

# Texas Register

Volume 18, Number 92, December 10, 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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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

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

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

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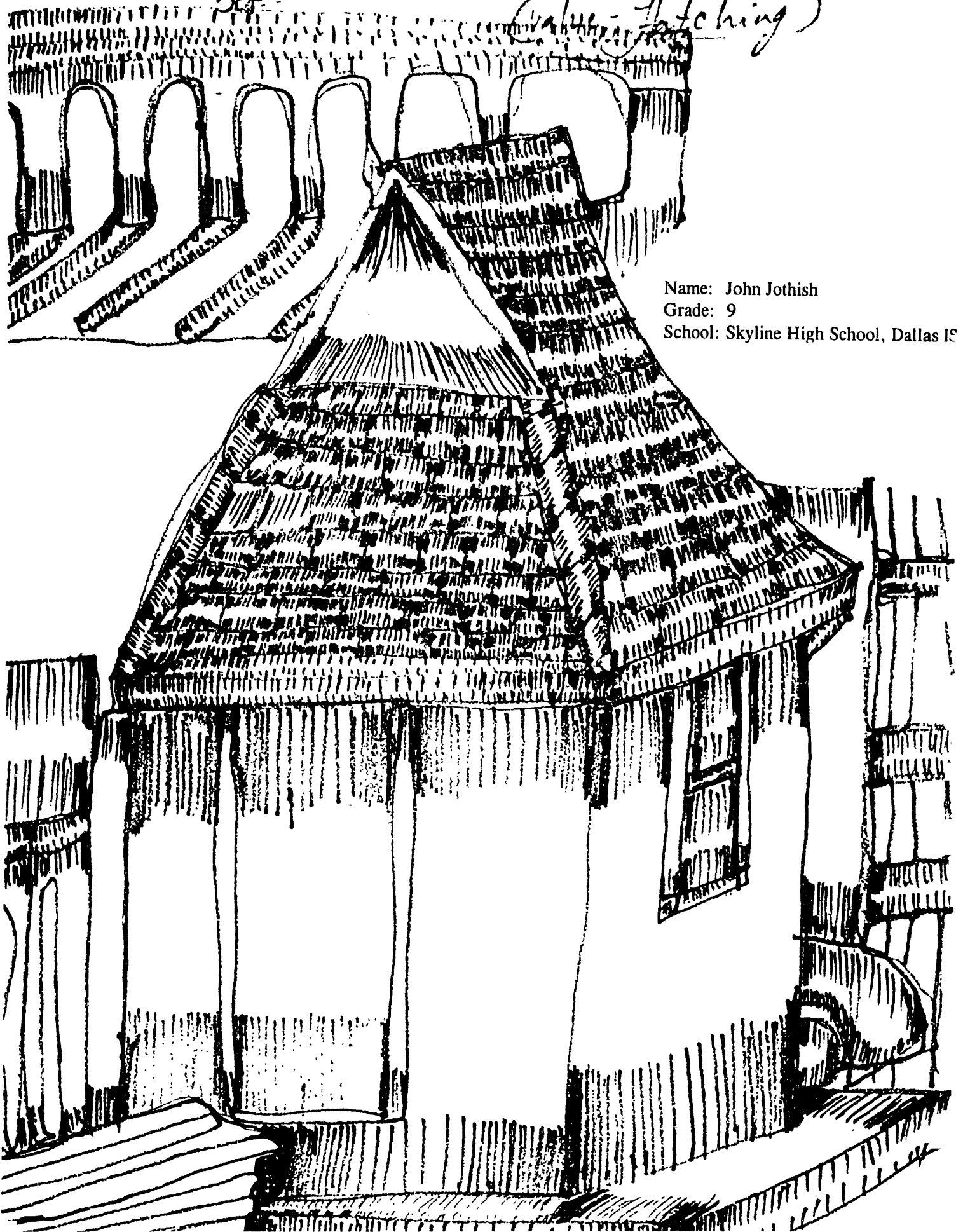
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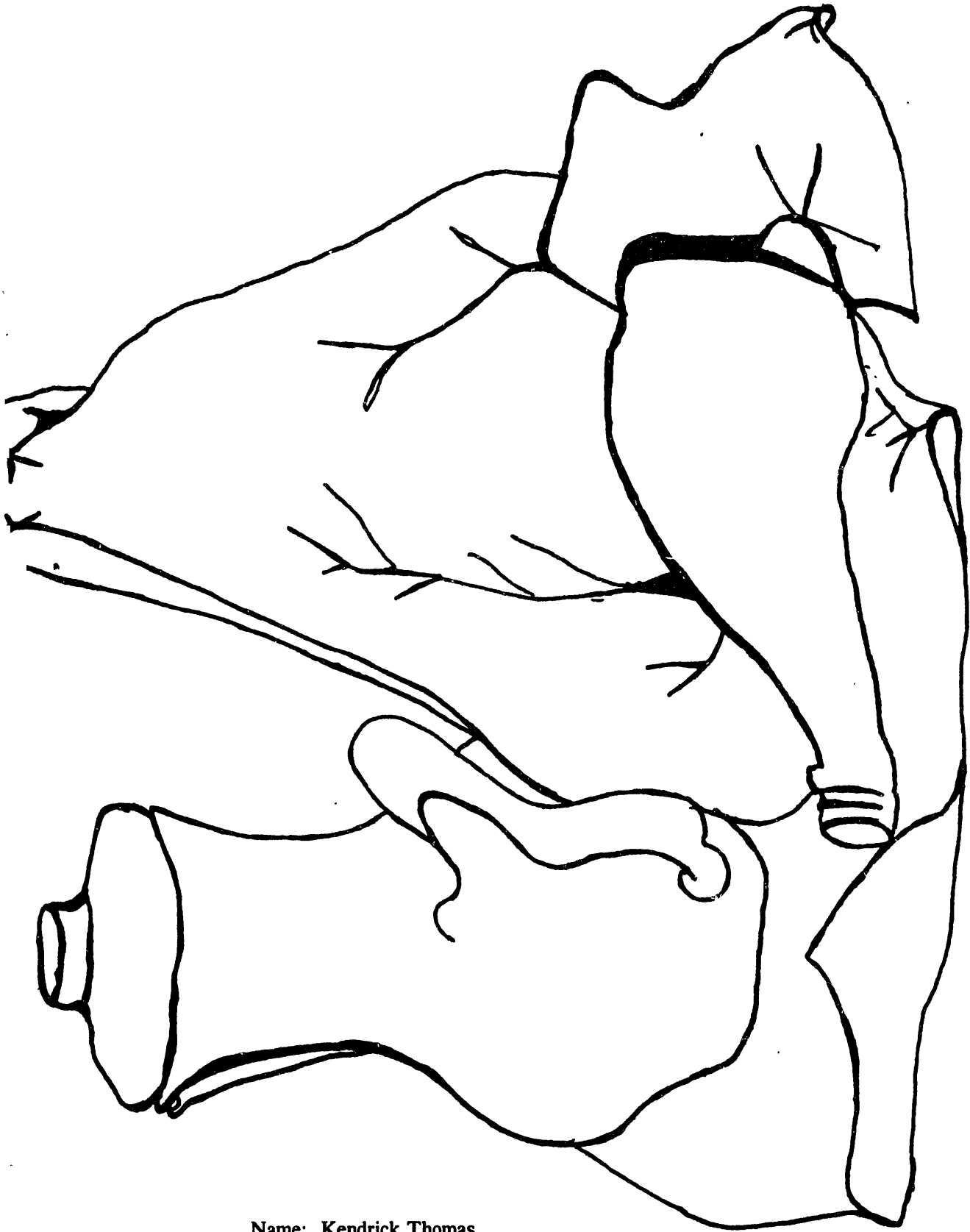
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Name: John Jothish  
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Name: Kendrick Thomas  
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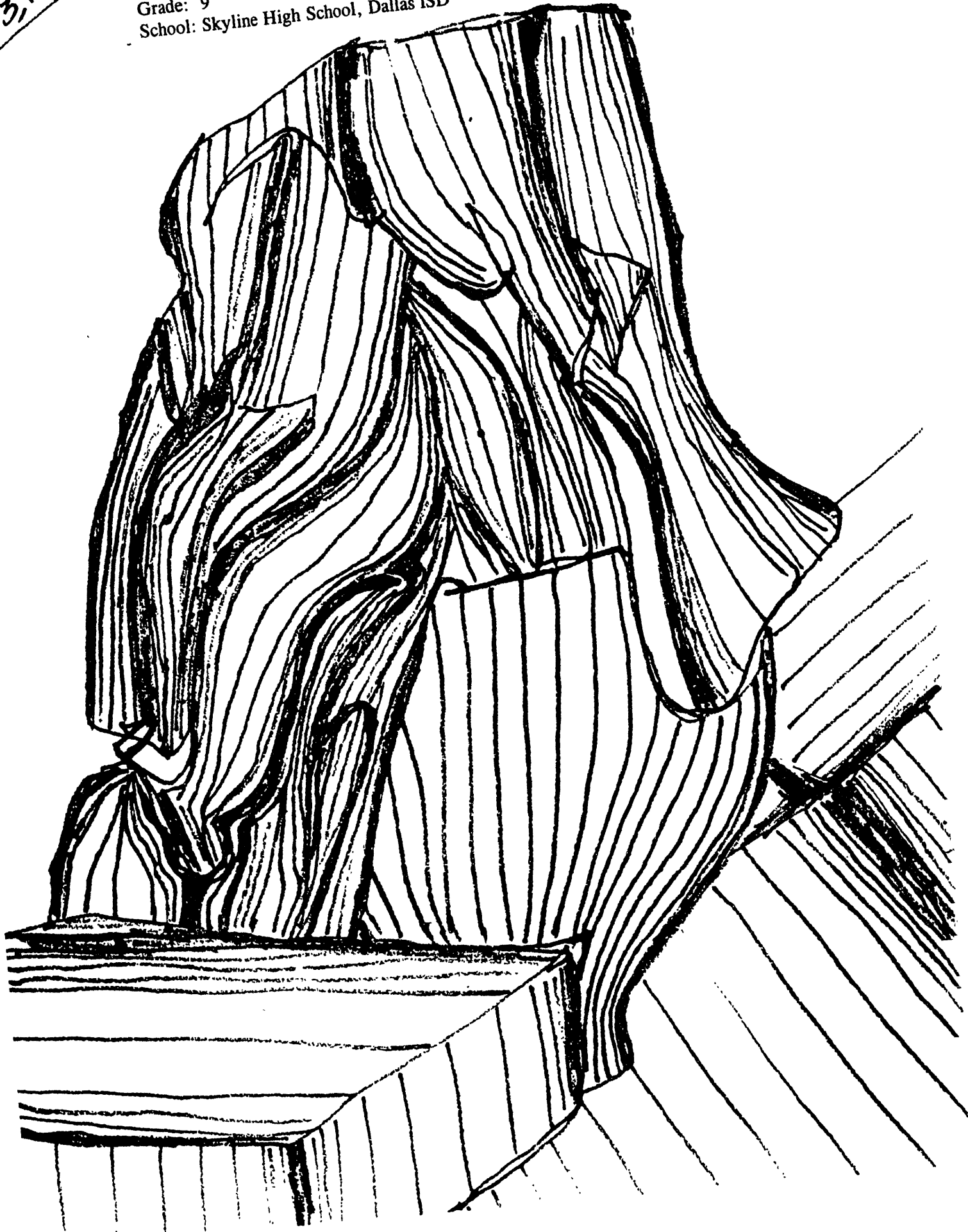
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# Texas Ethics Commission

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

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

## Texas Ethics Commission Opinions

**EAO-170.** Whether a former speaker candidate may return to contributors surplus funds contributed for use in a campaign for speaker of the house of representatives. (AOR-186)

**Summary of Opinion.** A former speaker candidate may return contributions for the speaker's race to contributors.

**EAO-171.** Whether a part-time municipal judge may use the title of judge in political advertising in connection with his or her candidacy for either district or county court-at-law judge. (AOR-187)

**Summary of Opinion.** Under the Election Code, §255.006, a person may not suggest in political advertising or in a campaign communication that the person holds an office the person does not currently hold.

