was published in the September 28, 1993, issue of the *Texas Register* (18 TexReg 6638).

The State Board of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.98, and 5.101.

The amendments as adopted by the State Board of Insurance are shown in the exhibits which were filed with the Chief Clerk under Reference Number A-0593-18, and are incorporated by reference by Board Order Number 60566.

The notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.

Consistent with the Insurance Code, Article 5.96(h), prior to the effective date of this action, the Board will notify all insurers writing automobile insurance.

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 November 19, 1993.

TRD-9332414 Linda K. von Quintus-Dom  
Chief Clerk  
Texas Department of  
Insurance

Effective date: January 1, 1994

Proposal publication date: September 28, 1993

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

The State Board of Insurance of the Texas Department of Insurance at a public meeting held at 9:00 a.m. on November 17, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin has adopted a filing by the Texas Department of Banking (Department) consisting of a new

surety bond form required by the Acts of the 73rd Legislature.

The new BOND FOR WITHDRAWAL OF EXCESS FUNDS, Form Number 092293.WEF (the Bond) is required by the revisions to Texas Civil Statutes, Article 548b, §5, (the Act). The Act allows a permit holder who sells prepaid funeral benefits or contracts to withdraw from trust accounts excess earnings that exceed 110% of all sums paid by purchasers of contracts. Certain documentation and specific criteria must be furnished to the Department for approval of the withdrawal. Permit holders must either have an unqualified opinion by a certified public accountant of an audited financial statement within 18 months of application or an audited financial statement with a qualified opinion which is accompanied by the Bond in an amount equal to the amount of the requested withdrawal. The Bond is written in favor of the Commissioner of the Department (Commissioner) and shall be reduced on an annual basis by an amount equal to 10% per year.

The Act further provides the Commissioner shall approve an application to withdraw excess earnings unless the Commissioner determines that the seller's ability to deliver the contracted services and merchandise would be materially jeopardized by the withdrawal due to: the amount of the requested withdrawal exceeding the net worth of the seller, however, the Commissioner may approve the withdrawal if the application is accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 20% per year. If the seller has experienced a net loss from operations in any of the last three years, however, the Commissioner may approve the withdrawal if accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 10% per year. If the contingent liabilities other than commitments disclosed on the face of the seller's audited balance sheet exceeds the seller's net worth as of the date of the financial statement, however, again the Commissioner may approve the withdrawal if accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 10% per year. There are numerous other reasons that do not have the Bond as an option that would allow the Commissioner to deny a withdrawal.

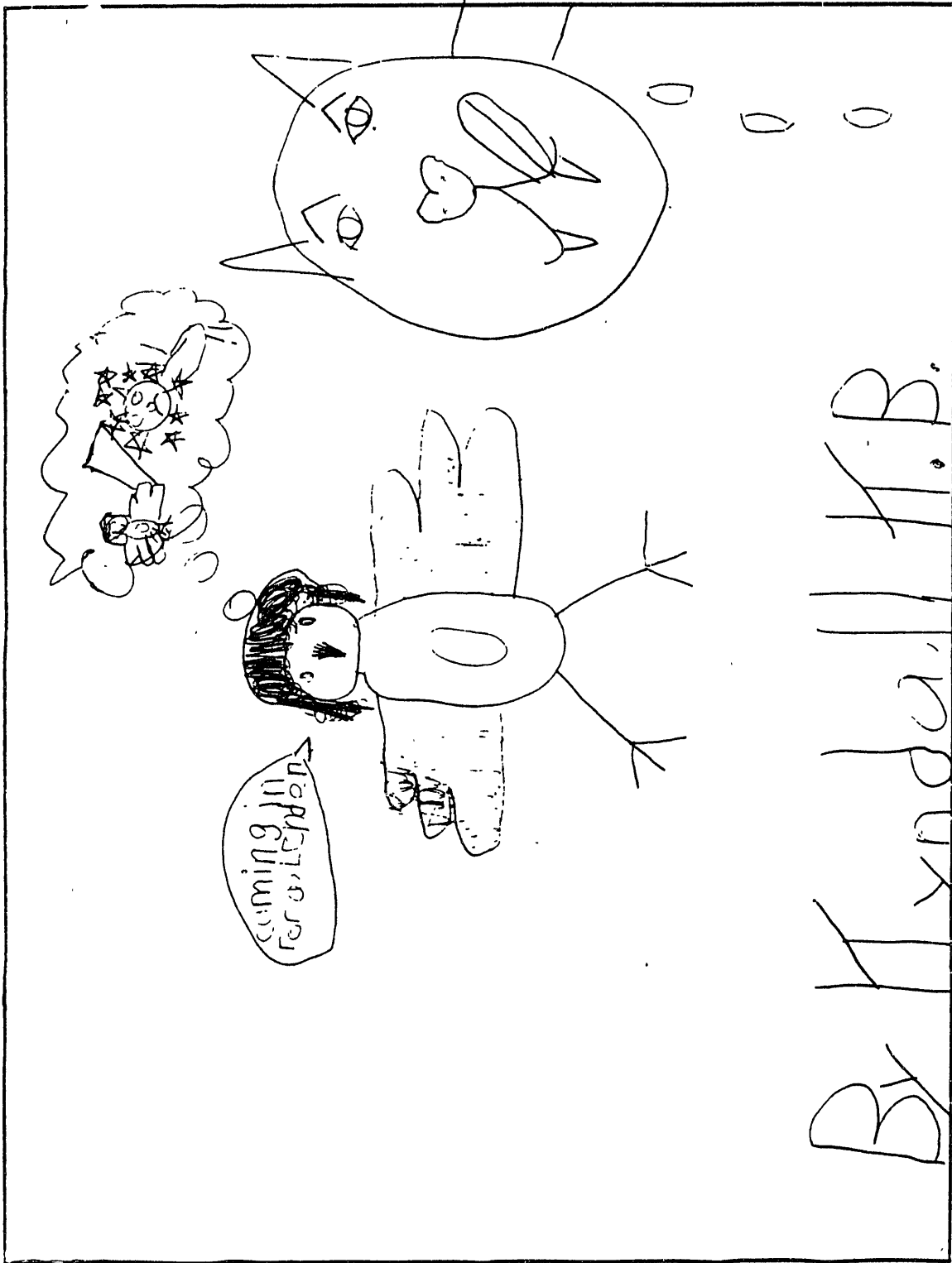
The Bond is continuous and conditioned on the principal faithfully conforming to and abiding by the provisions of the Act and rules adopted by the Commissioner of the Department.

The Board has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15 and 5.97.

The full text of the form filing entitled "BOND FOR WITHDRAWAL OF EXCESS FUNDS, Form Number 092293.WEF" as adopted by the Board is filed with the Chief Clerk under Reference Number A-0993-23 and is incorporated by reference by Board Order Number 60560.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.





Name: Kyndall K. Bollmeyer  
Grade: 1  
School: Woodview Elementary, Spring Branch ISD

# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to 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 named 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. Emergency meeting notices filed by all 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 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 on Aging

Thursday, December 2, 1993, 9:30 a.m.  
1949 South IH-35, Third Floor Large Conference Room

Austin

According to the complete agenda, the Citizens Advisory Council will consider and possibly act on: call to order; minutes of the September 8, 1993 meeting of the Citizens Advisory Council (CAC); receive public testimony; roundtable discussion of issues and recommendations to board on aging; develop goals and objectives of the CAC; select nominations for chair and vice-chair of the CAC and recommend to Board on Aging; recognize members whose terms will expire January 31, 1994; general announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:19 p.m.

TRD-9332502

Thursday, December 2, 1993, 9:30 a.m.  
1949 South IH-35, Third Floor Large Conference Room

Austin

According to the agenda summary, the Texas Board on Aging will consider and possibly act on: call to order; October 14, 1993 minutes; public testimony; executive director's report; select chair and vice-chair of Citizens Advisory Council (CAC); select representatives to CAC from regions; documents relating to Senior Advocacy Coalition; role of board and TDoA staff in providing input and technical assistance to senior advocacy coalition; advocacy role in health care reform issues; Fiscal Year 1994 area plans; strategic plan process for

1996-1997; proposed distribution of 1994 Title VII funds for benefits counseling; internal audit of TDoA options for independent living program-draft report; revised TDoA internal audit guidelines; performance of an internal audit peer review during Fiscal 1994; ombudsman advisory committee membership; board member travel; executive session to conduct employment evaluation of executive director; general announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332497

Thursday, December 2, 1993, 10:00 a.m.  
1949 South IH-35, Third Floor Small Conference Room

Austin

According to the complete agenda, the Planning Committee will consider and possibly act on: call to order; approve minutes of August 5, 1993 meeting; review area plans for Fiscal Year 1994 and recommend to Board on Aging; review strategic plan process for 1996-1997 and recommend to Board on Aging; review quarterly program performance report to Legislative Budget Board; review quarterly state plan report for administration on aging; review quarterly discretionary grants report; discuss board position papers; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332501

Thursday, December 2, 1993, 11:30 a.m.  
1949 South IH-35, Third Floor Small Conference Room

Austin

According to the complete agenda, the Networking/Advocacy/Legislation Committee will consider and possibly act on: call to order; meet in conjunction with the Texas Department on Aging Planning Committee to discuss board position papers; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332500

Thursday, December 2, 1993, 1:30 p.m.  
1949 South IH-35

Austin

According to the complete agenda, the Area Agency on Aging Operations Committee will consider and possibly act on: call to order; approve August 11, 1993 minutes; proposed distribution of 1994 Title VII funds for Benefits Counseling; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332499

Thursday, December 2, 1993, 3:30 p.m.  
1949 South IH-35, Third Floor Small Conference Room

Austin

According to the complete agenda, the Audit and Finance Committee will consider and possibly act on: call to order; minutes of October 14, 1993 meeting; internal audit of the TDoA options for independent living program-draft report; revised TDoA internal audit guidelines; performance of an internal audit peer review during Fiscal Year 1994; prior internal audit updates; budget report; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332498

## Texas Department of Agriculture

Tuesday, December 7, 1993, 10:00 a.m.

1700 North Congress Avenue, Room 928B

Austin

According to the agenda summary, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.116(a)(1) and 4 TAC §7.22 by Charles Leidal.

Contact: Joyce C. Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: November 23, 1993, 9:45 a.m.

TRD-9332548

Thursday, December 9, 1993, 10:00 a.m.

1700 North Congress Avenue, Room 928B

Austin

According to the agenda summary, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code annotated §§74.001-74.008 (Vernon Supplement 1993) by James F. Gavranovic.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: November 23, 1993, 9:51 a.m.

TRD-9332554

Monday, December 13, 1993, 3:00 p.m.

Expressway 83, Two Blocks West of Morningside Road

San Juan

According to the agenda summary, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq (Vernon 1982) by Kay-Dee Produce as petitioned by Jose Luis Vargas.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 23, 1993, 9:47 a.m.

TRD-9332549

Thursday, December 16, 1993, 10:00 a.m.

1700 North Congress Avenue, Room 928B

Austin

According to the agenda summary, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §§74.001-

74.008 (Vernon Supplement 1993) by Alan Kaliszkeski.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: November 23, 1993, 9:50 a.m.

TRD-9332553

Thursday, December 16, 1993, 10:00 a.m.

Texas Agriculture Extension Service, 1030 North Zaragoza, Suite A

El Paso

According to the complete agenda, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et seq (Vernon 1982) by DeBruyn Produce as petitioned by Rodriguez Estate/Farm Products Enterprise.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 18, 1993, 2:26 p.m.

TRD-9332335

Thursday, December 16, 1993, 1:00 p.m.

1700 North Congress Avenue, Room 928B

Austin

According to the agenda summary, the Office of Hearings will hold an administrative hearing to review alleged violation of Texas Agriculture Code §§74.001-74.008 (Vernon Supplement 1993) by Krenek Ag Supply.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: November 23, 1993, 9:50 a.m.

TRD-9332552

## State Aircraft Pooling Board

Wednesday, December 1, 1993, 2:30 p.m.

4900 Old Manor Road

Austin

According to the complete agenda, the board will call the meeting to order; introductions; approval of minutes of board meeting, October 6, 1993; executive director's report; setting of time and place for next meeting; and final adjournment.

Contact: Gladys Alexander, 4900 Old Manor Road, Austin, Texas 78723, (512) 477-8900.

Filed: November 22, 1993, 8:07 a.m.

TRD-9332459

## Texas Commission on Alcohol and Drug Abuse

Monday, November 22, 1993, 9:00 a.m. (Rescheduled from Monday, November 22, 1993, at 10:00 a.m.)

710 Brazos Street

Austin

Emergency Revised Agenda

According to the emergency revised agenda summary, the Offender Credentialing Committee found it was necessary to repost meeting due to time change.

Reason for Emergency: The emergency status was necessary to allow sufficient time to review criminal history information on applications for chemical dependency counselor licensure.

Contact: Mike Ezzell, 710 Brazos Street, Austin, Texas 78701-2576, (512) 867-8257.

Filed: November 18, 1993, 4:45 p.m.

TRD-9332360

## Texas Commission for the Blind

Tuesday, November 30, 1993, 10:15 a.m.

Texas Commission for the Blind Administrative Building, Suite 320, 4800 North Lamar Boulevard

Austin

According to the complete agenda, the Board Audit Committee will hold a work session and review of audit department's charter and 1994-1995 audit plan.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: November 19, 1993, 10:31 a.m.

TRD-9332387

## Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Friday, December 3, 1993, 9:00 a.m.

Texas Commission for the Blind, Criss Cole Rehab Center, Staff Training Room, 4800 North Lamar Boulevard

Austin

According to the agenda summary, the Committee will call the meeting to order; introduction of committee members and guests; acceptance of minutes from September 3, 1993 meeting; discussion and action on new services, renewal services, new



products, and product changes and revisions; discussion and action on report subcommittee's recommendations for the annual report; discussion and action on setting meeting dates for 1994; discussion and action on time, date, and agenda for the Texas Committee Work Session; and adjournment.

Contact: Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2605.

Filed: November 22, 1993, 11:58 a.m.

TRD-9332495

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**Texas Department of Commerce**

**Monday, November 29, 1993, 9:00 a.m.**  
(Rescheduled from November 10, 1993).

816 Congress Avenue, 11th Floor Board Room

Austin

According to the revised agenda summary, the Board of Directors will call the meeting to order; recess into executive session pursuant to Texas Civil Statutes, Article 6252, §2(e) to discuss pending litigation and quasi-litigation matters; call back to order of open meeting; adoption of minutes from meeting of August 11, 1993; report from executive director; report on regional prosperity plan; approval of internal audit plan and charter for fiscal year 1994; adoption of final operating rules for the policy board; approval of generic memorandum of understanding to be entered into with the following state agencies pursuant to Senate Bill 405: Comptroller of Public Accounts, General Services Commission, Alternative Fuel Council, Texas Parks and Wildlife Department, Texas Historical Commission, General Land Office, Texas Department of Human Services, Texas Education Agency, Texas Department of Agriculture, Texas Higher Education Coordinating Board, and Texas Department of Housing and Community Affairs; final repeal of HUB rules; approval of historically underutilized business and small business linked deposit program rules; approval of amendments to rules governing the Texas Rural Economic Development fund; approve a guarantee-to-reserve ratio under Rural Economic Development; approval of Enterprise Zone Rules for publication in the *Texas Register* as final rules; approval of resolution in support of trade corridors; approval to schedule regional policy board meetings; public comments; and adjourn. (Meeting was rescheduled due to a lack of a quorum on November 10, 1993).

Contact: Richard Hall, 816 Congress Avenue, Suite 1120, Austin, Texas 78701, (512) 320-9672.

Filed: November 19, 1993, 4:52 p.m.

TRD-9332444

**Monday, November 29, 1993, 11:35 a.m.**

816 Congress Avenue, 11th Floor Board Room

Austin

According to the agenda summary, the Texas Small Business Industrial Development Corporation will call the meeting to order; adoption of minutes from meeting of August 11, 1993; and adjourn.

Contact: Richard Hall, 816 Congress Avenue, Suite 890, Austin, Texas 78701, (512) 320-9672.

Filed: November 19, 1993, 4:51 p.m.

TRD-9332443

**Monday, November 29, 1993, 11:40 a.m.**

816 Congress Avenue, 11th Floor Board Room

Austin

According to the agenda summary, the TEXCAP Financing Corporation will call the meeting to order; adoption of minutes from meeting of August 11, 1993; and adjourn.

Contact: Richard Hall, 816 Congress Avenue, Suite 890, Austin, Texas 78701, (512) 320-9672.

Filed: November 19, 1993, 4:51 p.m.

TRD-9332442

**Thursday, December 2, 1993, 10:00 a.m.**

Second Floor Board Room, Anson Jones Building, 410 East Fifth Street

Austin

According to the agenda summary, the Capital Certified Development Corporation Board of Directors will call to order in open meeting; approval of minutes of September 2, 1993, meeting; action items-treasurer's report; loan activity report; staff titles; information item-recap of annual CDC activity; discussion items-review annual report, review loan cost comparison; board marketing activity and materials; importance of board member involvement; 504 loan prospects; capital funding for CDC; and any other old/new business; and adjourn. Persons with disabilities who plan to attend this meeting and may need auxiliary aids or services are requested to contact Eileen Kelley (512) 320-9649 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Eileen Kelley (512) 320-9649 if you need assistance in having English translated into Spanish.

Contact: Armando Ruiz, 410 East Fifth Street, Austin, Texas 78701, (512) 320-9649.

Filed: November 19, 1993, 12:27 p.m.

TRD-9332394

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**Texas Cosmetology Commission**

**Saturday, December 4, 1993, 9:30 a.m.**

Texas Cosmetology Commission Hearing Room, 5717 Balcones Drive

Austin

According to the complete agenda, the Facial Instructor Exam Committee will call the meeting to order; introductions; discussion of facial instructor examination; and adjourn.

Contact: Alicia Ayers, 5717 Balcones Drive, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: November 22, 1993, 10:39 a.m.

TRD-9332492

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**Council on Competitive Government**

**Wednesday, December 1, 1993, 2:30 p.m.**

Central Services Building, Room 402

Austin

Notice of Staff Meeting

According to the complete agenda, the council will give update on study of Section 66 of House Bill 2626; plan for evaluating proposals submitted in response to the request for bids relating to the Comptrollers' Office print shop, discussion of agenda for the December 17th (tentative) council meeting.

Contact: Judith M. Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: November 23, 1993, 9:29 a.m.

TRD-9332546

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**Court Reporters Certification Board**

**Saturday, December 4, 1993, 9:00 a.m.**

Texas Law Center, 1414 Colorado Street, Suite 206

Austin

According to the agenda summary, the board will call the meeting to order; take attendance; conduct formal hearings and preliminary reviews; meet in executive session with AAG to seek legal advice regarding House Bill 1037 and legal rights, remedies and procedures thereunder; the

authority of a Notary Public and the board; and the ADA, pursuant to the Government Code, §551.071(2); return to open session for further discussion and possible action regarding legal advice; consider ADD correspondence; consider injunction cases; consider AG Opinion Number 93-87; consider and possibly act on request for refund; consider applicant convicted of a criminal offense; review report from CRCTF; approve prior meeting minutes; consider findings of Pilot Program; review 1994 expenditures; review 1994 exam and meeting dates; and adjourn.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: November 19, 1993, 9:41 a.m.

TRD-9332370

Saturday, December 4, 1993, Noon.

Texas Law Center, 1414 Colorado Street, Suite 206

Austin

According to the complete agenda, the Testing Committee will call the meeting to order; take attendance; executive session to review 1994 test material pursuant to Texas Government Code, §552.122(b); and adjourn.

Contact: Peg Liedtke, 205 West 14th Street, Suite 101, Austin, Texas 78701, (512) 463-1624.

Filed: November 19, 1993, 9:41 a.m.

TRD-9332369

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**Texas Office for Prevention  
of Developmental  
Disabilities**

Monday, December 6, 1993, 10:00 a.m.

4900 North Lamar Boulevard

Austin

According to the complete agenda, the Statewide Bicycle Helmet Coalition will call the meeting to order; introductions; subcommittee reports: legislation; education; data collection; helmet distribution; bicycle safety grant report; new issues and discussion; meeting schedule; and adjournment.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-5042.

Filed: November 22, 1993, 11:21 a.m.

TRD-9332493

**Texas Education Agency**

Monday, December 6, 1993, 9:00 a.m.

Room 118, Stephen F. Austin Building,  
1700 North Congress Avenue

Austin

According to the agenda summary, the Advisory Committee on Student Assessment will advise the Texas Education Agency on the development and administration of the student assessment program; agenda is as follows: welcome; role of committee/election of chair; update on student assessment outline; report on second reading of assessment rules; TAAS Grades 3-8 testing; oral administration of Grade 3 mathematics test; state/national technical work groups; recommendations of commissioner's instructional subcommittee; reporting formats; staff development activities; evaluation of test specifications distribution; report on state involvement in national projects; and other topics.

Contact: Keith Cruse, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9536.

Filed: November 22, 1993, 2:43 p.m.

TRD-9332525

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**Employees Retirement System  
of Texas**

Wednesday, December 1, 1993, 9:30 a.m.

1701 North Congress Avenue, Travis Building, Room 111

Austin

According to the agenda summary, the Group Benefits Advisory Committee will call the meeting to order; recognition of visitors and guests; approval of minutes from previous meeting; announcements/updates; ERS update; standing subcommittee reports: supplemental coverages; communications; and retiree issues; ad hoc committee report on trends/plan design; action on subcommittee and ad hoc committee reports; other related benefits business; and adjournment.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3217.

Filed: November 18, 1993, 1:43 p.m.

TRD-9332330

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**Texas Employment Commission**

Tuesday, November 30, 1993, 9:00 a.m.

Room 644, TEC Building, 101 East 15th

Street

Austin

According to the agenda summary, the commission will discuss prior meeting notes; executive session to consider Diana Garza-Gongora versus TEC, et al. and Edward Dale Jacknitsky versus TEC, et al.; actions, if any, resulting from executive session; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 48; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: November 22, 1993, 3:59 p.m.

TRD-9332534

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**Texas Commission on Fire  
Protection**

Wednesday-Friday, December 15-17,  
1993, 9:00 a.m.

3006B Longhorn Boulevard

Austin

According to the agenda summary, the Fire Protection Personnel Advisory Committee will call the meeting to order; minutes approval; agenda overview; matters from members and public; discussion/possible action: testing committee report; 37 TAC Chapter 439; procedures for fire protection personnel from the perspective of the Americans with Disabilities Act; examination appeals process; 37 TAC Chapter 423, Subchapter C and Chapter 443; evaluation of out-of-state and military training and experience for certification; 37 TAC Chapter 437 and/or Chapter 441; 37 TAC Chapter 437; public comments relating to eligibility of persons with criminal history backgrounds for certification; 37 TAC 427; 37 TAC §421.5; 37 TAC Chapter 449; 37 TAC Chapter 419, Subchapter B; and future meeting dates, agenda items, and locations.

Contact: Jack Woods, 3006B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: November 23, 1993, 8:01 a.m.

TRD-9332542

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**Texas Funeral Service Commission**

Wednesday-Thursday, December 8-9,  
1993, 8:30 a.m.