**EAO-172.** Whether a legislator may use state computer equipment and employees to make entries about personal or political business on a computer schedule, and whether a state employee may conduct transactions involving officeholder contributions and expenditures. (AOR-188)

**Summary of Opinion.** A legislator's use of state resources and employees to keep track of the legislator's overall schedule, including personal and political appointments, is not a misapplication of things of value belonging to the government under the Penal Code, §39.01(a)(2). However, a state employee should not be used as a political or personal scheduler to make personal appointments or organize political events.

The use of state equipment or state employees' work time to handle campaign contributions or expenditures is a misapplication of state property. Under certain circumstances, the use of state resources to handle officeholder contributions and expenditures may be appropriate. Because the distinction between campaign matters and officeholder matters is not always clear, a legislator should be cautious in using state employees to handle any political contributions and expenditures.

**EAO-173.** Whether the prohibition against acceptance of an honorarium, as set out in the Penal Code, §36.07, is applicable to a public servant in various circumstances. (AOR-189)

**Summary of Opinion.** Texas law prohibits a public servant from accepting an honorarium for services that the public servant would not have been asked to perform but for his or her official position or duties. The location of a speech, the nature of the audience, or the speaker's expertise may be factors to consider in determining whether an honorarium is a prohibited one, but if the public servant would not have been asked to speak but for his official status, a payment for speaking would be a prohibited honorarium.

**EAO-174.** Whether a senator may serve on the board of trustees of a private college. (AOR-193)

**Summary of Opinion.** The laws subject to interpretation by the Ethics Commission do not prohibit a senator from serving as a trustee on the board of a private college that receives state-funded tuition equalization grants. However, a legislator is governed by the laws regarding conflicts of interest that are set out in Government Code, Chapter 572, and is subject to the restrictions that those laws impose.

**EAO-175.** Treatment under Texas law of contributions from an employee participation plan established under Federal Election Commission rules. (AOR-194)

**Summary of Opinion.** Contributions to Texas state candidates made through an employee participation plan established by a corporation under regulations of the Federal Election Commission do not constitute corporate contributions under the Texas Election Code, and do not trigger any reporting or registration requirements on the part of the corporation. Corporate expenditures to establish and administer such an employee participation plan are not political expenditures regulated by Title 15 of the Election Code.

**EAO-176.** Whether a political party may accept contributions from corporations or general-purpose committees established by corporations for the purpose of obtaining a permanent party headquarters. (AOR-196)

**Summary of Opinion.** A political party may accept contributions from a corporation to be used to purchase a building for a permanent party headquarters, provided that the party complies with Election Code, Chapter 257 relating to corporate and labor union contributions to a political party.

**EAO-177.** Whether certain expenditures are political expenditures subject to the 60-day waiting period set out in the Election Code, §253.037(a). (AOR-198)

**Summary of Opinion.** General-purpose committee expenditures related to political fundraising are subject to the 60-day waiting period of the Election Code, §253.037(a), as interpreted in Ethics Advisory Opinion Number 161 (1993). Costs associated with the production and dissemination of a brochure discussing the nature of a general-purpose committee and its political concerns, to be used for educational and fundraising purposes, are political expenditures. If a general-purpose committee receives as an in-kind contribution brochures costing more than \$500 to produce, its distribution of the brochures constitutes a political expenditure subject to the 60-day waiting period.

**EAO-178.** Whether a legislator may represent a client before a metropolitan transit authority. (AOR-199)

**Summary of Opinion.** In general, a legislator is not prohibited from accepting employment and receiving compensation for legitimate services performed in a capacity other than as a public servant.

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

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

Issued in Austin, Texas, on November 30, 1993.

TRD-9332892

Sarah Woelk  
Director, Advisory Opinions  
Texas Ethics Commission

Filed: December 2, 1993

◆ ◆ ◆  
**AOR-197.** Filed closed. No opinion issued, answered by letter.

**AOR-202.** Filed closed. No opinion issued, answered by letter.

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

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

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TRD-9332949

Sarah Woelk  
Director, Advisory Opinions  
Texas Ethics Commission

Filed: December 2, 1993





# 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 31. NATURAL RESOURCES AND CONSERVATION

### Part XVII. Texas State Soil and Water Conservation Board

#### Chapter 523. Agricultural and Silvicultural Water Quality Management

##### • 31 TAC §523.5

The Texas State Soil and Water Conservation Board adopts on an emergency basis new §523.5, concerning the Memorandum of Agreement between the Texas State Soil and Water Conservation Board and the Texas Natural Resource Conservation Commission that details the agreed to procedures for coordinating each agency's nonpoint source pollution programs to protect the quality of the State's water. The section adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register*

The new section is adopted on an emergency basis to establish procedures for coordination of water quality programs necessary for the timely initiation of recently adopted §§523.1-523.4.

The new section is adopted on an emergency basis under the Agricultural Code, Title 7, Chapter 201, §201.020, which authorizes the Soil and Water Conservation Board to adopt rules as necessary for the performance of its functions, and §201.026, which provides authorization for the Board to establish nonpoint source pollution abatement programs.

§§523.5. *Memorandum of Agreement Between the Texas State Soil and Water Conservation Board and the Texas Natural Resource Conservation Commission.*

(a) Whereas, the Texas State Soil and Water Conservation Board, herewithin called the Board, is the State agency with the primary responsibility for activities relating to agricultural and silvicultural nonpoint source (NPS) pollution abatement; and whereas, the Board shall represent the State before the U.S. Environmental Protection Agency, (EPA), or other federal agencies on matters relating to agricultural and silvicultural nonpoint source pollution abatement; and whereas, the Board shall establish a water quality management plan

certification program, in accordance with Senate Bill (SB) 503 of the Texas 73rd State Legislature for agricultural and silvicultural lands; and whereas, for purposes of this Agreement, the Board is responsible for nonpoint source pollution abatement activities on all agricultural and silvicultural land as defined by S.B. 503, Texas 73rd State Legislature; and whereas, the Texas Natural Resource Conservation Commission herewithin known as the Commission, is the State agency with primary responsibility for implementing the constitution and laws of the State related to the quality of water and air; and whereas, the Commission has been designated as the lead agency for the Section 319 Program of the Federal Clean Water Act administered by the EPA; and whereas, the Commission, as the State agency responsible for the quality of the waters of the State, shall coordinate all water quality programs of the State, and whereas, the Commission, shall coordinate all its agricultural and silvicultural nonpoint source pollution activities with the Board; and whereas, for the purpose of this Agreement, the Commission is responsible for regulation of all nonpoint source pollution, including that on agricultural and silvicultural lands as defined by existing rules of the Commission; and whereas, consistent with the intent of Section 319 of the Federal Clean Water Act the Board and the Commission are committed to the development and implementation of a coordinated nonpoint source pollution program for the State, and whereas, consistent with Texas law and public policy, the Board and Commission mutually desire to protect and maintain a high quality environment and the health of the people of the State; and now, therefore, in consideration of the following promises, covenants, conditions, and the mutual benefits to accrue to the parties of this Agreement, the Parties, desiring to cooperate in functions and service agree as follows:

(b) The Texas Natural Resource Conservation Commission Agrees to:

(1) administer, for the State, the Federal Clean Water Act, §319, grant program for nonpoint source pollution. The Commission will be responsible for coordinating the preparation of annual grant work programs.

(2) execute cooperative agreements and associated amendments, and

grant awards and contracts. The Commission will be responsible for monitoring implementation of work programs, and providing EPA with necessary financial and programmatic reporting information for non-agricultural/silvicultural surface and ground-water work program elements.

(3) implement the provisions of the EPA-approved Federal Clean Water Act, §319 management programs for non-agricultural/silvicultural surface and ground-water nonpoint source pollution

(4) complete, under current administrative procedures, all projects and programs for which grant funds have been awarded, under the Federal Clean Water Act, §319. All future projects and programs implementing the EPA-approved Federal Clean Water Act, §319 management program for agricultural/silvicultural NPS pollution, and supported by §319 federal grants, will be administered by the Board via a separate grant with EPA.

(5) provide to the Board all current forms, timetable, procedural rules and any policy documents of the Commission for addressing and processing citizen complaints related to agricultural and silvicultural pollution.

(6) provide initial (single event) training to selected staff of the Board on Commission complaint investigation procedures. The training will be conducted by Commission staff at a time and location coordinated with the Board

(7) coordinate with the Board those compliance and enforcement actions relative to agricultural and silvicultural nonpoint source pollution.

(8) provide the Board with access to the Commission's electronic database for all current agricultural waste management plans.

(9) develop state guidance for all nonpoint source pollution abatement projects other than agricultural or silvicultural nonpoint source pollution projects as defined by this Agreement and SB 503

(c) Texas State Soil and Water Conservation Board Agrees to.

(1) serve as the recipient of grants from EPA for agricultural and silvicultural NPS pollution projects as defined in

this Agreement and S.B. 503 and funded through the Federal Clean Water Act, §319.

(2) coordinate directly with the EPA on matters relating to programmatic and financial issues of agricultural and silvicultural projects funded to the Board through separate grants from EPA under the Federal Clean Water Act, §319. Notify the Commission in writing on any decision made that results in a change in the programmatic or financial status of a project.

(3) provide the EPA with required reports for all agricultural/silvicultural projects funded to the Board by the Federal Clean Water Act, §319. Reports will be submitted in accordance with EPA requirements.

(4) develop policies for processing citizen complaints related to agricultural and silvicultural NPS pollution. These policies shall be consistent with the practices and standards of the Commission for processing enforcement actions.

(5) schedule and conduct management meetings with the EPA to review the status of agricultural and silvicultural NPS pollution project/program activities as negotiated with EPA.

(6) develop and maintain a current electronic database to track and document the proceedings of all water quality management plans and corrective action plans. Data recorded will include, but not be limited to, the identification of applicant(s), date of application for each plan, and approval date of each plan.

(7) provide the Commission with access to the Board's electronic database for all water quality management plans. Software and equipment necessary to facilitate electronic transfer of data should be compatible with that of the Commission.

(8) refer to the Commission in accordance with S.B. 503 any enforcement action under the jurisdiction of the Commission. The Board shall provide the Commission original documents or "certified copies" of the original documents and hard copies of all records and documents relating to the complaint. Formal documents should be consistent with standard Commission formats.

(9) provide the Commission with documentation (rules, policies, guidance, etc.) for development, supervision, and monitoring of individual water quality management plans for agricultural and silvicultural lands.

(10) develop state guidance for agricultural or silvicultural nonpoint source pollution as defined by this Agreement and S.B. 503.

(11) provide to the Commission information about agricultural and silvicultural

activities required for the annual evaluation of the State's Implementation of the Nonpoint Source Management Plan. The Board will submit the information to the Commission by June 1 of each year. The Commission will include this information in the annual evaluation report required by §319.

(a) Both parties agree to:

(1) work together to refine the existing process for screening and prioritization of project proposals to be funded under the Federal Clean Water Act, §319.

(2) coordinate efforts in the development and submission of an annual work program (a "single comprehensive package" of project proposals) to EPA for the Federal Clean Water Act, §319 funding.

(3) negotiate, on an annual basis, the percentage of the administrative budget of the Federal Clean Water Act, §319, base-grant funds that will accrue to each party.

(4) maintain each party's existing level of effort (LOE) required by the EPA for the implementation of §319 programs/projects.

(5) communicate and coordinate directly with each other and the EPA on matters relating to program/project planning and implementation of NPS pollution activities/projects funded by the Federal Clean Water Act, §319.

(6) provide required reports to the EPA on NPS pollution project activities. Reports will include status of project implementation, summary of information/education activities, monitoring activities, and other outputs satisfactory to EPA.

(7) meet semi-annually to review and discuss the State's nonpoint source water quality program.

(8) work together to develop criteria for the development of water quality management programs that satisfy the state water quality standards as established by the Commission.

(9) comply with all relevant state and federal statutes and procedures, and grant conditions, including financial audits, data quality assurance and quality control, and progress reports.

(10) cooperate on activities related to the implementation of the "Texas State Management Plan for Agricultural Chemicals in Groundwater".

(11) meet at least 90 days prior to expiration of this Agreement to review conditions of this Agreement for the purpose of determining the need for renewal.

(12) adopt this agreement by rule.

(13) handle all complaints in the following manner:

(A) The Board shall investigate all complaints against facilities for which there is a certified water quality management plan or one has been applied for.

(B) The Commission shall investigate all complaints against facilities for which a waste management plan has been approved, a permit has been issued, or a permit is required in accordance with Chapter 321 of this title (relating to Control of Certain Activities by Rule).