Sheraton Hotel, 500 North IH-35

Austin

According to the agenda summary, the commission will call the meeting to order; invocation; approval of minutes; public comment period; executive session for legal advice concerning executive director (pursuant to Texas Government Code §551.071); open session for possible action involving legal advice concerning executive director (pursuant to Texas Government Code §551.071); executive session concerning executive director (pursuant to Texas Government Code §551.074); open session for possible action concerning executive director (pursuant to Texas Government Code §551.074); executive session concerning acting executive director (pursuant to Texas Government Code §551.074); open session for possible action concerning acting executive director (pursuant to Texas Government Code §551.074); committee reports; consideration of Al James' request to operate as independent funeral director/embalmer; consideration of requests for waiver of late fees; requests by Raymond Shorwell and John Cathey to discuss and propose changes to Rule 203. 12 (minimum standards for embalming); executive session to meet with legal counsel concerning disciplinary cases TFSC versus Massie, et al. (pursuant to Texas Government Code §551.071); return to open session for possible action concerning TFSC versus Massie, et al.; consideration of motions for rehearing (if commissioners have not already denied motion by mail vote); TFSC versus Johnny Strong, TFSC versus Greenwood Funeral Home, TFSC versus Cesar Hernandez; consideration of proposed agreed orders, settlement offers, cases to be closed, and penalties to be assessed; executive director's report; consideration of standards concerning continuing education course content; selection of meeting dates; and adjourn.

Contact: Debbie Smith, 8100 Cameron Road, Suite 550, Austin, Texas 78754, (512) 834-9992.

Filed: November 22, 1993, 4:27 p.m.

TRD-9332538

### General Services Commission

Wednesday, December 1, 1993, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

According to the complete agenda, the commission will consider the appeal by Comdisco, Inc. on Requisition 313-3-310-J, Contingency Planning Services; consideration of lease with option to purchase amendment to leases 601-8292-E7D and 330-8214-E7D (118 East Riverside Drive); consideration of final adoption of amend-

ments to §117.31, and repeal of §§117.32-117.34, concerning mail and messenger services; consideration of final adoption of proposed rule on Space Allocation; consideration of final adoption of amendments to §125.19, concerning the State Travel Management Program; monthly division issues report; executive session to consider personnel matters; executive session to receive a report from counsel concerning the status of pending litigation; executive session to consider the status of the purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b.

Contact: Judith M. Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: November 19, 1993, 2:53 p.m.

TRD-9332403

### Texas Genetics Network

Friday, December 3, 1993, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

According to the agenda summary, the committee will hear public comments and approve minutes of September 10, 1993 meeting; discuss and possibly act on: report from Interagency Council for Genetic Services; TEXGENE subcommittee reports on education, laboratory services, clinical services, data collection, ethics, ad hoc committee (PRIMED), and ad hoc committee on genetic services in Texas; reports from agency representatives regarding the activities of their respective agencies or institutions (Texas Department of Health; Texas Department of Human Services; Texas Department of Mental Health and Mental Retardation; The University of Texas System; private services providers; community-based sickle cell agencies; and consumers); discussion items (report of ad hoc committee "Genetics in Texas"); program coordinator items; progress toward grant objectives member/committee assignments; and make announcements/comments not requiring committee action; and decide on next meeting date.

Contact: Bill Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. 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: November 18, 1993, 4:12 p.m.

TRD-9332354

Friday, December 10, 1993, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Interagency Council for Genetic Services will hear public comments and approve minutes of September 10, 1993 meeting; discuss and possibly act on: TEXGENE reports (advisory committee report from December 3, 1993; and activities of the ad hoc committee); ad hoc committee report; agency activities/future plans (Texas Department of Health-Statutes of recommendation(s) concerning reimbursement for DNA testing; Texas Department of Mental Health and Mental Retardation-progress on screening of state school residents; Texas Department of Human Services; University of Texas system; and representative of contractors); program coordinator items (budget status); progress toward legislative mandates/member assignments; and make announcements/comments not requiring council action; and decide on next meeting date.

Contact: Bill Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. 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: November 18, 1993, 4:12 p.m.

TRD-9332355

### Office of the Governor

Tuesday, November 30, 1993, 8:00 a.m.

John H. Reagan Building, Room 104, 105 West 15th Street

Austin

According to the complete agenda, the Automobile Theft Prevention Authority will call the meeting to order; introductions; report by Department of Public Safety on Statewide Registration HEAT Program; committee reports; director's report; discussion of ATPA transition to the Department of Transportation, and MOU; discussion of agreement with Office of the Comptroller to collect fees for the ATPA fund; discussion/approval of development of a board policy on vehicles for grantee contractors (lease versus purchase); discussion/approval of request from State Farm Insurance Companies; executive session; return to open session for further discussion and/or possible action on agenda items; and adjournment.

Contact: Linda Young, 221 East 11th Street, Austin, Texas 78701, (512) 463-1940.

Filed: November 19, 1993, 4:31 p.m.

TRD-9332412

## Office of the Governor- Criminal Justice Division

Monday, December 13, 1993, 9:00 a.m.

The Pavilion, 24rd Street and Fresnos  
Zapata

According to the complete agenda, the division will call the meeting to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn. Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) Statewide and Demonstration projects.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: November 19, 1993, 2:16 p.m.

TRD-9332402

## Texas Department of Health

Tuesday, November 23, 1993, 5:00 p.m.

East Exhibit Hall #1, Fort Worth Convention Center, 1111 Houston Street

Fort Worth

### Emergency Meeting

According to the complete agenda, the Texas Emergency Medical Services Advisory Council (TEMSAC) was called to order by the chair and an open forum was conducted.

Reason for Emergency: The emergency status was necessary due to unforeseeable circumstances.

Contact: Harold Broadbent, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6700. 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: November 18, 1993, 4:12 p.m.

TRD-9332356

Wednesday, December 1, 1993, 1:30 p.m.

Room M-618, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Hospital Data Advisory Committee will discuss approval of the minutes of previous meeting; discuss and possibly act on: bureau activities; hospital data collection rules; 1993 Texas Department of Health, American Hospital Association, and Texas Hospital Association annual survey of hospitals

format; annual statement of community benefits reporting form; Texas Commission on alcohol and Drug Abuse data reporting; and Hospital Data Advisory Committee composition; and decide on next meeting date.

Contact: Ann Henry, 1100 West 49th Street, Austin, Texas 78756 (512) 834-7261. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: November 18, 1993, 4:08 p.m.

TRD-9332350

Saturday, December 11, 1993, 10:15 a.m.

Room N-100, the Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Hospital Data Advisory Board Fee Committee will discuss and possibly act on revisions to *Texas Regulations for Control of Radiation*, Part 12; informational reports related to fees; and other items not requiring board action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6688. 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: November 18, 1993, 4:34 p.m.

TRD-9332359

Saturday, December 11, 1993, 10:45 a.m.

Room N-100, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Texas Radiation Advisory Board Medial Committee will discuss and possibly act on: revisions to *Texas Regulations for Control of Radiation (TRCR)*, Parts 11, 21, 32 and 42; petition to change TRCR, Part 41 regarding radiopharmaceuticals; and other items not requiring board action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6688. 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: November 18, 1993, 4:09 p.m.

TRD-9332352

Saturday, December 11, 1993, 11:30 a.m.

Room N-100, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Texas Radiation Advisory Board, Ad Hoc Committee will discuss and possibly act on

plans for seminar and other items not requiring board action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6688. 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: November 18, 1993, 4:08 p.m.

TRD-9332348

Saturday, December 11, 1993, 1:00 p.m.

Room N-100, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Texas Radiation Advisory Board Nominating Committee will discuss and possibly act on nomination of officers, and other items not requiring board action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6688. 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: November 18, 1993, 4:08 p.m.

TRD-9332351

Saturday, December 11, 1993, 1:30 p.m.

Room N-100, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Texas Radiation Advisory Board will discuss approval of the minutes of previous meeting; discuss and possibly act on: Texas Low-Level Radioactive Waste Disposal Authority information; radiation control activities relating to environmental and consumer health, the department's Bureau of Radiation Control (BRC) and the Texas Natural Resources Conservation Commission (TNRCC); committee reports and rules including fee committee (revisions to *Texas Regulations for Control Radiation (TRCR)*, Part 12); medical committee (Revisions to TRCR, Parts 11, 12, 21, 32 and 42 and petition to change TRCR, Part 41, regarding radiopharmaceuticals); ad hoc committee news media seminar; chairman's report; rules and regulatory guides; and other items not requiring board action.

Contact: Margaret Henderson, 1100 West 49th Street, Austin, Texas 78756 (512) 834-6688. 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: November 18, 1993, 4:08 p.m.

TRD-9332349

## Health and Human Services Commission

Monday, December 6, 1993, 8:30 a.m.

Senate Office Building, 15th and Lavaca Streets

Austin

According to the complete agenda, the Blue Ribbon Policy Group, appointed to advise the Health and Human Services Commission on its six-year strategic plan for health and human services, will make recommendations which will be used in developing the strategic plan and budget priorities; House Bill 7 passed by the 72nd Legislature requires the commission to submit a strategic plan and consolidated budget to the Legislature by October 1994. The first meeting will include briefings on various aspects of health and human services; no public testimony will be taken at this meeting. People with disabilities who have special needs may contact Monique Jackson at the Health and Human Services Commission at (512) 502-3200.

Contact: Monique Jackson, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759 (512) 502-3200.

Filed: November 18, 1993, 3:27 p.m.

TRD-9332346

## Texas Health Benefits Purchasing Co-op

Tuesday, November 30, 1993, 10:00 a.m.

Board Room, United Bank and Trust, 1525 Elm Street, Second Floor

Dallas

According to the complete agenda, the Co-op will: report on executive director search; report on interim executive director; discussion of regional subdivisions; discussion and adoption of proposed rules of participation; discussion and adoption of proposed request for proposal of administrator; and discussion of participating plan requirements.

Contact: Rebecca Lightsey, P.O. Box 12428, Austin, Texas 78711, (512) 463-1788.

Filed: November 22, 1993, 4:00 p.m.

TRD-9332535

## Texas Historical Commission

Friday, December 17, 1993, 9:30 a.m.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

According to the agenda summary, the Texas Antiquities Committee will approve

minutes of previous meeting of September 17, 1993; approval of amendments to Chapter 41, Rules of Practice and Procedure; a discussion of Sunset Commission's review; designation of eighteen State Archeological Landmarks in Wharton, Hansford, El Paso, Live Oak, Webb and Bexar counties; nomination of State Archeological Landmarks in Comal, Briscoe, Hood, Randall, Armstrong, Limestone, Bosque, Leon, Bexar, Travis, Nueces, Tarrant, and Harris counties; hear the State Marine Archeologist's report; listen to public comments; and hear staff reports.

Contact: Lillie Thompson, P.O. Box 12276, Austin, Texas 78711, (512) 463-1858.

Filed: November 18, 1993, 11:05 a.m.

TRD-9332285

## Texas Department of Insurance

Monday, November 29, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Larry Wayne Tyler, Fort Worth, who holds a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:32 p.m.

TRD-9332453

Tuesday, November 30, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider the application of Commercial Life Insurance Company to use the name Commercial Life and Accident Insurance Company.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:32 p.m.

TRD-9332452

Tuesday, November 30, 1993, 1:00 p.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Oliver Henry, Jr. Arlington, who holds a Group I,

Legal Reserve Life Insurance Agent's license, and to consider the application of Oliver Henry, Jr., for a Group II Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332451

Wednesday, December 1, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Protective Insurance Company, Dallas, which holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332450

Wednesday, December 1, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Frontier Insurance Company, New York, New York, which holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332449

Thursday, December 2, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Chester Lee Fulkerson, Amarillo, who holds a Group I, Legal Reserve Life Insurance Agent's license, a Group II Insurance Agent's license and a Solicitor's license; and to consider the applications of Chester Lee Fulkerson for Certificates of Authority to do business as a Health Maintenance Organization and Third Party Administrator.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332448

**Friday, December 3, 1993, 9:00 a.m.**  
333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Prompt Finance Incorporated, Concord, Maryland, which holds a Premium Finance license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332447

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**Texas Commission on Law Enforcement Officer Standards and Education**

**Friday, December 10, 1993, 10:00 a.m.**  
TCLEOSE Headquarters, 1033 LaPosada Austin

According to the agenda summary, the Texas Peace Officers' Memorial Advisory Committee will call the meeting to order; roll call of members; recognition of visitors; introduction of regional directors present; approval of the minutes of the September 27, 1993, meeting; explanation of process for enrollment, induction and dedication of officers in the Texas Peace Officers' Memorial; consider for enrollment Dan L. McDuffie, Louis Mackey Chaudoin, Henry R. Taylor, Albert Walter Jakubek, Travis Ed Williams, William Riley Mullins, Jr., Bennie Royce Everett, William Thomas Laws, Gordon Terry Toal, Ed Holcomb, Jr., Michael Ray Williamson, Sr., Lowell C. Tribble, Robert Darrell Wright, Larry J. Miller, David Robert DeLitta and Douglas Lee Dodson; receive director's activity report; receive public comments; and adjourn.

Contact: Edward T. Laine, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: November 22, 1993, 10:38 a.m.

TRD-9332489

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**Texas Council on Offenders with Mental Impairments**

**Monday, December 6, 1993, 10:30 a.m.**  
TDCJ-Pardons and Paroles Building, 8610 Shoal Creek Boulevard Austin

According to the complete agenda, the Planning Committee will call the meeting to order; approve minutes; review informational survey responses; discuss status report/review of confidentiality information;

continuity of care work-session; set the agenda and schedule for next meeting; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: November 22, 1993, 10:38 a.m.

TRD-9332491

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**Texas Municipal Retirement System**

**Saturday, December 11, 1993, 9:00 a.m.**  
1200 North Interregional-35 Austin

According to the complete agenda, the Board of Trustees will hear and approve minutes of the September 25, 1993, meeting; review and approve service retirements, disability retirements; review and approve supplemental death benefits payments; consider extended supplemental death benefits coverage; review and act on financial statements; transfer of inactive accounts and unclaimed refunds; consideration of changes in benefit structure by member cities; consider and act upon proposal for decision in Docket Number 337-93-692; consider and act upon request from Pension Review Board for voluntary contributions pursuant to §801.113, Government Code; consider adoption of resolution transferring monies from interest reserve fund to expense fund; consider adoption of resolution granting distributive benefits (extra check) to annuitants and supplemental interest to certain funds and accounts; proposed budget for 1994; consider and act upon resolution designating depository for the period January 1, 1994-December 31, 1995; consider and act on five-year actuarial experience study and recommended actuarial assumptions; report by actuary; report by legal counsel; report by director; election of officers for 1994; and consider any other business to come before the board.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: November 19, 1993, 10:31 a.m.

TRD-9332386

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**Texas Natural Resource Conservation Commission**

**December 1, 1993, 9:00 a.m.**  
1700 North Congress Avenue, Stephen F. Austin Building, Room 118 Austin

According to the agenda summary, the commission will consider approving the following matters: hazardous waste permit; water quality permits; water right permit;

district matters; water utility matters; water quality management plan; settled hearings; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: November 18, 1993, 2:32 p.m.

TRD-9332339

**December 1, 1993, 9:00 a.m.**

1700 North Congress Avenue, Stephen F. Austin Building, Room 118

Austin

According to the agenda summary, the commission will consider approving the following matters: water quality enforcement; solid waste enforcement; municipal solid waste minor amendment; water right matter; water utility matter; rules; examiner's proposal for decision; executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: November 18, 1993, 2:32 p.m.

TRD-9332338

**December 15, 1993, 9:00 a.m.**

1700 North Congress Avenue, Stephen F. Austin Building, Room 118

Austin

According to the agenda summary, the commission will hold a hearing on Application Number 16-2095 to amend Certificate of Adjudication 16-2095, as amended, and to consider two related matters (Cause Numbers 361,294 and 374, 305, remanded from Travis County District Court. Certificate Number 16-2095 authorizes construction and maintenance of two dams and impoundment of water in a Stage One 170,300 acre-foot capacity reservoir on the Navidad River, tributary of the Lavaca River, Lavaca River Basin, and impoundment of water in a Stage Two 93,340 acre-foot capacity reservoir on the Lavaca River, Lavaca River Basin. Water is authorized for recreational purposes and 75,000 acre-feet of water per annum can be diverted and used for municipal and industrial purposes. Applicants amendment, based on an agreement with Texas Parks and Wildlife Department, re-

quests to: quantify existing inflow pass-through requirements for Stage One reservoir for maintenance of bays and estuary system; appropriate remaining firm yield of Stage Two, estimated to be 17,000 acre-feet per annum, for maintenance of bay and estuary system; add provision for determination of fresh water inflows adequate for bays and estuary system under Stage Two.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-4586.

Filed: November 18, 1993, 2:32 p.m.

TRD-9332337

Wednesday, December 15, 1993, 10:00 a.m.

City Auditorium in City Park on Wheeler Drive

Winnsboro

According to the agenda summary, the commission will consider an application by East Texas Landfill, Inc., authorizing a Type I municipal solid waste management facility. The waste management facility is to be located east of the frontage road of County Road 4208, one mile north of the intersection of County Road 4280 and FM Road 515, approximately five miles west of the City of Winnsboro in Wood County.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 18, 1993, 2:17 p.m.

TRD-9332334

## Board of Vocational Nurse Examiners

Monday-Tuesday, December 6-7, 1993, 8:00 a.m.

Courtyard Marriott (Board Room), 5660 IH-35 North

Austin

According to the agenda summary, the board will call the meeting to order; new staff; approval of minutes; education report (Program matters, program actions, meetings/conferences/seminars attended, CE programs by education staff; update on NEAC; update on CAT); unfinished business (budget update, annual performance review, quarterly report on key performance targets, CE update, executive director's report); and new business (new rule for inactive/delinquent, discussion of temporary license, health professions council, restriction of travel funds). On Tuesday: administrative hearings (agreed orders/voluntary surrenders, administrative law judge recommendations) any unfinished business; and adjournment. On call-executive session to discuss personnel matters.

Contact: Marjorie A. Bronk, 9101 Burnet Road, Suite 105, Austin, Texas 78758, (512) 835-2071.

Filed: November 18, 1993, 4:12 p.m.

TRD-9332353

## Texas Board of Pardons and Paroles

Monday-Wednesday, November 29-December 1, 1993, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332383

Monday-Friday, November 29-December 3, 1993, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332382

Thursday, December 2, 1993, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and

carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332380

Thursday-Friday, December 2-3, 1993, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:29 a.m.

TRD-9332379

Thursday-Friday, December 2-3, 1993, 1:00 p.m. and 9:00 a.m. respectively.

Route 5, Box 258-A

Gatesville

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332381

Monday-Wednesday, December 6-8, 1993, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/in-

mates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332384

Monday-Friday, December 6-10, 1993, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:28 a.m.

TRD-9332376

Thursday, December 9, 1993, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:29 a.m.

TRD-9332377

Thursday-Friday, December 9-10, 1993, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider informa-

tion and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:29 a.m.

TRD-9332378

Thursday-Friday, December 9-10, 1993, 1:00 p.m. and 9:00 a.m. respectively.

Route 5, Box 258-A

Gatesville

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: November 19, 1993, 10:30 a.m.

TRD-9332385

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**Texas State Board of Podiatry Examiners**

Friday, December 3, 1993, 10:00 a.m.

Hilton Towers North, 6000 Middle Fiskville Road

Austin

According to the complete agenda, the board will review proposed rules as result of Senate Bill 1080; 73rd Legislature; appointment of board representative to Health Professions Council; Senate Bill 674, 73rd Legislature; discussion/decision to change license renewal date for Fiscal Year 1995; discussion/decision to increase fees in accordance with Senate Bill 1080; complaint status; and executive director's report.

Contact: Robert A. Lansford, 3420 Executive Center Drive, Suite 305, Austin, Texas 78731, (512) 794-0145.

Filed: November 23, 1993, 8:27 a.m.

TRD-9332543

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**Texas Board of Private Investigators and Private Security Agencies**

Wednesday, December 1, 1993, 8:30 a.m.

Hilton Palacio Del Rio Salon Del Rey South, 200 South Alamo

San Antonio

According to the agenda summary, the Board discussed new business: docket call; review of staff recommendation and board action on new licensees; suspension orders; reinstatement orders; revocations; denials; reprimands; requests for waivers; other proposals for decision; requests for rehearings and related issues; discussion of ad hoc committee reports; discussion of new private investigator identification card; discussion and possible board action on proposed board rule change to implement provisions of House Bill 1808; discussion and possible board action on proposed board rule changes to implement ad hoc committee recommendations; discussion and possible board action on licensing matters regarding quorum international; and election of officers.

Contact: Clema D. Sanders, 313 East Anderson, #200, Austin, Texas 78752, (512) 463-5545.

Filed: November 19, 1993, 5:31 p.m.

TRD-9332446

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**Public Utility Commission of Texas**

Tuesday, November 30, 1993, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12269-application of Southwestern Electric Service Company to amend Certificate of Convenience and Necessity for proposed transmission line within Limestone County.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 18, 1993, 3:03 p.m.

TRD-9332341

Thursday-Friday, December 2-3, 1993, 8:00 a.m.

101 Lakeway Drive, Lakeway Conference Center

Austin

According to the complete agenda, the commission will conduct Quality Management Training for Commissioners of Commission employees.



Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 23, 1994, 9:28 a.m.

TRD-9332545

Tuesday, January 18, 1994, 1:30 p.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 11823-complaint of Raye E. Stiles against GTE Southwest, Inc.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: November 18, 1993, 4:13 p.m.

TRD-9332357

### Texas Racing Commission

Monday, November 29, 1993, 10:00 a.m. (Rescheduled from November 15, 1993).

Room 101, John H. Reagan Building, 105 West 15th Street

Austin

According to the complete agenda, the Horse Racing Section will call the meeting to order; roll call; executive session pursuant to Government Code, §551.071, to consult with commission attorneys regarding pending litigation with Trinity Meadows; vote to adopt §313.409 and §§313.501-313.507; vote to adopt repeal of §311.153; vote to propose amendment to §313.405; discussion of policies and procedures for granting race dates to Class 1 racetracks and simulcasting at Class 1 racetracks; consideration of and action on: request for approval of change in the board of directors for Sam Houston Race Park, Limited; contracts between Texas Horsemen's Benevolent and Protective Association and Bandera Downs, Manor Downs, and Trinity Meadows Raceway; old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78701, (512) 794-8461.

Filed: November 19, 1993, 4:16 p.m.

TRD-9332411

### Texas Savings and Loan Department

Wednesday, December 22, 1993, 9:00 a.m.

300 West 15th Street, Room 408

Austin

According to the agenda summary, the department will hold a hearing to accumulate a record of evidence in regard to the application of Farm and Home Savings Association, Nevada, Missouri, to convert a loan office at 9543 Bissonnet, Houston, to a branch office, from which record the commissioner will determine whether to grant or deny the application.

Contact: Teresa Scarborough, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: November 19, 1993, 5:30 p.m.

TRD-9332445

### Texas Senate

Tuesday, November 30, 1993, 1:00 p.m.

211 South Cooper, University of Texas at Arlington, Social Work Complex, Auditorium

Arlington

According to the agenda summary, the Finance Interim Committee on Home Equity Lending will call the meeting to order; public testimony; and adjourn.

Contact: Ben Lock, Senator John T. Montford's Office, P.O. Box 12068, Austin, Texas 78711, (512) 463-0128.

Filed: November 22, 1993, 2:55 p.m.

TRD-9332526

### Texas Guaranteed Student Loan Corporation

Tuesday, November 30, 1993, 1:30 p.m.

12015 Park 35 Circle, Suite 300

Austin

According to the agenda summary, the Budget/Finance/Audit Committees will discuss approval of minutes of November 9, 1993; review Fiscal Year 1994 budget; internal audit report; policy issues: transfer of budgeted funds; travel policy; pension plan administrative costs; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Suite 300, Austin, Texas 78761, (512) 835-1900.

Filed: November 22, 1993, 2:31 p.m.

TRD-9332524

### The Texas A&M University System

Wednesday, November 24, 1993, 9:30 a.m.