(C) Any general complaint received by the Commission will be investigated to determine whether a permit is required of such a facility. If it is determined a permit is not required, the Commission will refer the complaint to the Board, as soon as possible. Confined animal feeding operations will have the opportunity to pursue either approval of a waste management plan through the Commission or a corrective action plan or water quality management plan through their local soil and water conservation district and the Board, as the case may require.

(D) Any general complaint received by the Board will be investigated and a determination made as to whether such a facility will need to implement a corrective action plan. Those facilities which require a permit under Chapter 321 will be referred to the Commission as soon as possible.

(E) The Commission shall investigate all complaints associated with confined animal feeding operations for which there has been an impact to aquatic life to determine whether a permit will be required. If it is determined a permit is not required, the Commission will refer the complaint to the Board as soon as possible.

(e) General Conditions:

(1) Term of Agreement—The term of this agreement shall be from effective date to August 31, 1995.

(2) Notice of Termination—Any party may terminate this Agreement upon a 30-day written notice to the other party. Both parties agree to fulfill any grant commitments in place at the time of termination. Only upon written concurrence of the other party can this Agreement be modified.

(3) Cooperation of Parties—It is the intention of the parties that the details of providing the services in support of this Agreement shall be worked out, in good faith, by both parties.

(4) Activities conducted under this Agreement will be in compliance with the nondiscrimination provisions as contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987; and other nondiscrimination statutes, namely of the Rehabilitation Act of 1973, §504; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Americans With Disabilities Act of 1992, which provide that no person in the united States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

(5) Notices—Any notices required by this Agreement to be in writing shall be addressed to the respective party as follows: Texas Natural Resource Conservation Commission, Attention: P.O. Box 13087, Austin, Texas 78711-3087; Texas State Soil and Water Conservation Board, Attention: P.O. Box 658, Temple, Texas 76503-0658.

(6) Effective Date of Agreement—This Agreement is effective upon execution by both parties. By signing this Agreement, the signatories acknowledge that they are acting under proper authority from their governing bodies.  
Texas Natural Resource Conservation Commission  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_  
Texas State Soil and Water Conservation Board  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Issued in Temple, Texas, on September 21, 1993.

TRD-9332938

Robert G. Buckley  
Executive Director  
Texas State Soil and  
Water Conservation  
Board

Effective date: December 2, 1993

Expiration date: February 1, 1994

For further information, please call: (817) 773-2250



Contour Drawing: Hand Holding Something  
9/22/53



Name: Elijah Walsh  
Grade: 9  
School: Skyline High School, Dallas ISD

# 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 1. ADMINISTRATION

### Part XII. Advisory Commission on Agency State Emergency Communications

#### Chapter 251. Regional Plans—Standards

##### • 1 TAC §251.1

The Advisory Commission on Agency State Emergency Communications proposes an amendment to §251.1, concerning guidelines for developing regional plans for 9-1-1 service. The amendment establishes minimum performance standards for equipment and operations of 9-1-1 services.

Mary A. Boyd, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state government as a result of enforcing or administering the section. The Commission has no historical data and is unable to estimate the exact impact on local government.

Ms. Boyd also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be better understanding and cooperative efforts on state and county levels to upgrade 9-1-1 service that enables quick and easy reporting of emergencies. The cost of compliance with the section for small businesses will be a 9-1-1 service fee of a maximum of \$.50 per access line and surcharge fee on intrastate long-distance telephone service. The Commission has no historical data and is unable to estimate an exact fiscal impact. The anticipated economic cost to persons who are required to comply with the section as proposed will be a \$.50 service fee per access line and surcharge fee per long-distance telephone service.

Comments on the proposal may be submitted to Mary A. Boyd, Executive Director, Advisory Commission on State Emergency Communications, Suite B-100, Capitol of Texas Highway South, Austin, Texas 78746-6437.

The amendment is proposed under the Health and Safety Code, Chapter 771, which provides the Advisory Commission on State Emergency Communications with the authority to plan and implement emergency communications systems that meet standards in

accordance with the approved agency strategic plan.

##### §251.1. Regional Plans for 9-1-1 Service.

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

(i) In order to upgrade service to ANI/ALI, a county must have initiated addressing activities.

(j) Funds authorized under the Texas Health and Safety Code, Chapter 771, Subchapter D, shall be expended on projects and activities consistent with priorities established by the Commission and as approved within regional plans.

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 December 3, 1993.

TRD-9333078

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

Earliest possible date of adoption: January 10, 1994

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

##### • 1 TAC §251.3

The Advisory Commission State Emergency Communications proposes an amendment to §251.3, concerning Guidelines for Addressing Funds. The amendment establishes policy and Guidelines for Addressing Funds. The amendment establishes policy and guidelines for use in emergency communications regional planning and funding for statewide addressing projects. The amendment also specifies the types of funds available for distribution, parties eligible for such funds, procedural requirements, and the approval process associated with requests for funds.

Mary A. Boyd, 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. Boyd 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 improved effectiveness of 9-1-1 call delivery by more easily locating 9-1-1 callers in counties who utilize funds toward completion of rural address assignment. 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 Mary Boyd, Executive Director, Advisory Commission on State Emergency Communications, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

The amendment is proposed under the Health and Safety Code, Chapter 771, the Advisory Commission on State Emergency Communications §§771.051, 771.056, 771.057, with the authority to develop and amend a regional plan for the establishment and operation of 9-1-1 service throughout a 9-1-1 region that meets the standards established by the Commission according to the procedures determined by the Commission.

##### §251.3. Guidelines for Addressing Funds.

(a) Policy. The Advisory Commission on State Emergency Communications adopted a policy on March 11, 1992, regarding rural addressing and the use of state addressing funds. This information provides a guide whereby state addressing funds are distributed to local governments for the purpose of establishing addresses. Street addresses are essential to E9-1-1 systems utilizing the Automatic Location Identifier feature which displays locations of 9-1-1 callers.

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

(1) Addressing Activities. Work associated with the initial inventory of a county for the purposes of rural addressing, conversion of box and route numbers to street addresses, correction of existing address errors, notification to residents of new addresses, resolution of address assignment problems, and installation of new street signs.

(2) Addressing Pool Funds. Funds directed to statewide addressing use including, but not limited to, federal or state grants, contributions, donations, and tele-

phone rate case distributions, but excluding Service Fee, either restricted or unrestricted in use.

(3) **Cost-Estimate Worksheet.** A form which is used to list and calculate the costs and funds needed for addressing activities in a county.

(4) **Emergency Communications District.**

(A) a public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or

(B) a district created under the Health and Safety Code, Chapter 772, Subchapters B, C, or D.

(5) **Local Funds.** Funds provided by local government from general revenue, in-kind services, and other local sources for addressing.

(6) **Regional Plan.** Each regional planning commission shall develop and plan for the establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves. The service must meet the standards established by the advisory commission.

(7) **Regional Planning Commission.** A commission established under the Local Government Code, Chapter 391, also referred to as a regional council of governments (COG).

(8) **Restricted Funds.** Addressing Pool Funds for which the contributing agency has required certain conditions to be met in distributing funds for addressing.

(9) **Road Mile Count.** County road miles based upon most current data from the Texas Department of Transportation.

[(10) **Service Fee.** Except as otherwise provided by the Health and Safety Code, 771, Subchapter D, the advisory commission may impose a 9-1-1 emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the applicable regional plan. ]

(10)[(11)] **Unaddressed County.** A county in Texas which has not completely notified residents of new addresses under a county addressing process.

(11)[(12)] **Unaddressed Housing Count.** The calculated number of housing units in a county based upon rural population data from the most recent United States Census reports.

(12)[(13)] **Unaddressed Land Parcel Count.** The estimated number of county land parcels which have no address as calculated by counties to be addressed.

(13)[(14)] **Unrestricted Funds.** Addressing Pool Funds for which the contributing agency does not require conditions to be met in distributing funds for addressing.

(14)[(15)] **Total Addressing Costs.** The approved adjusted gross total costs for an addressing project as identified by the cost-estimate worksheet.

(15) **9-1-1 Funds.** Funds assessed and disbursed in accordance with the Texas Health and Safety Code, Chapter 771.

(c) **Policy and Procedures.** The Commission authorizes and allocates addressing funds to include Addressing Pool Funds and 9-1-1 Funds [Service Fees]. Addressing Pool Funds may include funds not actually provided ACSE, but placed under its control by a third party specifically for the purposes of this program.

(1) Any unaddressed county implementing or operating 9-1-1 service, or a COG or emergency communication district applying on behalf of such a county are considered eligible.

(2) **Unrestricted Addressing Pool Funds** will be allocated by adding all counties' numbers of road mileage, unaddressed housing units, and unaddressed land parcels. The total of those numbers will be compared against each county's individual total and a proportionate share of funds will be allocated to each county. The Commission may establish a minimum amount of Addressing Pool Funds to be allocated to each eligible county in order to ensure adequate minimum funding to support addressing activities.

(3) **Restricted Addressing Pool Funds** will be allocated in accordance with those restrictions placed upon their distribution by the contributing agency.

(4) As available, restricted Addressing Pool Funds will be allocated first to eligible applicants, followed by unrestricted Addressing Pool Funds.

(5) **Service Fees** may be allocated to counties after taking into account those costs associated with 9-1-1 monthly recurring expenses, ALI upgrade, and ancillary equipment requirements.]

(5)[(6)] For the purposes of this rule, the [The] Addressing Pool Funds and 9-1-1 Funds [Service Fees] may be used only for costs associated with addressing activities.

(6)[(7)] A county must provide one dollar of local funds for every three

dollars (25% match) allocated or authorized under this fund.

(7)[(8)] Under no circumstances will funds be allocated or approved under this program that exceed total net funds needed as calculated by the cost-estimate worksheet.

(8)[(9)] In accordance with this policy, counties or emergency communications districts which have already started addressing activities and incurred costs may request reimbursement of those documented addressing expenditures, if costs were incurred since January 1, 1991.

(9)[(10)] Funds under this program must be requested by a deadline to be established by the Commission. Funds may be awarded by the Commission following this established date on a case-by-case basis.

(10) Where 9-1-1 funds are applied to the cost of addressing, addressing component costs may be capped by the Commission through the cost estimate worksheet.

(d) **Requesting Addressing Pool Funds and 9-1-1 Funds [Service Fees].** A regional plan amendment from a COG or a request from an emergency communications district is required as a means of requesting funds under this program, as described below:

(1) A regional plan amendment or request for funds from a COG must contain the following:

(A) an addressing project narrative;

(B) a completed cost-estimate worksheet including identification of the required local match;

(C) an approved projected COG financial cashflow if 9-1-1 funds [Service Fees] are requested;

(D) if necessary, a request to amend the COG administrative budget for additional staff, whether through hiring or through personnel contract services; and

(E) a county commissioners court order in support of the addressing request where a COG is performing addressing on behalf of the county.

(2) A request for funds from Emergency Communications Districts must contain the following information:

(A) an addressing project narrative;

(B) a completed cost-estimate worksheet including identification of the required local match; and

(C) a county commissioners court order in support of the addressing request where a District is performing addressing on behalf of the county.

(3) Regional plan amendments and requests for funds under this program should be submitted by the COG or the emergency communications district to the Commission five weeks prior to the scheduled Commission meeting at which the amendment or request will be considered.

(e) Reporting. Addressing funds will be allocated to COGs and emergency communication districts on a reimbursement basis. A performance and financial report is to be submitted to the Commission in accordance with established Commission policy. Where a COG or an emergency communication district is the primary contractor but a county is providing services under this program, said reports shall be provided to the Commission prior to COG or emergency communications district reimbursement of related county expenses. Monthly financial reports are to be provided utilizing Form 269a, under the Contractual column. Counties, emergency communications districts, and COGs are required to follow local government statutes as they apply to competitive proposals for purchase of services and equipment.

(f) Revisions to Addressing Regional Plan Amendments and Requests. This information provides procedures by which the Commission may approve revised addressing requests including Addressing Pool Funds and 9-1-1 funds [Service Fees] from regional councils of governments and emergency communication districts. Changes to regional plan amendments and requests can be classified into two categories: Council of Governments/Emergency Communication District approval and Commission approval.