Texas A&M University System, MSC Annex, Clark Street, Board of Regents Meeting Room

College Station

According to the agenda summary, the Board of Regents will act on: appointment of director of the Texas Transportation Institution; action on bids-campus infrastructure, Phase I, and Center for the Arts, the Science and Technology Building Renovation and the Kinesiology Building renovation; Texas A&M-Corpus Christi; and authorization to execute a contract for Food Services, Texas A&M-Corpus Christi. Discussion items: appointment of director of the Texas Engineering Experiment Station; administer government classified contracts; research agreements; reappointment to board of the TAMU Private Enterprise Research Center; approval of update mission statements and tables of programs; establishment of centers; approval of license agreements and patent agreement; revision of system investment policy; report of equity interests; authorization for financing of dorm renovation; fees; remarketing and retirement of PUF variable rate notes; approval of ground lease agreement between board and TAMU Development Foundation; initiation of construction projects; allocation and appropriations for designs; degree programs; accept landscape planning grant from the urban and community forestry program; sale, acquisition, lease, exchange, disposition and value of real estate; reports from system and university administration; pending and threatened litigation; consult with system attorneys; personnel matters; naming of facilities; negotiated contracts for prospective gifts or donations.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9604.

Filed: November 18, 1993, 11:08 a.m.

TRD-9332286

### Texas Department of Transportation

Tuesday, November 30, 1993, 10:00 a.m.

Dewitt C. Greer Building, 125 East 11th Street (First Floor)

Austin

According to the agenda summary, the Texas Transportation Commission will have a delegation from Harris County; approve minutes; contracts awards/rejections/defaults/assignments/settlements; consider ap-

proval of highway project selection process; authorize bank balance programs; routine minute orders; district/division reports; water quality awareness program report; designate City of Lubbock as MPO; rulemaking; emergency and proposed amendment of 43 TAC §9.21; consider approval of Addison Airport Tunnel toll project; districts' delegated purchasing authority; South Texas International Trade Route presentation; and executive session per Government Code, Chapter 551.

Contact: Diane L. Northam, 125 East 11th Street, Austin, Texas 78701, (512) 463-8630

Filed: November 22, 1993, 2:03 p.m.

TRD-9332503

Friday, December 10, 1993, 9:00 a.m.

200 East Riverside Drive, Building 200, Room 102

Austin

According to the agenda summary, the Environmental Advisory Committee will approve minutes; preliminary review of proposed rulemaking concerning environmental review of transportation projects and concerning use of state-owned rights-of-way by others during remediation of contaminated sites; briefing on current status/commission action of rules previously reviewed by committee; staff presentations on overview of Environmental Affairs Division proposed organizational structure and congestion management requirements in air quality non-attainment areas.

Contact: Dianna Noble, 125 East 11th Street, Austin, Texas 78701, (512) 416-3001.

Filed: November 23, 1993, 9:43 a.m.

TRD-9332547

## University of Texas System

Thursday, December 2, 1993, 10:00 a.m.

Gorgas Board Room, Gorgas Hall, U. T. Brownsville, 80 Fort Brown

Brownsville

According to the agenda summary, the Board of Regents and Standing Committees will consider: amendments to RRR; Chancellor's Docket (submitted by system administration); bond matters; UT System insurance matters and internal audit plan for Fiscal Year 1994; degree programs; fees; UT Austin-shuttle bus contract; appointments to endowed academic positions; buildings and grounds matters including project authorization, preliminary and final plans, appointment of architects and engineers, award of contracts, and appropriations; investment matters; acceptance of gifts, bequests and estates; establishment of endowed positions and funds; amend PUF

policy statement; real estate matters; and potential litigation.

Contact: Arhtur H. Dilly, P.O. Box N, U. T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: November 19, 1993, 1:19 p.m.

TRD-9332395

## Texas Workers' Compensation Commission

Wednesday, December 1, 1993, 1:00 p.m.

Rooms 910-911, Southfield Building, 4000 South IH-35

Austin

According to the agenda summary, the Texas Certified Self-Insurer Guaranty Association will call the meeting to order; approval of minutes; discussion on rules for action including approval and/or adoption: bylaws of the association; discussion, consideration and possible action on the following applicants: Dawson Well Servicing, Incorporated, and Union Pacific Motor Freight Company; discussion of future public meetings; and adjournment.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690.

Filed: November 22, 1993, 4:06 p.m.

TRD-9332537

## Texas Workers' Compensation Research Center

Friday, December 3, 1993, 9:00 a.m.

701 West 51st Street, Room 360W, Texas Department of Protective and Human Services

Austin

According to the complete agenda, the Board of Directors will discuss and act on the following items: call to order; approval of minutes of meeting of November 12, 1993; announcements; public participation; discussion of Research Center Fiscal Year 1994 Research agenda; setting of calendar year 1994 meeting schedule; and adjournment. Individuals who may require auxiliary aids or services for this meeting should contact Lavon Guerrero at (512) 346-6197 at least two days prior to the meeting so that appropriate arrangements can be made.

Contact: Lavon Guerrero, 3636 Executive Center Drive, Suite G-22, Austin, Texas 78731, (512) 346-6197.

Filed: November 22, 1993, 11:57 a.m.

TRD-9332494

## Texas Council on Workforce and Economic Competitiveness

Thursday, December 2, 1993, 8:30 a.m.

Omni Hotel, Congress Room, 700 San Jacinto

Austin

According to the complete agenda, the Executive Committee will call the meeting to order; opening comments; action item-acceptance of Texas Council on Workforce and Economic Competitiveness Operational budget; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 10:34 a.m.

TRD-9332484

Thursday, December 2, 1993, 10:00 a.m.

Omni Hotel, Congress Room, 700 San Jacinto

Austin

According to the complete agenda, the Worker Transition Committee will call the meeting to order; opening comments; public comment; briefing/discussion item: draft of Part One of the State Strategic Plan; lunch; briefing item: orientation to committee roles and responsibilities; briefing item: update and discussion on Clinton Administration worker adjustment proposal and other national issues/proposals; briefing item: response to national worker adjustment proposals-JTPA response, Texas Employment Commission response; policy briefing item-JTPA dislocated work program policy; briefing item: worker profiling in the unemployment insurance system; briefing item: JTPA and employment service local planning process; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988, at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 10:35 a.m.

TRD-9332485

**Thursday, December 2, 1993, 10:00 a.m.**  
Omni Hotel, Austin North Room, 700 San Jacinto  
Austin

According to the complete agenda, the Intervention Committee will call the meeting to order; opening remarks; public comment; briefing/discussion item: draft of Part One of the State Strategic Plan; lunch; joint meeting of career foundation and intervention committees-action item; JTPA 8.0% education/coordination policy-action item: grant guidelines and use of general revenue funds for literacy; action item: service delivery area (SDA) designation policy-action item; redesignation of Tarrant County JTPA Service Delivery Area to incorporate the City of Arlington; briefing item-national proposals for workforce investment strategy-implications for intervention programs; briefing item: impacts of national level proposals/initiatives on programs-job opportunities and basic skills (JOBS) and Food Stamp Employment and Training (FS E&T), Job Training Partnership Act, adult education; briefing item: JTPA and employment service local planning process; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 10:35 a.m.

TRD-9332486

**Thursday, December 2, 1993, 10:00 a.m.**  
Omni Hotel, Senate Room, 700 San Jacinto  
Austin

According to the complete agenda, the Evaluation and Performance Committee will call the meeting to order; opening remarks; public comment; briefing/discussion item: draft of Part One of the State Strategic Plan; lunch; briefing item: orientation to committee roles and responsibilities; briefing item-overview of current performance measures and standards for individual programs; briefing item: report on state occupational information coordinating committee (SOICC) follow-up project; briefing item: council evaluation responsibilities under Senate Bill 642; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this

meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 10:35 a.m.

TRD-9332487

**Thursday, December 2, 1993, 10:00 a.m.**  
Omni Hotel, Austin South Room, 700 San Jacinto  
Austin

According to the complete agenda, the Career Foundation Committee will call the meeting to order; opening remarks; public comment; briefing/discussion item: draft of Part One of the State Strategic Plan; lunch; joint meeting of the Career Foundation and Intervention Committees-action item; JTPA 8.0% education/coordination policy-action item; grant guidelines and use of general revenue funds for literacy; briefing item: update on federal education legislation; briefing item: state compliance plan for federal funding; briefing item: tech prep system evaluation; briefing item: Texas Career Information Delivery System; briefing item: state board of education recommended graduation plan; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 10:35 a.m.

TRD-9332488

**Thursday, December 3, 1993, 8:30 a.m.**  
Omni Hotel, Penthouse, Eighth Floor, 700 San Jacinto

Austin

According to the complete agenda, the Full Council will call the meeting to order; opening remarks; public comment; consideration of consent agenda-action items: proposed amendment to the council bylaws; JTPA education/coordination policy (career foundation/intervention committees); grant guidelines and use of general revenue funds for literacy (career foundation/intervention committee); service delivery area designation/redesignation policy (intervention committee); redesignation of Tarrant County JTPA service delivery area to incorporate the City of Arlington (intervention committee); action item: designation of local workforce development areas; action item-adoption of rules for granting waivers for early certification of local workforce development board; action item-acceptance of

TCWEC operational budget; policy briefing item-draft of Part one of the state strategic plan-reports from committees; additional comments/issues from committees; briefing item-school-to-work transition opportunities and activities; briefing item-regional prosperity plans; and adjourn. Notice: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: November 22, 1993, 1:18 p.m.

TRD-9332496

## Regional Meetings

### Meetings Filed November 18, 1993

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 420, San Antonio, November 24, 1993, at 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9332358.

The Austin Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, November 23, 1993, at 7:00 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9332365.

The Brazos Valley Quality Work Force Planning Committee met at 715 East University Drive, College Station, November 23, 1993, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 821-2505. TRD-9332255.

The Canyon Regional Water Authority Special Board met at the East Central Water Supply Corporation Offices, 5520 FM 1628, Adkins, November 22, 1993, at 7:00 p.m. Information may be obtained from David Davenport, Route 2, Box 654 W, New Braunfels, Texas 78130-9579, (210) 608-0543. TRD-9332328.

The Central Texas Mental Health and Mental Retardation Center Board of Trustees will meet at 408 Mulberry Drive, Brownwood, November 29, 1993, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9332363.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, December 2, 1993, at 9:00 a.m. Information may be obtained from Lareesea Pittman, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9332288.

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**Meetings Filed November 19, 1993**

The Alamo Area Council of Governments Community Affairs will meet at 118 Broadway, Suite 420, San Antonio, November 30, 1993, at 3:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9332455.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, November 23, 1993, at 7:00 a.m. (Revised agenda). Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9332399.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors will meet at 1124-A Regal Row, Austin, November 22, 1993, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax (512) 282-7016. TRD-9332392.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, November 29, 1993, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441, Fax (512) 282-7016. TRD-9332391.

The Dallas Area Rapid Transit Bylaws Ad Hoc Committee met at 1401 Pacific Avenue, DART Conference Room "B", First Floor, Dallas, November 23, 1993, at 11:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9332373.

The Dallas Area Rapid Transit Ad Hoc Committee on Outside Counsel met at 1401 Pacific Avenue, DART Conference Room "C", First Floor, Dallas, November 23, 1993, at noon. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9332374.

The Dallas Area Rapid Transit Committee-of-the-Whole met at 1401 Pa-

cific Avenue, DART Conference Room "C", First Floor, Dallas, November 23, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9332372.

The Dallas Area Rapid Transit Board of Directors met at 1401 Pacific Avenue, DART Board Room, First Floor, Dallas, November 23, 1993, at 6:30 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9332375.

The Deep East Texas Private Industry Council, Inc. Public Relations will meet at 118 South First Street, Lufkin, November 30, 1993, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9332393.

The Middle Rio Grande Development Council Texas Review and Comment System met in the Civic Center Reading Room, 300 East Main, Uvalde, November 24, 1993, at 1:00 p.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9332454.

The Sharon Water Supply Corporation Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, November 22, 1993, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9332410.

The Texas Association of Regional Councils Board of Directors will meet in the Ballroom, Omni Hotel, Austin, December 3, 1993, at 9:00 a.m. Information may be obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD-9332368.