(1) Council of Governments and District Approval. COGs and Districts may authorize changes to approved regional plan amendments and requests, as follows:

(A) fund transfers among addressing activities, in the accumulative, do not exceed 5.0% of the approved total addressing costs and addressing activities comply with applicable maximum allowable costs; and

(B) written notice is given to Commission staff within 15 days of such change.

(2) Commission Approval. Commission staff may authorize changes to an approved COG regional plan amendment and District Request, as follows:

(A) if fund transfers for existing addressing activities exceed 5.0% of approved total addressing costs but are less than \$5,000; and

(B) all changes approved will be reported to the Commission at a regularly scheduled meeting. The Commission will review changes and report them to the full Commission.

(3) The Commission, at a regularly scheduled Commission meeting, will review and approve revised COG regional plan amendments and District requests, as follows:

(A) new addressing activities are added to the regional plan amendment; and

(B) fund transfers for existing addressing activities exceed \$5,000.

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 December 3, 1993.

TRD-9333075

Mary A Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Earliest possible date of adoption: January 10, 1994

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

◆ ◆ ◆  
• 1 TAC §251.5

The Advisory Commission on State Emergency Communications proposes new §251.5, concerning Guidelines for Maintenance and Replacement of 9-1-1 Equipment. The section establishes policy on equipment procurement, installation, and operation.

Mary A. Boyd, 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. No historical data available; however, there appears to be no direct impact on small business. There is no historical data available to assess the cost of compliance for small businesses compared to the cost of compliance for the largest business affected by the section.

Ms. Boyd 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 greater assurances of equipment being well maintained and providing maximum performance; and replacement plans to ensure availability of adequate resources to replace equipment as necessary. 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 Mary A. Boyd, Advisory Commission on State Emergency Communications, Suite B-100, 1101 Capitol of Texas Highway South, Austin, Texas 78746-6437.

The new section is proposed under the Health and Safety Code, Chapter 771, §§771.055-771.057, and 771.072, which provides the Advisory Communication on State Emergency Communications with the authority to develop and amend a regional plan as necessary within Commission standards and procedures to improve 9-1-1 call delivery utilizing equipment.

§251.5. Guidelines for the Maintenance and Replacement of 9-1-1 Equipment.

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

(1) 9-1-1 Funds. Funds assessed and disbursed in accordance with the Texas Health and Safety Code, Chapter 771.

(2) 9-1-1 Equipment. Capital equipment acquired partially or in whole with 9-1-1 funds and designed to support and/or facilitate the delivery of an emergency 9-1-1 call to an appropriate emergency response agency.

(3) Capital Reinvestment Cost. The non-recurring cost of replacing 9-1-1 equipment amortized over a selected period of time.

(4) Emergency Communications District. A public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or a district created under the Texas Health and Safety Code, Chapter 772, Subchapter B, C, or D.

(5) Maintenance. The preservation and upkeep of 9-1-1 equipment in order to insure that it continues to operate and perform at a level comparable to that exhibited at its initial acquisition.

(6) Maintenance Plan. A plan that identifies a cost effective program for the maintenance of 9-1-1 equipment. For regional planning commissions, this plan is part of a regional plan as described by Chapter 771 of the Texas Health and Safety Code.

(7) Regional Planning Commission. A commission established under Local

Government Code, Chapter 391, also referred to as a regional council of governments (COG).

(8) Replacement. The timely replacement of old 9-1-1 equipment with new 9-1-1 equipment in order to insure the appropriate and acceptable continued operation of 9-1-1 services.

(9) Replacement Plan. A plan that identifies a cost-effective program for the replacement of 9-1-1 equipment. For regional planning commissions, this plan is part of a regional plan as described by the Health and Safety Code, Chapter 771.

(10) Useful Life. The period of time that a piece of capital equipment can consistently and acceptably fulfill its service or functional assignment.

(b) Policy and Procedures. As authorized by the Texas Health and Safety Code, Chapter 771 the Advisory Commission on State Emergency Communications (ACSEC) may impose 9-1-1 emergency service fees and equalization surcharges to support the planning, development, and provision of 9-1-1 service throughout the state of Texas. The implementation of such service involves the procurement, installation, and operation of equipment designed to either support or facilitate the delivery of an emergency call to an appropriate emergency response agency. It is the policy of the ACSEC that this equipment be well maintained and provide the maximum performance possible within the environment in which it operates. In accordance with this policy, the following policies and procedures shall apply to equipment funded in part or in whole by the service fees and/or surcharges referenced above:

(c) Maintenance.

(1) Regional planning commissions funding the purchase and/or lease of 9-1-1 equipment shall develop and adopt maintenance plans covering the equipment involved. At a minimum these plans shall address the following:

(A) the potential maintenance options available;

(B) the cost and operational effectiveness of all potential options, projected over a five-year period beginning with the installation of the equipment; and

(C) if a maintenance agreement with a third party is involved, the term and conditions of the agreement.

(2) Emergency communication districts requesting 9-1-1 funds in accordance with established rules and procedures for the maintenance of 9-1-1 equipment shall provide a maintenance plan for the

equipment involved as described in subsection (a) of this section.

(3) Maintenance plans shall be provided to the ACSEC in conjunction with equipment plan amendments or district requests submitted to the Commission following the adoption of this rule in accordance with established Commission policy. For equipment purchased and/or leased prior to the adoption of this rule, maintenance plans for regional planning commissions shall be submitted to the ACSEC for consideration no later than the beginning of the next budget cycle from the date of adoption of this rule.

(4) Annual budgeted costs associated with the maintenance of 9-1-1 equipment shall be monitored by the ACSEC staff for consistency with approved maintenance plans. Such costs that are determined by the ACSEC staff to not be consistent with approved maintenance plans, shall be reviewed and approved by the Commission.

(d) Replacement.

(1) Regional planning commissions funding the purchase and/or lease of 9-1-1 equipment shall develop and adopt replacement plans designed to insure the availability of adequate financial and other resources required to timely replace equipment that has reached the end of its useful life. At a minimum these plans shall address the following:

(A) the identification of the useful life of the equipment involved;

(B) the non-recurring cost associated with replacing the equipment. This may vary depending upon how the equipment was acquired—i.e., leased or purchased; and

(C) the amortization of the costs referenced in subparagraphs (A) and (B) of this paragraph over the useful life of the equipment.

(2) The initial useful life of 9-1-1 equipment acquired prior to the adoption of this rule shall be the remaining life of the equipment involved, calculated from the date of the adoption of this rule.

(3) Emergency communication districts requesting 9-1-1 funds in accordance with established rules and procedures for the replacement of 9-1-1 equipment shall provide a replacement plan for the equipment involved as described in subsection (a) of this section.

(4) Annual capital reinvestment costs associated with the replacement of 9-1-1 equipment shall be monitored by the ACSEC staff for consistency with approved replacement plans. Such costs that are de-

termined by the ACSEC staff to not be consistent with approved replacement plans shall be reviewed and approved by the Commission.

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

Issued in Austin, Texas, on December 3, 1993.

TRD-9333077

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

Earliest possible date of adoption: January 10, 1994

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

◆ ◆ ◆  
• 1 TAC §251.6

The Advisory Commission on State Emergency Communications proposes new §251.6, concerning Guidelines for Redundancy and Reliability of 9-1-1 System Operations and Services. The section provides procedures and policy regarding the necessary redundancy and reliability of 9-1-1 systems to insure continued and acceptable 9-1-1 service.

Mary A. Boyd, 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. There is no historical data available; however, there appears to be no direct impact on small business. There is historical data available to assess the cost of compliance for small businesses compared to the cost of compliance for the largest business affected by the section.

Ms. Boyd 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 greater assurance of continued and acceptable delivery of 9-1-1 emergency communication services under reasonable circumstances. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Mary A. Boyd, Advisory Commission on State Emergency Communications, Suite B-100, 1100 Capitol of Texas Highway South, Austin, Texas 78746-6437.

The new section is proposed under the Health and Safety Code, Chapter 771, §§771.055-771.057, and 771.072, which provide Advisory Communication on State Emergency with the authority to develop and amend a regional plan an necessary within Commission standards and procedures to improve 9-1-1 call delivery and reliability of 9-1-1 system service.



**§251.6. Guidelines for the Redundancy and Reliability of 9-1-1 System Operations and Services.**

(a) Definitions. The following words and terms, when used in this section, shall have the meanings identified below, unless the context and use of the word or term clearly indicates otherwise:

(1) 9-1-1 Funds. Funds assessed and disbursed in accordance with the Texas Health and Safety Code, Chapter 771.

(2) Redundancy. The installation and/or availability of multiple pieces of 9-1-1 equipment and/or system components to support the same system function in order to insure reliable and consistent 9-1-1 service delivery.

(3) Reliability. The degree to which 9-1-1 system operations, components, and equipment operate dependently and consistently.

(4) Regional Planning Commission. A commission established under the Local Government Code, Chapter 391, also referred to as a regional council of governments (COG).

(b) Policy and Procedures. The Advisory Commission on State Emergency Communications (ACSEC) has adopted various policies and established various procedures regarding the necessary redundancy and reliability of 9-1-1 systems to insure continued and acceptable 9-1-1 emergency communication services, which includes the following:

(1) The Commission will look favorably on [regional council] plan amendments for ancillary equipment that will improve the effectiveness and reliability of 9-1-1 call delivery systems.

(2) A P-PSAP should be equipped with a standby power supply for the telephone equipment, or it must be equipped with circuit transfer equipment that will connect each incoming circuit to a telephone set that does not require external power to operate.

(3) A P-PSAP must have a minimum of two each of all crucial service items such as incoming telephone circuits (two from each telephone central office or tandem), telephone sets, ANI incoming circuits, ANI display units and equipment for non-voice communications (i.e. TDD's, keyboards, etc.).

(4) There must be at least two trunks between each telephone central office and the 9-1-1 tandem office if a tandem is used.

(c) It is the general policy of the ACSEC that all 9-1-1 systems be appropriately designed to insure the continued, consistent, and acceptable delivery of 9-1-1

emergency communication services under all reasonable circumstances. In accordance with this policy, the following additional policies and procedures shall apply to systems and equipment funded in part or in whole by 9-1-1 funds.

(1) To the extent possible and practical, 9-1-1 Customer Premise Equipment (CPE) shall be equipped with failure alarms to identify potential disruption of 9-1-1 service as quickly as possible.

(2) In order to insure the timely restoration of 9-1-1 service in the event of a disaster, regional planning commissions are encouraged to either develop or assist in the local governmental development of 9-1-1 system disaster recovery plans, described follows:

(A) The process of developing such plans should include but not be limited to local exchange companies, 9-1-1 users and managers, local emergency services, and other governmental interests involved in such efforts.

(B) Ultimately, these plans should be communication components of the comprehensive local disaster recovery plans involved.

(C) These plans should also consider the need for backup PSAPs, new or existing, based upon the potential for disaster events, the costs involved, and the system design characteristics required.

(3) All electronic PSAP equipment should be protected with appropriate grounding, surge protection, and comparable devices.

(4) Regional planning commissions are encouraged to work closely with local and inter-exchange companies to examine fault-tolerant network architectures and management strategies as well as various alternate routing to minimize the impact of interoffice facility and tandem switch interruptions and failures.

(5) The use of 9-1-1 funds for all activities and equipment described by this rule shall be limited to those associated costs which directly benefit the call delivery function of 9-1-1 service as defined by the Texas Health and Safety Code, Chapter 771.

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 December 3, 1993.

TRD-9333076

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

Earliest possible date of adoption: January 10, 1994

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

**TITLE 10. COMMUNITY DEVELOPMENT**

**Part V. Texas Department of Commerce**

**Chapter 182. Small Business Assistance**

**Historically Underutilized Business**

**• 10 TAC §§182.51-182.60**

The Texas Department of Commerce proposes new §§182.51-182.60, implementing the Historically Underutilized Business and Small Business Linked Deposit Program enacted by the 73rd Legislature in Senate Bill 259 through the addition of the Texas Government Code, Chapter 481, Subchapter N. Senate Bill 259 became effective May 25, 1993. Section 481.193(b) of Senate Bill 259 requires that the Texas Department of Commerce Policy Board adopt rules for the loan portion of the linked deposit program established by Senate Bill 259. On November 29, 1993, the Policy Board approved the publication of these proposed rules implementing the Historically Underutilized Business and Small Business Linked Deposit Program.

The Historically Underutilized Business and Small Business Linked Deposit Program was created by the 73rd Legislature to encourage lending to historically underutilized businesses and small businesses in distressed communities. To effectuate the Legislature's intent, the Texas Department of Commerce proposes the following rules, designed to provide standards of eligibility and procedures for obtaining financial assistance under the Program.

Proposed §182.51 sets forth the purpose of the Program.

Proposed §182.52 contains the definitions which apply to the Historically Underutilized Business and Small Business Linked Deposit Program.

Proposed §182.53 sets forth the application procedures for eligible borrowers.

Proposed §182.54 sets forth the application procedures applicable to lenders.

Proposed §182.55 establishes the procedure for review of lender applications by the Texas Department of Commerce.

Proposed §182.56 establishes procedures for the acceptance and rejection of lender applications by the Texas Department of Commerce and the Texas State Treasury. It also establishes that an eligible borrower or lender whose application has been rejected may seek reconsideration of the application from the executive director of the Texas Department of Commerce. The decision of the executive director concerning disposition of the application is final and binding. Proposed §182.56 also requires a lender to terminate a

linked deposit if the loan is prepaid and requires that corresponding reductions in linked deposits be made in like amount to quarterly principal reductions of \$1,000 or more. It also allows the State Treasury to withdraw linked deposits if a lender ceases to be a state depository. Finally, proposed §182.56 provides that the late payment of a loan by a borrower does not affect the validity of the linked deposit through the period of the fiscal biennium.

Proposed §182.57 sets forth the process by which a municipality may apply to the Texas Department of Commerce Policy Board for designation of a subarea of the municipality as a distressed community under the Program.

Proposed §182.58 sets forth Program limitations not found in other sections of the rules, including a restriction that no more than \$3 million may be placed concurrently in all linked deposits under the Program; that no more than \$1 million may be placed in all linked deposits at any one time prior to September 1, 1995; that the minimum amount of a loan under the Program is \$10,000; that the maximum amount of a loan under the Program is \$100,000; that loans granted under the Program may be applied to the purchase, construction or lease of capital assets, including land, buildings and equipment; that lenders may charge their usual and necessary application fees and other fees and expenses in connection with loans under the Program; that linked deposits under the Program shall expire upon the expiration of the state fiscal biennium in which they were placed, subject to renewal if there is legislative authorization and approval by the Texas Department of Commerce and the State Treasury; that the state shall not be liable for any failure to comply with the terms and conditions of the loan, or any failure to make any payment or any other losses or expenses occurring from the Program; and that a person who is in default under an existing loan shall not have an application approved under the Program.

Proposed §182.59 contains a severability provision which provides that the invalidity of any part of the rules shall not affect the validity of the remainder of the rules.

Proposed §182.60 provides the name, address and telephone number for the division within the Texas Department of Commerce which should be addressed concerning the Historically Underutilized Business and Small Business Linked Deposit Program.

Dan McNeil, director, Capital Development for the Texas Department of Commerce, also has determined that there will be fiscal implications as a result of enforcing or administering the rules. For the first five years that the rules are in effect, the effect on state government will be the administrative costs which the Texas Department of Commerce incurs in administering the Historically Underutilized Business and Small Business Linked Deposit Program under the proposed rules. While such costs cannot be quantified, Mr. McNeil anticipates that such costs will be minimal, because the proposed rules provide that local private banks implement the Program.

Mr. McNeil has determined that there will be

minimal cost to local government associated with the proposed rules, primarily because the Program will be implemented by local private banks. There will be some costs, however, to municipalities which elect to apply to the Texas Department of Commerce Policy Board for designation as distressed communities. The costs, which are not quantifiable at this time, will include the cost of preparing the applications, which costs will vary depending upon the amount of staff time spent on the application and the wages of the staff working on the application. Mr. McNeil believes that the costs to local governments of seeking distressed community status will be more than offset by the economic, and other, benefits gained by the local community through the Historically Underutilized Business and Small Business Linked Deposit Program.

Mr. McNeil also has determined that there will be a public benefit for each of the first five years that the rules are in effect. The benefit is that local communities participating in the Program may realize increased economic development benefits, including new and retained jobs, capital investment within the community and enhanced quality of life for the public due to the economic development in areas identified as economically distressed.

The cost to persons complying with the rules is not completely quantifiable since it depends, in large part, on the amount of staff time spent, and the wages of the staff, in meeting the requirements of the Historically Underutilized Business and Small Business Linked Deposit Program. Other costs include the lender's usual and necessary application fee and other fees and expenses in connection with any loan made under the Program. These costs, which will be incurred only by applicants who seek to receive benefits under the Program, will be more than offset by the economic benefits which the applicants will receive from participating in the Program.

A local employment impact statement has not been requested from the Texas Employment Commission concerning the impact of these rules.

Two copies of written comments on the proposed rules should be submitted to Renee Mauzy, Staff Attorney, Texas Department of Commerce, 816 Congress Avenue, Suite 1180, Austin, Texas 78701, within 30 days of the publication of the proposed rules.

The new sections proposed under the Texas Government Code, 481.005, and §481.193(b), which provides the Texas Department of Commerce the authority to adopt and enforce necessary rules and the Administrative Procedure Act, Subchapter B, Rulemaking (Vernon's Session Laws 1993), which sets forth the rulemaking procedure to be followed by state agencies in proposing and adopting rules.

Code affected by these new rules is the Texas Government Code, §481.193(b).

#### §182.51. General Provisions.

(a) Introduction. Pursuant to the authority granted by Chapter 481, Govern-

ment Code, Subchapter N, the Texas Department of Commerce prescribes the following rules regarding the administration, implementation, practice and procedure of the Historically Underutilized Business and Small Business Linked Deposit Program.

(b) Purpose. The purpose of the program is to encourage lending to historically underutilized businesses and to small businesses in distressed areas. These sections are adopted to provide standards of eligibility and procedures for obtaining financial assistance under the Act.

§182.52. *Definition of Terms.* The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

Act—The Texas Government Code, Chapter 481, Subchapter N.

Application or linked deposit application—The required original lender's application to the department for participation in the linked deposit program including a borrower's section and a lender's section.

Collateral—Securities, in accordance with Texas Government Code, §404.25 and 34 TAC, §171.1, required to be pledged at a minimum of 105% of amounts which exceed the Federal Deposit Insurance coverage according to the Treasury and State Depository Board.

Compliance report—A written representation certified as true and correct by an officer of the lender provided to the department which states that a loan has been funded in accordance with the linked deposit application.

Current market rate—The rate of interest on a United States treasury bill or note whose maturity date most closely matches the maturity date of the linked deposit as determined by reference to the United States treasury bill or note section of the Wall Street Journal.

Default—The failure to perform an obligation established by the loan as determined by the lender, these rules or agreement.

Department—The Texas Department of Commerce.

Eligible borrower or borrower—Person who proposes to begin operating a small business in a distressed community or a historically underutilized business.

Eligible lending institution or lender—Financial institution that makes commercial loans, is an approved depository of state funds, and agrees to participate in the program established by this subchapter and to provide collateral at least equal to the amount of linked deposits placed with it.

Executive Director—The executive director of the department.

Historically Underutilized Business—

(A) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities is owned by one or more persons who are members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is 100% owned, operated, and controlled by a person, described by subparagraph (A) of this definition.

(C) a partnership formed for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons described by subparagraph (A) of this definition. Those persons must have proportionate interest and demonstrate active participation in the control, operation, and management of the partnership's affairs; or

(D) a joint venture in which each entity in the joint venture is a historically underutilized business under this subdivision.

Linked deposit—A linked deposit is a time deposit governed by a written deposit agreement between the state and an eligible lending institution that provides:

(A) that the eligible lending institution pay interest on the deposit at a rate that is not less than the greater of:

(i) the current market rate of a United States Treasury bill or note of comparable maturity minus 2.0%; or

(ii) 1.5%; and

(B) that the eligible lending institution agree to lend the value of the deposit to an eligible borrower at a rate not to exceed the current market rate of a United States treasury bill or note of comparable maturity plus four percent.

Loan—The note or other evidence of indebtedness entered into between the eligible borrower and the lender under the program.

Person—An individual, corporation, co-operative, organization, government or a government subdivision or agency, business trust, trust, partnership, association, or any other legal entity.

Policy Board—Policy Board of the Texas Department of Commerce.

Program—The Historically Underutilized Business and Small Business Linked Deposit Program authorized by the Texas Government Code, Chapter 481, Subchapter N.

Small business—Corporation, partnership, sole proprietorship, or other legal entity that:

(A) is domiciled in this state;

(B) is formed to make a profit;

(C) is independently owned and operated; and

(D) employs fewer than 100 full-time employees.

Treasury—The Texas State Treasury and the Texas State Treasurer.

*§182.53. Application Procedures for Eligible Borrower.* An eligible borrower must comply with the following procedures to obtain approval of the application for participation in the program:

(1) must obtain an application from a lender or from the department;

(2) shall submit a complete and accurate application and any required credit documentation as may be required by the lender;

(3) shall supply all other documentation as may be required by the lender that is material to the determination of whether the eligible borrower is qualified under the Act and these sections.

*§182.54. Application Procedures for the Lender.* A lender must comply with the following procedures to obtain approval of an application for participation in the program.

(1) A lender must be an eligible lending institution, as defined by the Act, to participate in the program.

(2) A lender that is not an approved depository may obtain the appropriate designation by filing a state depository application with the Treasury, which will then be submitted to the State Depository Board for approval.

(3) A lender will be provided the linked deposit application and information about the program from the Department.

(4) A lender shall determine the borrower's eligibility and creditworthiness according to the forms and checklists provided by the department and lender's loan review criteria.

(5) A lender shall forward to the department, after review an approval, a copy of the linked deposit loan application, certified as true and correct by an officer of the lender.

(6) A lender shall estimate the proposed rate of interest to be charged the

applicant in the linked deposit application filed with the department. The lender must certify via telephone communication with the Treasury at the time the loan is priced, the actual rate of interest before issuance of the linked deposit. The actual eligible borrower's loan rate shall be sent to the department, as part of the compliance report. In no event shall the actual rate of interest exceed the maximum rate of interest allowable under the Act.

(7) In no instance will the linked deposit be wired to the lender until the loan proceeds have been paid to the eligible borrower, and required collateral deposited and approved by the Treasury.

(8) A lender shall submit the compliance report to the department ten days after the loan is funded.

(9) A lender shall notify the department in writing immediately upon a default and/or in the case of a prepayment or a principal reduction greater than \$5,000 in any one calendar quarter of a loan under the program.

(10) A lender shall comply with all terms and agreements set forth in the state depository application, the linked deposit application, and any other agreements and representations made to the department and the Treasury, and all other terms and conditions of the loan, these rules and the Act.

*§182.55. Procedure for Review by the Department.*

(a) Upon receipt of the application from the lender, the department shall review the application and determine:

(1) the current availability of funds under the program;

(2) the completeness of the application;

(3) the eligibility of the applicant and the lender;

(4) the qualified use of proceeds; and

(5) compliance with the statute and rules.

(b) The department shall notify the lender of any deficiencies in the application within 24 hours after receipt of the application. The applicant and the lender may amend the application to comply with the department's comments or withdraw the application.

(c) The department shall retain a copy of the linked deposit application and forward a duplicate copy of the linked deposit application with the department's recommendation to the Treasury.

*§182.56. Acceptance and Rejection Procedures.*

(a) The Treasury shall review completed applications from the department.

(b) If the Treasury disagrees with the department's recommendation, the Treasury and the department shall meet to resolve the disagreement.

(c) Unless Treasury disagrees with the department, upon receipt of the completed application, the required collateral from the lender and written notice of funding of the loan from the department, the Treasury will wire the linked deposit to the lender in immediately available funds the same day, provided written notice that funding of the loan is received by noon. The Treasury will then provide the department confirmation of the linked deposit.

(d) The Treasury shall determine the terms and conditions of the linked deposit once the maturity date is established (it cannot be set beyond the end of the biennium in which the linked deposit is placed). The applicable interest rate for the linked deposit can be determined by referring to a compatible United States maturity note as listed in the current issue of the Wall Street Journal.

(e) An eligible borrower or a lender may request reconsideration of the rejection of an application by the department executive director. The executive director's decision on the application shall be final and binding.