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**Meetings Filed November 22, 1993**

The Dawson County Central Appraisal District Board of Directors will meet at 1806 Lubbock Highway, Lamesa, December 1, 1993, at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9332539.

The Edwards County Appraisal District Appraisal Review Board will meet at the New County Annex Building, Rocksprings, December 9, 1993, at 10:00 a.m. Informa-

tion may be obtained from Natalie Pruitt, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9332461.

The Middle Rio Grande Development Council Texas Review and Comment System met at the Civic Center Reading Room, 300 East Main, Uvalde, November 24, 1993, at 1:00 p.m. The emergency status was necessary as needed to include an additional application for review in order to meet deadline requirement. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9332520.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, November 29, 1993, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9332460.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, December 9, 1993, at 1:30 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9332533.

The Permian Basin Regional Planning Commission Permian Basin Private Industry Council will meet at the UTPB-CEED, FM 1788 and 191, Midland, December 1, 1993, at 3:30 p.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9332490.

The Region 18 Education Service Center Board of Directors will meet at 2811 LaForce Boulevard, Midland, December 2, 1993, at 7:00 p.m. Information may be obtained from Dr. Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9332532.

◆ ◆ ◆  
**Meetings Filed November 23, 1993**

The Hays County Appraisal District Appraisal Review Board will meet at 632 A East Hopkins, Municipal Building, San Marcos, November 30, 1993, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 632 A. East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9332544.

# 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.

## Ark-Tex Council of Governments

### Request for Proposal for Provision of a Regional Law Enforcement Training Program

The Ark-Tex Council of Governments (ATCOG) is soliciting proposals for the provision of regional law enforcement training through a grant provided by the Texas Governor's Office, Criminal Justice Division.

The types of training to be provided include: Basic Law Enforcement Officer, Basic Jailer Certification, Basic Tele-Communicators, Reserve Officer, and Advanced Law Enforcement training. The period of performance is May 1, 1994-April 30, 1995.

The service delivery area includes the following counties in Texas: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River and Titus.

In order to ensure that all respondents are provided sufficient assistance in completing proposals, a respondent's conference will be held at the Ark-Tex Council of Governments Conference Room, Building A, Centre West, 911 North Bishop Road, Texarkana, December 3, 1993, 10:30 a.m.

Potential respondents may obtain a copy of the request for proposals, scoring guidelines, and project scoring criteria by contacting Janell Browning, Program Manager, Human Service, Ark-Texas Council of Governments, P.O. Box 5307, Texarkana, Texas 75505, or call (903) 832-8636. The deadline for proposal submission is January 14, 1994, at 5:00 p.m. The Ark-Tex Council of Governments Regional Criminal Justice Advisory Committee will score the proposals. Respondents will be notified in writing of the date, time, and place of the meeting at which the proposals will be scored.

Issued in Texarkana, Texas, on November 12, 1993.

TRD-9332233 James C. Fisher, Jr.  
Executive Director  
Ark-Tex Council of Governments

Filed: November 17, 1993

## Texas Bond Review Board

### Bi-Weekly Report on the 1993 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of October 23-November 5, 1993. Pursuant to §2(d) of Article 5190.9a, on September 1, any amounts of volume cap remaining in the separate subceilings are combined under one ceiling. All applica-

tions that have not received volume cap are placed on one list in an order determined by a lottery number received in January, or by date of application, regardless of project type. On September 1 reservations for the remaining volume cap are given.

Total amount of the \$882,800,000 state ceiling remaining unreserved as of November 5, 1993: \$2,718,600.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from October 23-November 5, 1993: Aransas Pass-Ingleside HFC, Eligible Borrowers, Mortgage Credit Certificates, \$1,931, 400; San Antonio HFC, Santa Fe Apartments, Residential Rental, \$2,500,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from October 23-November 5, 1993: None.

Following is a comprehensive listing of applications which were either withdrawn or canceled pursuant to the Act from October 23-November 5, 1993: San Antonio HFC, Santa Fe Apartments, Residential Rental, \$2,500,000; Southeast Texas HFC, Bermuda Dunes Apartments, Residential Rental, \$2,125,000; Southeast Texas HFC, First Line Apartments, Residential Rental, \$2,000,000.

Following is a comprehensive listing of applications which released a portion of their reservation pursuant to the Act from October 23-November 5, 1993: None.

Issued in Austin, Texas, on November 8, 1993.

TRD-9332361 Beverly S Bunch  
Interim Executive Director  
Texas Bond Review Board

Filed: November 18, 1993

## Texas Department of Commerce

### Title III State-wide Rapid Response and Basic Readjustment Services: Request for Information (RFI)

In accordance with the Job Training Partnership Act (JTPA), Public Law 97-300 as amended August 6, 1992, the Texas Department of Commerce (Commerce) announces a Request for Information (RFI) to operate State-wide Title III Rapid Response and Basic Readjustment Services on behalf of the State. Due to the nature of Rapid Response, procurement of potential service providers must be accomplished in advance of actual layoffs in order to activate contracts and implement service provision within the necessary time constraints, (usually five calendar days from the announcement of the layoff).

This is an open-ended procurement process which allows for the submission of expressions of interest for providing

services at any time during the next three program years, July 1, 1993, to June 30, 1996. Proposal received throughout the program year will be considered for review and evaluation at no more than two points during each program year, on or around January 2 and July 1. Bidders will not be eligible to negotiate contracts until responses are evaluated and approved by the review team. Once approved, the bidders will be maintained on the eligible vendors list.

Detailed information regarding the project format is set forth in the Request for Information instructions which will be available on or about November 23, 1993, at the following location: Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711.

The deadline for receipt of initial responses to this request will be Thursday, January 6, 1993, at 4:00 p.m. (CST). Responses received after this deadline will be considered for evaluation in the next cycle of review to be completed on or around July 1, 1994.

A Proposer's Conference will be held Tuesday, December 14, 1993, beginning at 1:00 p.m. (CST) at the following location: Texas Department of Commerce, 816 Congress Avenue, 13th Floor Main Conference Room, Austin.

Interested parties are invited to attend. Persons with disabilities who plan to attend this conference and who may need auxiliary aids or services should contact Jennifer Jacob at least two days before the conference so that appropriate arrangements can be made.

Commerce reserves the right to accept or reject any or all proposals submitted. Commerce is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the material provided only as a means of identifying the various contractor alternatives. Commerce intends to use responses as a basis for further negotiation of specific project details with potential con-

tractors. Commerce will base its choice on demonstrated competence, qualifications, and evidence of superior performance with criteria.

This RFI does not commit Commerce to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates Commerce to award a contract or to pay any costs incurred in the preparation of a response. Commerce specifically reserves the right to vary all provisions set forth any time prior to execution of a contract where Commerce deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFI instructions, please contact: Jennifer Jacob, Texas Department of Commerce, Work Force Development Division, First City Centre, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 78711, (512) 320-9800, Ext. 1904, TDD (512) 320-9698.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332242 Cathy Bonner  
Executive Director  
Texas Department of Commerce

Filed: November 18, 1993

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**Office of Consumer Credit  
Commissioner**  
**Notice of Rate Ceilings**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(1)</sup>/Agricultural/ Commercial <sup>(2)</sup> thru \$250,000</u>	<u>Commercial<sup>(2)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	11/22/93-11/28/93	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	12/01/93-12/31/93	10.00%	10.00%

<sup>(1)</sup>Credit for personal, family or household use. <sup>(2)</sup>Credit for business, commercial, investment or other similar purpose.

[graphic]

Issued in Austin, Texas, on November 15, 1993.

TRD-9332235 Al Endaley  
Consumer Credit Commissioner

Filed: November 17, 1993

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**Court Reporters Certification Board**  
**Certification of Court Reporters**

Following the examination of applicants on October 15, 1993, the Court Reporters Certification Board certified to the Supreme Court that the following individuals are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Government Code.

Oral Stenography: Linda W. Clark-Denton; Sandra K. Dearmin-McAllen; Sharina A. Fowler-Duncanville.

Machine Shorthand: Rhonda Kay Ashman-Alvarado; Yolanda Michelle Atkins-Dallas; Indu A. Bailey-Plano; Stephanie Lanai Barry-Arlington; Grace M. Bersosa-Abilene; Shannon Nell Bonds-Plano; Beverly D. Botts-Plano; Karen L. Bradley-Cypress; Kathryn Ann Capdevila-Irving; Emily Towns Chermey-Spring; Jennifer Janea Christian-Oklahoma City, OK; Rhonda L. Cucote-Wallisville; Cindy Denise Durst-Bonham; Marilyn L. Egli-San Antonio; Janine M. Ensley-Austin; Carol Jean Franklin-Eules; Deborah Denise Frederick-Alvin; Duc Jonh Garcia-San Antonio; Elisa Feruffa Glanzman; Olga Martinez Gutierrez-San Antonio; Amy Lyn Hinds-Austin; My Thuy Thi Hoang-Houston; Sandra Ann Hughes-Seagoville; Pamela Danette Hughes-Rhome; Karla J.

Jackson-Dallas; Melody Charyce Joiner-El Paso; Renee D. Kemper-Lubbock; Leslie Kay Kirk-Corsicana; Cynthia Marie Kocher-Dallas; Teresa Lynn Krystofik-Dallas; Cynthia Lee Lindsey-San Marcos; Gwendolynn Rose Luvaul-Amarillo; Kelly Ann Maughan-Georgetown; Sharon L. McDonald-San Antonio; Leti Renee Medrano-San Antonio; Yolanda Cristina Mendez-San Antonio; Tracee Dunnam Michaelis-Odessa; Patricia Sue (Susie) Miller-Garland; Michael Edward Miller-Abilene; Angelia Cheree Minton-Garland; Michelle Renee Morello-Flower Mound; Kathryn Fay Morrison-Memphis; Marsha Lynn Murphree-San Antonio; Vanessa Charlette Owens-Alvin; Diana D. Parker-Tomball; Terry Reed-Austin; Stacy D. Purcella-San Antonio; Kimberly J. Ramos-Portland; Kristen Kay Rhoades; Milford; Dana Gayle Rogers-Dallas; Leticia V. Salas-Houston; Meanette Joann Salgado-Austin; Jennifer Lea Sanders-Dallas; Sonia Schaeen-Dallas; Deanna Dee-Ann Sells-Sweetwater; Jamie M. Shugart-Belton; Misty M. Skinner-Irving; Karen Lisa Smith-Stafford; Sandra Gaye Smoot-San Antonio; Judith A. Stewart-San Antonio; Laura Dawn Sullivan-Dallas; Cynthia Lynn Sumner-Garland; Elizabeth Anne Thane-Spring; Ruthie Trevino-Friendswood; Rebecca Lynn Veliz-Victoria; Anne Renee Vice-Orange; Marguerite A. Villa-San Antonio; Tiffany Nicole Woodson-Beaumont; Melba Dimas Wright-Arlington; and Janel Mary Yarberry-Friendwood.

Issued in Austin, Texas, on November 16, 1993.

TRD-9332234      Peg Liedtke  
Executive Secretary  
Court Reporters Certification Board

Filed: November 17, 1993

## Texas Education Agency Notice of Public Hearing

The State Board of Education Task Force on the Education of Students with Disabilities will hold a public hearing on Tuesday, December 7, 1993, to obtain input for the development of a policy to improve special education services. The hearing will be held from 2:00 p.m. until 3:30 p.m. and from 5:30 p.m. until 7:00 p.m. The hearing will be held in Room 1-104 of the William B. Travis Building located at 1701 North Congress Avenue in Austin. This will be the first of seven hearings which are scheduled to be held statewide. Additional public hearings are scheduled to be held in the spring of 1994.

The task force is seeking a wide range of public input in order to assist in the development of a policy statement, recommendations to guide implementation of the policy, and a report of the task force's work.

In order to allow the task force to hear from as many groups as possible, professional associations and education advocacy organizations are encouraged to coordinate proposals within their memberships and make one presentation on behalf of the group.