(f) A lender shall terminate the linked deposit if the loan is prepaid. Quarterly principal reductions of \$1,000 or more will result in a corresponding reduction of the linked deposit in a like amount (rounded to the nearest thousand dollars) at the end of each quarter ending in November, February, May and August. Upon completion of the quarterly review by the Treasury and the department, the linked deposit will be adjusted to the outstanding principal balance rounded to the nearest thousand dollars.

(g) If a lender ceases to be a state depository, the Treasury may withdraw the linked deposits. If the lending institution, which has a linked deposit, is purchased by or merged with another lending institution, the linked deposit shall be reissued to the acquiring or resulting institution, if all depository requirements are met. Should the linked deposit loan not be obtained by the resulting institution, then the linked deposit shall be returned to the Treasury. The department and the Treasury will allow the borrower 90 days to place the application with another eligible lending institution.

(h) A late payment on a loan by a borrower does not affect the validity of the linked deposit through the period of the fiscal biennium. Should a participant default

on a loan and the lending institution proceed with collection by foreclosure, the linked deposit may, as determined by the Treasury, be returned to the Treasury.

*§182.57. Designation as Distressed Community.*

(a) A municipality may apply to the policy board for designation of a subarea of the municipality as a distressed community.

(b) The application must:

(1) provide evidence that the subarea of the municipality for which the application is being made has been traditionally recognized by custom or by previous governmental designation as a subarea and certify that:

(A) the per capita income in the subarea is 80% or less of the median income of the entire municipality filing the application;

(B) the unemployment rate in the subarea is 1.5 times higher than the average unemployment rate of the entire municipality; and

(C) 10% or more of all individuals and families in the subarea are in poverty; or

(2) certify that the subarea is part of an enterprise zone designated under the Texas Enterprise Zone Act (Texas Civil Statutes, Article 5190).

(c) The policy board shall designate the subarea for which an application is filed as a distressed community if it determines that the requirements of subsection (b) of this section have been satisfied and that the evidence required under subsection (b)(1) of this section, if applicable, is sufficient.

*§182.58. Program Limitations.* In addition to the limitations already set forth in these rules, the following limitations apply.

(1) Not more than \$3 million may be placed concurrently in all linked deposits under the Act.

(2) Notwithstanding paragraph (1) of this section, at any one time before September 1, 1995, not more than \$1 million may be placed in all linked deposits under the Act.

(3) The minimum amount of a loan is \$10,000.

(4) The maximum amount of a loan is \$100,000.

(5) The eligible borrower shall apply a loan granted under this program to

the purchase, construction, or lease of capital assets, including land, buildings, and equipment.

(6) Lenders are permitted to charge all of their usual and necessary application fees and other fees and expenses in connection with any loan made under the Act and rules.

(7) All linked deposits placed under this program shall expire upon expiration of the state fiscal biennium in which they were placed; however, subject to legislative authorization and approval by the department and the Treasury linked deposits that expired as a result of the expiration of the biennium may be renewed.

(8) The state shall not be liable for any failure to comply with the terms and conditions of the loan, or any failure to make any payment or any other losses or expenses that occur directly or indirectly from the program;

(9) A person shall not receive approval of an application if they have a loan which is in default.

*§182.59. Severability.* In the event that any clause or provision of these sections are held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

*§182.60. Communications with the Department.* All communications about the program should be directed to Business Development Division, Capital Development, Historically Underutilized Business and Small Business Linked Deposit Program, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711 (512) 320-9634.

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 December 6, 1993.

TRD-9333086

Michael Regan  
Chief Administrative Officer  
Texas Department of  
Commerce

Earliest possible date of adoption: January 10, 1994

For further information, please call: (512) 320-9401



## TITLE 22. EXAMINING BOARDS

### Part X. Texas Funeral Service Commission

#### Chapter 203. Licensing and Enforcement-Specific Substantive Rules

##### • 22 TAC §203.4

The Texas Funeral Service Commission proposes an amendment to §203.25, concerning transfer of licenses

Debbie Smith, acting executive director of the Texas Funeral Service Commission, has determined that for the first five-year period the section is in effect, there will be no fiscal implication for state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or the local economy.

Ms. Smith also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is enhanced knowledge about the ownership of funeral homes and the ability to prohibit funeral homes from transferring their licenses to avoid scrutiny by the commission. There will be no effect on small business or economic costs to persons.

Comments on the proposal may be submitted to Debbie Smith, Acting Executive Director, Texas Funeral Service Commission, 8100 Cameron Road, Suite 550, Austin, Texas 78754.

The amendments are proposed under Texas Civil Statutes, Article 4582, §5, which provide the Texas Funeral Service Commission with the authority to promulgate rules and regulations.

##### §203.4 *Transfer of Licenses Prohibited.*

(a) No license issued under the provisions of Texas Civil Statutes, Article 4582b, §4, is transferable as to ownership or location. [Licenses may be transferred as to ownership if an amended application showing a majority change of ownership is filed with the commission within 30 days of the date of transfer of ownership.]

(b) If a funeral establishment changes ownership, it must obtain a new establishment license by reporting the change on an amended form that must be filed with the commission within 15 days of the date of the change and must be accompanied by copies of all required price lists, purchase agreements, and embalming case report forms. The executive director, at his discretion, may require the funeral establishment to pass an inspection by a commission representative before approval for a new establishment license under this rule. A change of establishment name or change of funeral

director in charge (FDIC) must be submitted on an amended form within 30 days of the date of change.

(c) The funeral establishment may continue to operate under its current license until it has been either issued a new license or notified that a license has been refused because of a failure to meet the requirements of subsection (b) of this section or under the provisions of Texas Civil Statutes, Article 4582b, §4(D)(1). An establishment shall be deemed as notified once written notice has been placed in the regular United States mail.

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 December 1, 1993.

TRD-9332893

Debbie Smith  
Acting Executive Director  
Texas Funeral Service  
Commission

Earliest possible date of adoption: January 10, 1994

For further information, please call. (512) 834-9992

## TITLE 25. HEALTH SER- VICES

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

#### Chapter 401. System Administration

##### Subchapter J. Licensure of Pri- vate Psychiatric Hospitals

##### • 25 TAC §§401.581-401.593

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

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes the repeal of §§401.581-401.593, concerning licensure of private psychiatric hospitals. The repeals are published contemporaneously in this issue of the *Texas Register* with the proposal of new sections governing standards of care and treatment for the same hospitals and for psychiatric units of general hospitals.

The repeals enable the adoption of new rules that implement Senate Bills 205, 207, and 210 of the 73rd Texas Legislature. Senate Bill 205 mandates requirements concerning intake, assessment, and admission; transfer, and advertising and marketing activities. Sen-

ate Bill 207 describes requirements for obtaining informed consent to treatment with psychoactive medication and the confidential communication of patient records. Senate Bill 210 transfers licensure authority for private psychiatric hospitals to the Texas Department of Health; at the same time, it expands TXMHMR's regulatory authority to include not only private psychiatric hospitals licensed under Chapter 577 of the Texas Health and Safety Code, but also hospitals providing inpatient mental health services that are licensed by the Texas Department of Health under Chapter 24 of the Texas Health and Safety Code. Senate Bill 210 also mandates that standards of care and treatment in private psychiatric facilities not be less restrictive than those in public mental hospitals.

The proposal follows the publication of emergency rules governing the same matters in the September 17, 1993, issue of the *Texas Register* (18 TexReg 6255-56). A public hearing was held on October 5, 1993, to accept testimony concerning the emergency provisions, and no one testified concerning the repeal of the sections.

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

William Reid, M.D., M.P.H., medical director, has determined the public benefit is that the repeals enable the adoption of rules that update standards of care and treatment in psychiatric hospitals. There is no cost to persons who are required to comply with the repeals 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 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. The proposal affects the provisions of Senate Bills 205, 207, and 210 of the 73rd Texas Legislature.

§401.581. *Purpose.*

§401.582. *Application.*

§401.583. *Definitions.*

§401.584. *Submission of Plans and Specifications.*

§401.585. *Construction and Inspections.*

§401.586. *License Application Process.*

§401.587. *Patient Care Requirements for Licensure.*

§401.588. Patient Rights.

§401.589. Statutory Reviews: Enforcement of Laws.

§401.590. Reporting Requirements.

§401.591. Denial, Suspension, or Revocation of License.

§401.592. Distribution.

§401.593. References.

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

Issued in Austin, Texas, on December 6, 1993.

TRD-9333096

Anne K. Utley  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: January 10, 1994

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

◆ ◆ ◆  
Subchapter J. Standards of  
Care and Treatment in Psy-  
chiatric Hospitals

- 25 TAC §§401.581-401.583,  
401.587-401.590, 401.592, 401.  
593

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§401.581-401.583, 401.587-401.590, 401.592, and 401.593, concerning standards of care and treatment in psychiatric hospitals. The new sections are published contemporaneously in this issue of the *Texas Register* with the proposed repeal of §§401.501-401.593, governing the same matters.

The new sections implement the provisions of Senate Bills 205, 207, and 210 of the 73rd Texas Legislature. Senate Bill 205 mandates requirements concerning intake, assessment, and admission; transfer; and advertising and marketing activities. Senate Bill 207 describes requirements for obtaining informed consent to treatment with psychoactive medication and the confidential communication of patient records. Senate Bill 210 transfers licensure authority for private psychiatric hospitals to the Texas Department of Health; at the same time, it expands TXMHMR's regulatory authority to include not only private psychiatric hospitals licensed under Chapter 577 of the Texas Health and Safety Code, but also hospitals providing inpatient mental health services that are licensed by the Texas Department of Health under Chapter 241 of the Texas Health and Safety Code. Senate

Bill 210 also mandates that standards of care and treatment in private psychiatric facilities not be less restrictive than those in public mental hospitals.

The proposal follows the publication of emergency rules governing the same matters in the September 17, 1993, issue of the *Texas Register* (18 TexReg 6256-60). A public hearing was held on October 5, 1993, to accept testimony concerning the emergency provisions, and one individual, representing The Haven, testified. Written comments were solicited on the emergency provisions as well, and comments were received from The Haven, the Texas Society of Psychiatric Physicians, Haynes and Boone, Texas Hospital Association, Scott and White Hospital, Charter Hospitals, and Regional Hospital of Texoma. Other informal comments were received, and testimony by a representative of the Texas Department of Health at the September meeting of the Texas Board of Mental Health and Mental Retardation was also taken into consideration in the formulation of the proposal. Several changes were made to the proposal based on comments concerning emergency provisions.

In addition to comments on this subchapter, a number of questions were received concerning marketing practices in psychiatric hospitals. This issue will be addressed in a later proposal.

The definition of "psychiatric hospital" in §401.503, concerning definitions, is modified to delete language indicating that the Texas Department of Health does not license hospital programs that are not inpatient in nature. The Texas Department of Health licenses outpatient services and clinics that part of hospitals.

In the same section, the definition of "psychoactive medication" is revised to more clearly indicate that listed classes of medications are considered psychoactive medications when used to treat symptoms of mental illness.

The definition of "qualified mental health professional" is clarified to indicate that listed professions function as qualified mental health professionals when conducting activities within the scope of their individual training and certification or licensure. This modification was intended to respond to questions concerning the nature of assessments that can be conducted by any given mental health professional, e.g., it is the department's intent that licensed chemical dependency counselors conduct assessments specific to their scope of practice (i.e., chemical dependency).

It should be noted that licensed vocational nurses were not included in the definition of QMHP. The assessments referred to in the new subchapter require more extensive training than that provided licensed vocational nurses. By not including licensed vocational nurses in the definition of QMHP, the department does not limit the scope of practice of this profession.

Definitions of "mental health services provider" and "sexual exploitation," consistent with the requirements of Senate Bill 210, have been added to the definitions.

In §401.587(c)(2)(A), relating to patient care requirements for licensure, language has been added to indicate that continuing education related to intake and assessments meets the annual eight-hour inservice staff training requirement in these areas.

In §401.587(c)(2)(B), language has been changed to indicate that QMHPs may conduct assessments consistent with the scope of their training and licensure or certification. Language in the emergency rules the proposal replaces, relating to the "practice act under which the QMHP's license is authorized" was confusing and has been deleted.

Language concerning the relative functions of the physician and the QMHP has been clarified in §401.487(c)(3)(A)(iii). The language "an in-person assessment of the need for psychiatric hospitalization has been ordered by a physician and performed by a qualified mental health professional" has been replaced with "an in-person assessment may be conducted by a qualified mental health professional consistent with the QMHP's scope of training and licensure or certification; however, the need for psychiatric hospitalization must be determined and ordered by a physician."

The emergency new subchapter did not describe requirements related to reporting allegations of sexual exploitation. The proposal contains information consistent with the provisions of Senate Bill 210 in §401.587(c) (5).

In §401.587(c)(7), language is added to clarify that transfer requirements apply only to the transfer of patient to the inpatient services of an inpatient mental health facility.

Commenters requested that the department develop procedures to expedite the transfer to public hospitals of patients who refuse medication, where a judicial order authorizing administration of psychoactive medication may be obtained, or to otherwise provide relief to hospitals unable to treat patients who refuse to consent to treatment with psychoactive medication. Senate Bill 207 neither requires nor provides for the department to establish a mechanism to medicate patients in psychiatric hospitals without their consent. The legislation requires the wishes of patients who are competent to be honored; guardianship should be sought for patients who are not competent to give or withhold consent and who refuse medication.

In §401.588(c)(2) and (4), the description of personnel who may be designated to assist the physician in obtaining informed consent has been expanded to include registered pharmacists, consistent with other rules in governing informed consent to treatment with psychoactive medication (Chapter 405, Subchapter FF).

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 and treatment in psychiatric hospitals. There



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

A public hearing to accept testimony concerning the proposal will be held at 10:00 a.m. on December 17, 1993, in the auditorium of the central office of TXMHMR, at 909 West 45th Street, Austin. Individuals requiring an interpreter for the hearing impaired should contact Linda Logan, director, Policy Development, at least 72 hours prior to the hearing.

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 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. The proposal affects the provisions of Senate Bills 205, 207, and 210 of the 73rd Texas Legislature.

*§401.581. Purpose.* The purpose of this subchapter is to ensure proper care and treatment of patients in psychiatric hospitals.

*§401.582. Application.* The provisions of this subchapter apply to:

- (1) persons operating psychiatric hospitals in Texas under the Texas Health and Safety Code, Chapter 241 or Chapter 577;
- (2) applicants for licensure to operate a psychiatric hospital in Texas; and
- (3) persons contracting with or otherwise providing services to a psychiatric hospital in Texas.

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

**Admission**—The formal acceptance of a prospective patient to a facility.

**Assessment**—The administrative process a facility uses to gather information from a prospective patient, including a medical history and the problem for which the patient is seeking treatment, to determine whether a prospective patient should be examined by a physician to determine if admission is clinically justified.

**Community center**—A community mental health center or a community mental health and mental retardation center administered by a board of trustees pursuant to the Texas Health and Safety Code, Chapter 534, et seq.

**Department**—The Texas Department of Health.

**Emergency situation**—A situation in which it is immediately necessary to administer medication to a patient to prevent:

(A) imminent probable death or substantial bodily harm to the patient because the patient:

(i) overtly or continually is threatening or attempting to commit suicide or serious bodily harm; or

(ii) is behaving in a manner that indicates that the patient is unable to satisfy the patient's need for nourishment, essential medical care, or self-protection; or

(B) imminent physical or emotional harm to others because of threats, attempts, or other acts the patient overtly or continually makes or commits.

**Hospital**—A general or special hospital as defined in the Health and Safety Code, §241.003(4) and (11) that includes an identifiable part of the hospital for the provision of mental health services.

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

**License**—The permission granted to a person by the department to operate a private psychiatric hospital as defined in this subchapter.

**Mental health services**—Includes all services concerned with research, prevention, and detection of mental disorders and disabilities and all services necessary to treat, care for, supervise, and rehabilitate mentally disordered and disabled persons, including persons mentally disordered and disabled from alcoholism and drug addiction.

**Mental health services provider**—An individual, licensed or unlicensed, who performs or purports to perform mental health services (alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction; understanding conscious or subconscious motivations; resolving emotional attitudinal, or relationship conflicts; or modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning), including a:

(A) certified social worker as defined by the Human Resources Code §50.001;

(B) chemical dependency counselor as defined by Acts of the 72nd Legislature, §I, Chapter 635, Regular Session, 1991 (Texas Civil Statutes, Article 4512o.);

(C) licensed professional counselor as defined by Licensed Profes-

sional Counselor Act §2 (Texas Civil Statutes, Article 4512g);

(D) licensed marriage and family therapist as defined by the Licensed Marriage and Family Therapist Act, §2 (Texas Civil Statutes, Article 4512c-1);

(E) member of the clergy;

(F) physician who is "practicing medicine" as defined by the Medical Practice Act §1.03, (Texas Civil Statutes, Article 4495b) or a person employed by any agency of the United States having a license to practice medicine in any state of the United States; and

(G) psychologist offering "psychological services" as defined by the Psychologists' Certification and Licensing Act, §2(Texas Civil Statutes, Article 4512c).

**Person**—Any individual, partnership, corporation, association, or joint stock company, and includes a receiver, trustee, assignee, or similar representative of these interests. Unless the context clearly indicates otherwise, the term also includes a political subdivision.

**Physician**—A person licensed to practice medicine in the State of Texas or a person employed by any agency of the United States having a license to practice medicine in any state of the United States.

**Psychiatric hospital**—

(A) An establishment licensed by the Texas Department of Health under of the Texas Health and Safety Code, Chapter 577, offering inpatient services, including treatment, facilities, and beds for use beyond 24 hours, for the primary purpose of providing psychiatric assessment and diagnostic services and psychiatric inpatient care and treatment for mental illness. Such services must be more intensive than room, board, personal services, and general medical and nursing care. Although substance abuse services may be offered, 51% of beds must be dedicated to the treatment of mental illness in adults and/or children; or

(B) that identifiable part of a hospital in which diagnosis, treatment, and care for persons with mental illness is provided and that is licensed by the Texas Department of Health under the Texas Health and Safety Code, Chapter 241.

**Psychoactive medication**—A medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cogni-

tion, or affective state when treating the symptoms of mental illness, and may include:

- (A) antipsychotics or neuroleptics;
- (B) antidepressants;
- (C) agents for the control of mania or depression;
- (D) antianxiety agents;
- (E) sedatives, hypnotics, or other sleep-promoting drugs; and
- (F) psychomotor stimulants.

**Qualified mental health professional**—A person acting within the scope of his or her training and licensure or certification, who is a:

- (A) certified or licensed social worker as defined by the Human Resources Code, §50.001;
- (B) chemical dependency counselor as defined by Acts of the 72nd Legislature, §1, Chapter 635, Regular Session, 1991 (Texas Civil Statutes, Article 4512o);
- (C) licensed professional counselor as defined by the Licensed Professional Counselor Act, §2, (Texas Civil Statutes, Article 4512g);
- (D) licensed marriage and family therapist as defined by the Licensed Marriage and Family Therapist Act §2, (Texas Civil Statutes, Article 4512c-1);
- (E) physician who is "practicing medicine" as defined by the Medical Practice Act, §1.03, (Texas Civil Statutes, Article 4495b) or a person employed by any agency of the United States having a license to practice medicine in any state of the United States;

(F) registered nurse as defined in law; or

(G) psychologist offering "psychological services" as defined by the Psychologists' Certification and Licensing Act, §2, (Texas Civil Statutes, Article 4512c).

**Sexual exploitation**—A pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be

construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a patient's sexual history within standard accepted practice while treating a sexual or marital dysfunction.

**Special treatment procedures**—Those procedures which include the use of any of the following: restraint; seclusion; electroconvulsive therapy; psychosurgery; behavior modification; unusual, investigational, and experimental drugs or therapy; maintenance drugs that have abuse potential; and research projects that involve inconvenience or risk to the patient.

**Threat**—Actions in response to a request for discharge that are illegal or unjustified by the patient's condition.

**§401.587. Patient Care Requirements for Licensure.**

(a) In order to be eligible for licensure as a psychiatric hospital, a proposed facility must:

(1) meet the definition of a psychiatric hospital as delineated in §401.583 of this title (relating to Definitions);

(2) be in substantial compliance with the standards of care and treatment as described in this subchapter, and applicable state and federal laws.

(b) Each psychiatric hospital shall provide overall operations, a physical plant, and all services and treatment in a manner consistent with recognized hospital standards.

(1) For purposes of licensure, psychiatric hospitals, other than those operated by community centers, shall be in substantial compliance with inpatient standards set forth by the Joint Commission on Accreditation of Healthcare Organizations; that is, the standards for inpatient settings in the current edition of the Accreditation Manual for Hospitals. Additionally, such hospitals shall comply with standards set forth by the Joint Commission on Accreditation of Healthcare Organizations in the current edition of the Accreditation Manual for Mental Health, Chemical Dependency, Mental Retardation/Developmental Disabilities Services for:

- (A) special treatment procedures;
- (B) patient rights;
- (C) patient management;
- (D) adult mental health services;

(E) child and adolescent services; and

(F) services in residential settings, partial-hospitalization settings and outpatient settings.

(2) In keeping with accreditation policies currently set forth by the Joint Commission on Accreditation of Healthcare Organizations for inpatient programs of community centers, private psychiatric hospitals operated by community centers shall be in substantial compliance with inpatient standards set forth by the Joint Commission on Accreditation of Healthcare Organizations in the current edition of the Accreditation Manual for Mental Health, Chemical Dependency, Mental Retardation/Developmental Disabilities Services. Additionally, such hospitals shall provide nursing, medical, and pharmacy services in accordance with standards set forth in the current edition of the Accreditation Manual for Hospitals.

(c) The following provisions are requisite to obtaining and maintaining licensure by the Texas Department of Health:

(1) Intake. The psychiatric hospital shall:

(A) review with the prospective patient the patient's finances and insurance benefits;

(B) explain to a prospective patient the patient's rights; and

(C) explain to a prospective patient the facility's services and treatment process.

(2) Assessment. An assessment for admission shall be conducted by a qualified mental health professional (QMHP).

(A) As of September 1, 1994, and annually thereafter, the QMHP must have completed eight hours of inservice training or continuing education on intake and assessment procedures.

(B) The QMHP may conduct assessments and make recommendations concerning the need for physician evaluation for inpatient admission consistent with the scope of their training and licensure or certification.

(3) Admissions. All admissions, voluntary or involuntary, must be ordered and clinically justified by a physician.

(A) Voluntary admissions. A voluntary patient cannot be admitted for treatment unless:



(i) the facility has a physician's signed order admitting the patient;

(ii) the facility administrator or another person designated by the facility administrator has signed a statement indicating that the patient has been accepted for admission; and

(iii) within 72 hours prior to admission of a patient on a voluntary basis.

(I) an in-person medical examination has been conducted by a physician; and

(II) an in-person assessment may be conducted by a qualified mental health professional consistent with the QMHP's scope of training and licensure or certification; however, the need for psychiatric hospitalization must be determined and ordered by a physician.

(B) Admission pursuant to emergency detention. No person shall be admitted to the hospital for emergency detention unless such admission is supported by a written statement in the patient record by a physician who has conducted a preliminary examination of the person and who has determined that the person meets the criteria for admission outlined in the Texas Health and Safety Code, §573.022.

(i) A person cannot be taken to a psychiatric hospital for emergency detention unless the head of the facility agrees in advance to accept the individual. A facility shall only accept such patients when a physician is available to immediately evaluate the person to determine whether the person meets the criteria for emergency detention outlined in the Texas Health and Safety Code, §573.022. Upon arrival at the hospital, the rights of persons apprehended for emergency detention, as required under Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services), must be provided and explained to the patient by hospital staff.

(ii) Submission of an application for voluntary admission after the person has been apprehended for emergency detention but before the preliminary evaluation for admission for emergency detention has been conducted does not negate the requirements for the preliminary evaluation for emergency detention under the Texas Health and Safety Code, §573.022 (Mental Health Code, Article §547-27).

(4) Treatment. The hospital must ensure that each patient's treatment is carried out by appropriately credentialed and privileged professionals. Patient evaluation and treatment planning and implemen-

tation are the responsibility of all participating professionals. Each patient will have a treating physician, who shall have final authority for care and treatment.

(5) Reportable conduct. Allegations concerning potential abuse, neglect, sexual exploitation, unprofessional conduct, or unethical conduct shall be defined, reported, and actions taken in accordance with applicable state laws and the administrative rules of the Texas Department of Health and the Department of Protective and Regulatory Services.