Anyone wishing to testify should register in advance by contacting the Division of Policy Planning and Evaluation at (512) 463-9701 no later than 5:00 p.m. on Monday, December 6. Information requested includes: name, organizational affiliation (if any), address, telephone number, item or topic that will be addressed, and whether any special accommodations will be required for individuals with disabilities. Interpreters will be available at the public hearing.

To accommodate as many speakers as possible, presenters will be limited to a three-minute presentation. Presenters are asked to supply 35 copies of their testimony.

Those individuals wishing to give testimony who are unable to pre-register may register on site the day of the hearing. If time permits, these individuals will be allowed to give testimony on a first-come, first-served basis following those who have pre-registered.

Additional information concerning this hearing and future hearings may be obtained from the Division of Policy Planning and Evaluation, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, at (512) 463-9701.

Issued in Austin, Texas, on November 16, 1993.

TRD-9332245      Lionel R. Meno  
Commissioner of Education  
Texas Education Agency

Filed: November 18, 1993

## Employees Retirement System of Texas Request for Proposals

In accordance with the Insurance Code, Article 3.50-2, §4, as amended, the Employees Retirement System of Texas (ERS) announces a Request for Proposals (RFP) for Health Maintenance Organizations (HMOs) to provide prepaid health benefits for the Texas Employees Uniform Group Insurance Program (UGIP). Such proposals will provide benefits for the UGIP during the next Fiscal Year 1995, beginning September 1, 1994. Proposals will provide the level of benefits as required in the RFP.

HMOs wishing to respond to this request must be federally approved, state approved, must have been in operation for at least 12 months prior to February 1, 1994, and have at least 25 state employees within the service area.

The RFP is available upon request from the ERS.

The deadline for receipt of the proposals in response to this request will be 4:00 p.m. on February 1, 1994.

The ERS reserves the right to accept or reject any proposals submitted. The ERS is under no legal requirement to execute a resulting contract on the basis of this advertisement.

The ERS will base its choice of HMOs on demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria.

This RFP does not commit the ERS to pay any costs incurred prior to execution of a contract. Issuance of this material in no way obligates the ERS to award a contract or to pay any costs incurred in the preparation of a response. The ERS specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where the ERS deems it to be in the best interest of the State of Texas.

For further information regarding this notice, or to obtain copies of the RFP instructions, please contact James W. Sarver, Group Insurance Division, Employees Retirement System of Texas, 18th and Brazos Streets, P.O. Box 13207, Austin, Texas 78711-3207, (512) 867-3217.

Issued in Austin, Texas, on November 18, 1993.

Filed: November 18, 1993

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## Texas Department of Health

### Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

**NEW LICENSES ISSUED:**

Location -----	Name -----	License# -----	City -----	Amend- ment # -----	Date of Action -----
Dallas	Highland Park Diagnostic Center, L.C.	L04715	Dallas	0	11/05/93

**AMENDMENTS TO EXISTING LICENSES ISSUED:**

Location -----	Name -----	License# -----	City -----	Amend- ment # -----	Date of Action -----
Abilene	Hendrick Medical Center	L02433	Abilene	40	11/09/93
Amarillo	Syncor International Corporation	L03398	Amarillo	14	11/01/93
Amarillo	St. Anthony's Hospital	L01242	Amarillo	44	11/05/93
Austin	Texas Department of Health	L01155	Austin	65	11/04/93
Beaumont	Outpatient Diagnostic Center	L03888	Beaumont	18	11/02/93
Beaumont	St. Elizabeth Hospital	L00269	Beaumont	57	10/27/93
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	40	11/08/93
Dallas	The U.T. Southwestern Medical Center at Dallas	L00384	Dallas	61	11/02/93
Dallas	The Dallas Heart Group	L04694	Dallas	1	11/02/93
Dallas	Dallas Water Utilities	L03829	Dallas	9	11/04/93
Dallas	Methodist Hospitals of Dallas	L00659	Dallas	28	11/05/93
Deer Park	Akzo Chemicals Inc.	L04372	Deer Park	2	11/04/93
Denison	Sitaram G. Kadekar, M.D.	L04689	Denison	1	10/29/93
Denison	Texoma Medical Center	L01624	Denison	35	11/02/93
Denton	Texas Department of Health	L04605	Denton	2	11/05/93
Fort Worth	Harris Methodist Hospital Southwest	L04146	Fort Worth	5	11/03/93
Houston	Spring Branch Memorial Hospital	L02473	Houston	22	10/29/93
Houston	Park Plaza Hospital	L02071	Houston	27	10/29/93
Houston	Bellaire General Hospital	L02038	Houston	21	11/02/93
Houston	Sharpstown General Hospital	L01737	Houston	23	11/02/93
Houston	Memorial Care System	L00439	Houston	46	11/03/93
Houston	Memorial City Medical Center	L01168	Houston	39	11/05/93
Houston	Baker Hughes INTEQ	L04452	Houston	19	11/04/93
Lubbock	Highland Health System, Inc.	L02467	Lubbock	9	11/08/93
McAllen	Rio Grande Regional Hospital	L03288	McAllen	24	11/05/93
San Antonio	Cancer Therapy and Research Center	L01922	San Antonio	36	11/02/93
San Antonio	Baptist Memorial Hospital System	L00455	San Antonio	58	11/03/93



AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Throughout Texas	Steve Hulsey	L04686	Liberty	1	10/29/93
Throughout Texas	Exxon Production Research Company	L00205	Houston	45	10/29/93
Throughout Texas	Trinity Testing and Inspection Co.	L03628	Victoria	11	10/29/93
Throughout Texas	H & G Inspection Company Inc.	L02181	Houston	78	10/29/93
Throughout Texas	Wren Oilfield Services, Inc.	L04690	White Oak	1	10/29/93
Throughout Texas	Schlumberger Technology Corporation	L01833	Houston	91	11/03/93
Throughout Texas	Southern Services, Inc.	L02683	Lake Jackson	41	11/03/93
Throughout Texas	American Wireline, Inc.	L04675	Brenham	1	11/03/93
Throughout Texas	SITECH, Inc.	L04073	Port Neches	25	11/04/93
Throughout Texas	Schlumberger Technology Corporation	L00109	Houston	38	11/04/93
Throughout Texas	Wrenco Wireline Services, Inc.	L04411	White Oak	8	11/08/93
Throughout Texas	Schlumberger Technology Corporation	L01833	Houston	92	11/08/93
Throughout Texas	Houston Lighting and Power	L02063	Houston	51	11/08/93
Throughout Texas	Elkco Wire Line Services, Inc.	L04701	Snyder	1	11/09/93
Uvalde	Uvalde Memorial Hospital	L03327	Uvalde	7	11/03/93
Webster	Diagnostic Systems Laboratories, Inc.	L03084	Webster	18	11/08/93
Weslaco	Upper Valley Radiology Clinic	L04335	Weslaco	6	11/10/93

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Dallas	R. H. D. Memorial Medical Center	L02314	Dallas	28	11/04/93
Pasadena	Southmore Medical Center	L03501	Pasadena	11	11/04/93
Richardson	Richardson Medical Center	L02336	Richardson	19	11/10/93
Throughout Texas	Reece Albert Inc.	L02296	San Angelo	8	10/28/93
Throughout Texas	EMCON Baker-Shiplett, Inc.	L02906	Fort Worth	16	10/29/93
Throughout Texas	GCT Inspection, Inc.	L02378	South Houston	44	10/29/93
Throughout Texas	Texas Nuclear Products	L01105	Round Rock	36	11/04/93
Throughout Texas	Texas Wireline Company	L02828	Mineral Wells	6	11/09/93
Waco	Texas State Technical College at Waco	L01926	Waco	27	11/01/93
Winnsboro	Presbyterian Hospital of Winnsboro	L03336	Winnsboro	10	11/08/93

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Austin	Wooten Brown, M.D., P.A.	L01141	Austin	9	11/05/93
Corpus Christi	Excel Wireline, Inc.	L03114	Corpus Christi	13	10/29/93
Dallas	TU Electric - Generating Division	L03975	Dallas	4	10/29/93
Giddings	Lee Memorial Hospital	L04420	Giddings	1	11/05/93
Houston	Anheuser-Busch, Inc.	L03361	Houston	4	11/08/93
Mexia	Parkview Regional Hospital	L03102	Mexia	8	11/05/93
Throughout Texas	Titan Wireline Services, Inc.	L04584	Houston	1	11/04/93

**AMENDMENTS TO EXISTING LICENSES DENIED:**

Location	Name	License#	City	Amend-ment #	Date of Action
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Lubbock	Texas Tech University	L01536	Lubbock	0	10/13/93

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Acting Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on November 15, 1993.

TRD-9332219 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: November 17, 1993

**Notice of Revocation of Certificates of Registration**

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificates of registration: Jimmy D. Aycock, D.C., Temple, R03198, November 8, 1993; Bernard I. Wise, D.D. S., Houston, R05290, November 8, 1993; Advanced Electro Finishing, Inc., Plano, R14271, November 8, 1993; Rene M. Chavez, D.C., Brownsville, R15587, November 8, 1993; Moses Chiropractic Center, Conroe, R16167, November 8, 1993; Bolivar Peninsula Dental Clinic, Crystal Beach, R16989, November 8, 1993; Moti Enterprises International, Sterling Heights, Michigan, R17573, November 8, 1993; M. Dean Loftis, M.D., Texarkana, R17595, November 8, 1993; Medical Care Clinic, Inc., Garland, R18189, November 8, 1993; Eddie L. Summers, D.D.S., Houston, R18292, November 8, 1993; John D. Morgan, D.D.S., Fairfield, R18432, November 8, 1993; Airline Imaging Center, Houston, R18450, November 8, 1993; Pebble Hills Animal Clinic, El Paso, R18701, November 8, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on November 17, 1993.

TRD-9332332 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: November 18, 1993.

**Notice of Revocation of Radioactive Material Licenses**

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following radioactive material licenses: Lake Whitney Memorial Hospital, Whitney, L03348, November 8, 1993; Perfojet Services, Inc., Midland, L01112, November 8, 1993; Assay Services, Inc., Nassau Bay, L03459, November 8, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on November 17, 1993.

TRD-9332331 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: November 18, 1993

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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 93-27, Amendment Number 412.

The amendment revises the reimbursement methodology for physician and physician related services, in-home respiratory therapy, and in home total parenteral hyperalimentation services by eliminating the cost-of-living adjustment for the SFY 94-95. The rates for these services are continued at their current levels. The amendment is effective September 1, 1993.

If additional information is needed, please contact Genie DeKneef at (512) 338-6509.

Issued in Austin, Texas, on November 8, 1993.

TRD-9332220 Bryan P. Sperry  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: November 17, 1993

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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 93-33, Amendment Number 418.

The amendment indicates that the ICF-MR program, the ICF-MR program for persons with related conditions, and the ICF-MR dental program will continue to be administered under an interagency agreement by the Department of Human Services for at least a year. The amendment is effective September 1, 1993.

If additional information is needed, please contact Cathy Rossberg at (512) 502-3219.

Issued in Austin, Texas, on November 8, 1993.

TRD-9332221 Bryan P. Sperry  
Deputy Commissioner  
Texas Health and Human Services  
Commission

Filed: November 17, 1993

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**Texas Higher Education Coordinating  
Board**

**Request for Proposal**

Approximately \$111,000 will be available for 1994 Integrated Science I and Science II Planning Grants under the

Dwight D. Eisenhower Mathematics and Science Grants Program.

Funds will be competitively distributed in Texas under Title II-A of the federal Dwight D. Eisenhower Mathematics and Science Education Act signed into law by Congress in 1988. The Eisenhower Act reauthorized the predecessor statute, Title II of the Education for Economic Security Act (EESA). Proposals for funding of planning grants must be submitted by February 28, 1994, to the Texas Higher Education Coordinating Board. Applications are available November 1, 1993.

Approximately 11 planning grants of up to \$10,000 will be made to support the development of coherent conceptual and operation frameworks for the conduct of integrated Science I and Science II training of 7th or 8th grade teachers.

The Board will approve recommendations for planning grants at its April meeting. Projects are funded under this application for three months and must be completed by July 31, 1994. Those who receive funding during the three-month planning period will be eligible to submit a full proposal for 2007b funding by the August 5, 1994, deadline. Those most highly recommended for funding by a panel of experts may be awarded up to \$75,000 for training projects to commence on November 1, 1994, and end by no later than January 31, 1996, contingent upon the availability of unobligated funds. These continuation awards will be made under the Category I 2007(b) guidelines of the 1994-1995 Eisenhower Mathematics and Science Grants Program Request for Proposals (RFP).

All public and private colleges and universities are eligible to apply for grants under the Dwight D. Eisenhower Mathematics and Science Higher Education Grants Program.

For more information, contact Nan Broussard at (512) 483-6224.

Issued in Austin, Texas, on November 15, 1993.

TRD-9332371 James McWhorter  
Assistant Commissioner for Administration  
Texas Higher Education Coordinating Board

Filed: November 19, 1993

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**Texas Department of Housing and  
Community Affairs**

**Notice of Amendment to 1993 Final  
Statement**

The Texas Department of Housing and Community Affairs (TDHCA) announces an amendment to the State of Texas' federal fiscal year 1993 final statement which governs the expenditure of 1993 Texas Community Development Program funds. The final statement is being amended to change the application cycle and selection criteria for the Main Street Improvements Program under the Texas Capital Fund.

Under PART III, APPLICATION CYCLES, the submission cycle for Main Street Improvements Program applications is changed from an on-going continuous cycle to a one-time annual submission.

Under PART IV, PROJECT SELECTION CRITERIA, the Texas Capital Fund Main Street Improvements Program selection criteria is changed and projects will be evaluated

based on (1) Threshold Requirements, (2) Project Feasibility, (3) Leverage Ratio, (4) Minority Hiring, and (5) Texas Historical Commission Ranking. The Texas Capital Fund Advisory Committee will score the Project Feasibility factor for Main Street Improvements Program applications.

Under PART IV, SELECTION CRITERIA, TEXAS CAPITAL FUND, MAIN STREET IMPROVEMENTS PROGRAM, the selection criteria is changed to the following:

**(1) THRESHOLD REQUIREMENTS.**

In order for its pre-application and its formal application to be considered, an applicant must meet either (A), (B), or (C), and (D) as follows:

(A) Low And Moderate Income Persons Benefit Objective. Document that at least 51% or more of all persons to benefit from the economic development activities qualify as low and moderate income persons;

(B) Area Slums/Blight Objective. Document the boundaries of the area designated as a slum or blighted area, document the conditions which qualified it as a state enterprise zone or an area specified in 10 TAC §9.1(a)(17), and the way in which the assisted activity addressed one or more of the conditions which qualified the area as a slum or blighted area; or

(C) Spot Slum/Blight Objective. To show how this objective will be met, the applicant must:

(1) document that the project qualifies as slum or blighted on a spot basis under local law;

(2) describe the specific condition of blight or physical decay that is to be treated;

(D) Main Street Designation. The applicant must have been designated by the Texas Historical Commission as a Main Street City and must have received this designation two years prior to submitting a Texas Capital Fund application for main street improvements.

**(2) PROJECT FEASIBILITY-50 Points (Maximum).**

Factors examined by the Texas Capital Fund Advisory Committee include Texas Historical Commission Main Street designation and demonstrated successful experience in the program; firm commitments for financial contributions; the jobs to be created or retained; the community's long-term commitment to historic preservation and commercial revitalization; a full review of the marketing strategy and funding for continued main street efforts; existing business ownership and available space pre-lease commitments; demonstrated proof of community support; demonstrated linkages with related downtown small businesses; and evidence of strong management experience of the main street manager.

Projects that address the primary benefit to low and moderate income persons through job creation/retention receive highest priority, regardless of the national program objective selected. Projects that leverage additional dollars and demonstrate firm financial commitments also receive priority. Applicants that have demonstrated successful experience in the Texas Historical Commission's Main Street Program and that submit projects addressing the needs of mobility impaired individuals are given additional consideration. Applicants that have demonstrated a long term commitment to historic preservation, continued main street efforts, and have a low first floor building vacancy rate in the impacted project area are also given additional consideration. A main street improvements program project that

is located in a designated enterprise zone receives priority consideration.

**(3) LEVERAGE RATIO-30 Points (Maximum).**

Points are awarded by dividing all other funds committed to the project, exclusive of Texas Capital Funds, by the amount of Texas Capital Funds requested, less administration, according to the following scale: 1.5: 1 (150%) -15; 2.0: 1 (200%)-20; 2.5: 1 (250%)-25; 3.0: 1 (300%)-30.

**(4) MINORITY HIRING-Ten Points (Maximum).**

Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (Ten points). In the event less than 5.0% of the applicant's population base is composed of minority residents or the applicant has less than five permanent employees, the applicant is assigned the average score on this factor for all applicants for the previous program year or the score based on the actual figures, whichever is higher.

**(5) TEXAS HISTORICAL COMMISSION RANKING-Ten Points (Maximum).**

A maximum of ten points are awarded to the five applicants ranked highest by the Texas Historical Commission. The Texas Historical Commission scores pre-applications based on the Main Street Improvements Program PROJECT FEASIBILITY selection criteria using its scores to place the applicants in rank order from highest to lowest scores. A maximum of ten points is awarded according to the following scale: Ranking 1-ten points; Ranking 2-eight points; Ranking 3-six points; Ranking 4-four points; Ranking 5-two points.

A copy of the final statement as amended is available for review at Texas Department of Housing and Affairs, Texas Community Development Program Office, 811 Barton Springs Road, Suite 740, Austin. Written comments concerning this amendment will be accepted through December 10, 1993, and should be submitted to Anne Paddock, Deputy General Counsel, Texas Department of Housing and Community Affairs, 811 Barton Springs Road, Suite 500, Austin, Texas 78711-3941.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332458

Henry Flores  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: November 22, 1993

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**Texas Natural Resource Conservation  
Commission**

**Notices of Receipt of Applications and  
Declaration for Administrative  
Completeness for Sludge Registrations**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of November 15-19, 1993.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on evalua-

tions of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring a public meeting regarding these applications should submit a written request to the Chief Clerk of the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711. The request should contain the name, mailing address and phone number of the person making the request; and the reason a public meeting is desired. The deadline for submitting this request is 30 days from the date which the application was posted for public review.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

**Agronomic Management Group/Oscar Renda Contracting, Inc.;** located on FM Road 1434, approximately 12 miles south of the City of Cleburne, Johnson County; new beneficial sludge use site; 710666.

**Agronomic Management Group/Oscar Renda Contracting, Inc.;** located at the junction of FM Road 276 and FM Road 548, approximately eight miles east of the City of Rockwall, Rockwall County; new beneficial sludge use site; 710655.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332397      Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: November 19, 1993

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## Public Utility Commission of Texas

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

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Lubbock MHMR, Lubbock.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Lubbock MHMR pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12486.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Lubbock MHMR. The geographic service market for this specific service is the Lubbock area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332342      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 18, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a customer-specific contract for billing and collection services with Metromedia Communications Corporation.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a Customer-Specific Contract for Billing and Collection Services with Metromedia Communications Corporation. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 12501.

**The Application.** Southwestern Bell is requesting approval of a customer-specific contract for billing and collection services with Metromedia Communications Corporation. The geographic service market for this specific service is anywhere within the State of Texas where Metromedia Communications Corporation provides services to Southwestern Bell end user customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332343      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 18, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of an amendment to a customer-specific contract for billing and collection services with MCI Telecommunications Corporation.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for approval of an Amendment to Customer-Specific Contract for Billing and Collection Services with MCI Telecommunications Corporation. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 12500.

**The Application.** Southwestern Bell is requesting approval of an amendment to a customer-specific contract for billing and collection services for MCI Telecommunications. The geographic service market for this specific service is anywhere within the state of Texas where MCI Telecommunications Corporation provides services to Southwestern Bell end user Customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter

for the deaf.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332344      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 18, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a customer-specific contract for billing and collection services with Heartline, Inc.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a Customer-Specific Contract for Billing and Collection Services with Heartline, Inc. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 12499.

**The Application.** Southwestern Bell is requesting approval of a customer-specific contract for billing and collection services with Heartline, Inc. The geographic service market for this specific service is anywhere within the state of Texas where Heartline, Inc. provides services to Southwestern Bell end user customers.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332345      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 18, 1993

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### Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.91

Notice is given to the public of the intent to file with the Public Utility Commission of Texas a workplan implementing long-run incremental cost methodology pursuant to Public Utility Commission Substantive Rule 23.91.

**Tariff Title and Number.** Notice of Southwestern Bell Telephone Company to file long-run incremental cost study workplan pursuant to Substantive Rule 23.91, Tariff Control Number 12481 on or about November 19, 1993.

Any party that demonstrates a justiciable interest may file with the presiding examiner, written comments or recommendations concerning the workplan referencing Tariff Control Number 12481. Written comments or recommendations should be filed no later than 60 days after the filing date of the workplan and should be filed at the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0227, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332407      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 19, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas a workplan implementing long-run incremental cost methodology pursuant to Public Utility Commission Substantive Rule 23.91.

**Tariff Title and Number.** Notice of GTE Southwest Incorporated to file long-run incremental cost study workplan pursuant to Substantive Rule 23.91, Tariff Control Number 12475 on or about November 19, 1993.

Any party that demonstrates a justiciable interest may file with the presiding examiner, written comments or recommendations concerning the workplan referencing Tariff Control Number 12475. Written comments or recommendations should be filed no later than 60 days after the filing date of the workplan and should be filed at the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0227, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on November 19, 1993.

TRD-9332408      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 19, 1993

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### Notice of Proceeding For Approval of Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on November 9, 1993, seeking approval of extended area service (EAS) pursuant to §23.49(i) of the Public Utility Commission of Texas substantive rules. The following is a summary of the joint petition.

**Project Title and Number.** Joint Petition of Southwestern Bell Telephone Company (SWB) and GTE Southwest Incorporated (GTESW) to Provide Extended Area Service from the Italy Exchange to the Dallas, Waxahachie, Red Oak, and Midlothian Exchanges, Project Number 12477, before the Public Utility Commission of Texas.

**The Joint Petition.** In Project Number 12477, SWB and GTESW have requested optional flat-rate, one-way extended area service (EAS) from the Italy Exchange to the Dallas, Waxahachie, Red Oak, and Midlothian exchanges. Customers choosing to subscribe to the optional EAS will pay a flat-rate monthly additive in addition to the basic local exchange charges, as follows: Residence-\$15; Business-\$30.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office (512) 458-0256 by January 25, 1994. The telecommunications device for the deaf (TDD) number for the Public Information Office is (512) 458-0221.

Issued in Austin, Texas, on November 17, 1993.

TRD-9332340

John M. Rentrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: November 18, 1993

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**Southwest Texas State University  
Professional Design and Production  
Consultation**

Southwest Texas State University seeks professional design and production consultation in connection with a major fund raising campaign. Work to be performed includes design, art direction, production of camera-ready art, conference, project coordination, photostats/materials, typography, illustration/photography for the following items: stationery system including letterhead, second sheets, envelopes, press release form, invitation shell, A-6 envelopes and mailing envelopes; press kit; case statement with custom envelope; direct mail brochures.

Contractors will not be responsible for writing of brochure or case statement or for printing or mailing of any of the materials designed.

Southwest Texas will give preferential consideration to design groups who have previous design and production experience working with Southwest Texas State University.

Proposals must be received by the Vice President for University Advancement, Southwest Texas State University, 601 University Drive, San Marcos, Texas 78666-4612, by December 20, 1993.

Issued in San Marcos, Texas, on November 16, 1993.

TRD-9332238

Gerald W. Hill  
Vice President for University Advancement  
Southwest Texas State University

Filed: November 17, 1993  
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## 1993 Publication Schedule for the Texas Register

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	



Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 2.1% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

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