(A) For purposes of this subchapter, threats, coercion, or restrictive actions intended to influence the treatment decisions of a patient shall also be considered abuse.

(i) Coercive or restrictive actions that are illegal shall be investigated as possible abuse under this section.

(ii) Coercive or restrictive actions that are not justified by the person's condition, and that are in response to a person's request for discharge or refusal of medication, therapy, or treatment, or otherwise inquire into or use a right provided by law, shall be investigated as possible abuse under this section.

(iii) Substantiated allegations will be grounds for hospital licensure review and possible revocation and other penalties as provided by law.

(B) Allegation of sexual exploitation shall additionally be reported as required in the Civil Practice and Remedies Code, Title 4, Chapter 81.

(i) If a mental health services provider or the employer of a mental health services provider has reasonable cause to suspect that a patient has been the victim of sexual exploitation by a mental health services provider during the course of treatment, or if a patient alleges sexual exploitation by a mental health services provider during the course of treatment, the mental health services provider or the employer shall report the alleged conduct not later than the 30th day after the date the person became aware of the conduct or the allegations to:

(I) the prosecuting attorney in the county in which the alleged sexual exploitation occurred; and

(II) any state licensing board that has responsibility for the mental health services provider's licensing.

(ii) Before making a report under this section, the reporter shall inform the alleged victim of the reporter's

duty to report and shall determine if the alleged victim wants to remain anonymous.

(6) Continuing care plan. The physician responsible for the patient's treatment shall prepare a continuing care plan for a patient to be discharged unless the patient does not require continuing care. The physician preparing the plan shall consult with the patient and mental health authority in the area in which the patient will reside before preparing the plan. The mental health authority is not required to participate in the development of a plan for a patient leaving a psychiatric hospital that is not owned or operated by a community center.

(A) The physician shall deliver the plan to a community center or other provider in the county where the patient will reside and that has been designated by the commissioner of the Texas Department of Mental Health and Mental Retardation to provide continuing care services, or to any other provider that agrees to accept the patient, provided that the provision of care by the center or provider is appropriate.

(B) A physician who believes that a patient does not need a continuing care plan shall document the reasons for this determination in the patient's clinical record.

(7) Transfer or referral from a psychiatric hospital to the inpatient services of an inpatient mental health facility. Prior to transferring a patient to the inpatient services of another inpatient mental health facility, the psychiatric hospital shall:

(A) provide notice to the receiving facility of the intent to transfer a patient;

(B) provide the receiving facility with information pertinent to the patient's diagnosis and condition;

(C) receive verification from the receiving facility that there is space, personnel, and services necessary to provide appropriate care for the patient; and

(D) upon transfer of the patient, send the original or copies of the patient's appropriate clinical records to the receiving facility.

(8) Each psychiatric hospital shall adopt policies and procedures establishing professionally recognized and accepted standards of care.

(A) In developing such policies and procedures, each psychiatric hospital shall comply with the following rules of the Texas Department of Mental Health and Mental Retardation:

(i) Chapter 404, Subchapter E of this title (relating to Rights of Persons Receiving Mental Health Services);

(ii) Chapter 405, Subchapter E of this title (relating to Electroconvulsive Therapy); and

(iii) Chapter 405, Subchapter FF of this title (relating to Consent to Treatment with Psychoactive Medication), for those psychiatric hospitals operated by community centers and for those patients for whom a state mental hospital or community center is contracting for services with a psychiatric hospital. See §401.588 of this title (relating to Consent to Treatment with Psychoactive Medication), for rules governing all other patients in psychiatric hospitals.

(B) Pending the promulgation of rules that specifically address the joint application of standards of care and treatment in private and public psychiatric sectors, each psychiatric hospital shall adopt policies and procedures consistent with departmental rules or other professionally recognized and accepted standards of care in the areas of:

(i) prescribing practices for medications, including the use of polypharmacy, maximum dosage levels, and pharmacy review protocol;

(ii) special treatment procedures, including aversive procedures; and

(iii) procedures for restraint and seclusion.

(9) Confidential communications or records may not be disclosed except as provided by the Texas Health and Safety Code, §§611.004 or 611.0045 and 576.006.

(10) With the exception of state hospitals and state centers, federal hospitals, community centers, and psychiatric hospitals operated by community centers, psychiatric hospitals shall comply with the provisions of the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code, §164.001, et seq.

*§401.588. Consent to Treatment with Psychoactive Medication.*

(a) A person may not administer a psychoactive medication to a patient receiving voluntary or involuntary mental health services who does not consent to the administration unless:

(1) the patient is in an emergency situation;

(2) the patient is younger than 16 years of age and the patient's parent, managing conservator, or guardian consents to the administration on behalf of the patient;

(3) the patient does not have the capacity to consent and the patient's representative authorized by law to consent on behalf of the patient has consented to the administration; or

(4) the administration of the medication regardless of the patient's refusal is authorized by a judicial order issued under the Texas Health and Safety Code, §574.106; except that the use of this paragraph (4) and the right to a judicial determination on whether a person may be required to take medication against their will is available only to a person in a psychiatric hospital operated or funded by the Texas Department of Mental Health and Mental Retardation (TDMHMR), including:

(A) state facilities,

(B) psychiatric hospitals owned or operated by a community center; or

(C) any psychiatric hospital contracting with or otherwise receiving funds from the Texas Department of Mental Health and Mental Retardation or a community center, for those patients in contracted or funded beds.

(c) Consent to the administration of psychoactive medication given by a patient or by a person authorized by law to consent on behalf of the patient is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the treating physician, licensed nurse, physician's assistant, or registered pharmacist provided the following information in a standard format approved by the department, to the patient and, if applicable, to the patient's representative authorized by law to consent on behalf of the patient:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health and mental health consequences of not consenting to the medication;

(D) the probable clinically significant side-effects and risks associated with the medication;

(E) the generally accepted alternatives to the medication, if any, and why the physician recommends that they be rejected; and

(F) the proposed course of the medication;

(3) the patient and, if appropriate, the patient's representative authorized by law to consent on behalf of the patient is informed in writing that consent may be revoked; and

(4) the consent is evidenced in the patient's clinical record by the signed form or by a statement of the treating physician, licensed nurse, physician's assistant, or registered pharmacist that documents that consent meeting the requirements if this section was given by the appropriate person and the circumstances under which the consent was obtained.

(d) If a person other than the treating physician provides the information under subsection (c) of this section then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician shall meet with the patient and, if appropriate, the patient's representative who provided the consent, to review the information and answer any questions. The physician must document confirmation of the consent in the patient's clinical record.

(e) A patient's refusal or attempt to refuse to receive psychoactive medication, whether given verbally or by other indications or means, shall be documented in the patient's clinical record.

(f) In prescribing psychoactive medication, a treating physician shall:

(1) prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side-effects or the least potential for adverse side-effects, unless the class of medication has been demonstrated or justified not to be effective clinically; and

(2) administer the smallest therapeutically acceptable dosages of medication for the patient's condition.

(g) If a physician issues an order to administer psychoactive medication to a patient without the patient's consent because the patient is having a medication-related emergency:

(1) the physician shall document in the patient's clinical record in specific medical or behavioral terms the

necessity of the order and that the physician has evaluated but rejected other generally accepted, less intrusive forms of treatment, if any; and

(2) treatment of the patient with the psychoactive medication shall be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the patient's personal liberty.

**§401.589. Enforcement of Laws.**

(a) The Texas Department of Health may make such investigations as it deems necessary and proper to obtain compliance with the provisions of this subchapter.

(b) For psychiatric hospitals, the Texas Department of Health shall enforce the applicable rules and standards adopted by the department to the same extent as it enforces rules adopted by the Texas Board of Health. A violation of this subchapter is subject to the same consequences as a violation of a rule adopted by the Texas Board of Health.

**§401.590. Reporting Requirements.**

(a) Each psychiatric hospital shall report all alleged incidents of patient abuse and neglect in accordance with the requirements of the Texas Department of Health and the Texas Department of Protective and Regulatory Services.

(b) The department may require every psychiatric hospital to make annual, periodic, and special reports and to keep such records as it considers necessary to ensure compliance with the provisions of Chapter 241 and Chapters 571-578 of the Texas Health and Safety Code and such rules, regulations, and standards as the Texas Department of Mental Health and Mental Retardation or the department prescribes.

**§401.592. Distribution.**

(a) The provisions of this subchapter shall be distributed to the Texas Board of Mental Health and Mental Retardation; medical director, deputy commissioners, assistant deputy commissioners, and directors of Central Office; and to psychiatric hospitals and applicants.

(b) Each psychiatric hospital shall ensure distribution of this subchapter to all appropriate staff.

(c) The provisions of this subchapter shall be distributed to the Texas Board of Health and appropriate staff at the Texas Department of Health.

**401.593. References.** Reference is made in this subchapter to the following laws, rules, and standards:

(1) the Texas Health and Safety Code, Subtitle C, Chapters 571-578;

(2) the Texas Health and Safety Code, Chapter 241;

(3) the Texas Health and Safety Code, Chapter 164;

(4) The Joint Commission on Accreditation of Healthcare Organizations Accreditation Manual for Hospitals, most recent edition; and

(5) The Joint Commission on Accreditation of Healthcare Organizations Accreditation Manual for Mental Health, Chemical Dependency, Mental Retardation/Developmental Disabilities Services Manual, most recent edition.

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 December 6, 1993.

TRD-9333097

Anne K. Utley  
Chairman  
Texas Board of Mental  
Health and Mental  
Retardation

Earliest possible date of adoption: January 10, 1994

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

◆ ◆ ◆  
**TITLE 30. ENVIRONMENTAL QUALITY**

**Part I. Texas Natural Resources Conservation Commission**

**Chapter 114. Control of Air Pollution From Motor Vehicles**

**Motor Vehicles**

**• 30 TAC §114.21**

The Texas Natural Resources Conservation Commission (TNRCC) proposes an amendment to §114.21, concerning Employer Trip Reduction (ETR) Program. The purpose of the amendment is to delay the plan submission dates for employers with 150 or more employees to allow additional time for plan preparation. The additional time is needed due to delays in the development of Employee Transportation Coordinator (ETC) training courses.

Stephen Minick, budget and planning division, has determined that this amendment will only apply during the initial implementation phase of the ETR program in 1994. There will be fiscal implications for state or local government as a result of enforcing or administering this rule.

Mr. Minick also has determined that the anticipated public benefit will be an extension of the time schedule for plan preparation following ETC training, which will not be available before March 1994. This additional time will facilitate the development of ETR plans with a higher potential of achieving the target average passenger occupancy required by the ETR program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

A public hearing on the proposal will be held on January 6, 1994, at 2:00 p. m. in the Houston-Galveston Area Council Conference Room "A", Second Floor, 3555 Timmons Lane, Houston. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through January 7, 1994. Material received by TNRCC Regulation Development Section by 4:00 p.m. on January 7, 1994, will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office on the TNRCC located at the 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at the TNRCC regional office in Houston at 5555 West Loop, Suite 300, Bellaire. Please mail written comments to Al Giles, Mobile Source Section, Office of Air Quality, P.O. Box 13087, Austin, Texas 78711-3087. For further information contact Al Giles at (512) 908-1943.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

The amendment is proposed under the Texas Health and Safety Code (Vernon 1990), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

**§114.21. Employer Trip Reduction Program.**

(a)-(i) (No change.)

(j) All affected employers within counties specified in this subsection shall be required to submit approvable Employer Trip Reduction (ETR) plans and to demonstrate compliance with the target average passenger occupancy for each worksite.

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

(3) ETR plans must be submitted to the Texas Natural Resources Conservation Commission in accordance with the following schedule:

(A) for employers with 200 or greater employees, no later than September 15, 1994;

(B) for employers with 100 to 199 employees, no later than November 15, 1994.

[(A) for employers with 400 and greater employees, no later than May 15, 1994;

[(B) for employers with 200 to 299 employees, no later than July 15, 1994;

[(C) for employers with 150 to 199 employees, no later than September 15, 1994;

[(D) for employers with 100 to 149 employees, no later than November 15, 1994.]

(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 December 3, 1993.

TRD-9333080

Mary Ruth Holder  
Director, Legal Services  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: March 1, 1994

For further information, please call: (512) 908-6087



## Chapter 311. Watershed Protection

### Subchapter E. Colorado River Watershed

#### • 30 TAC §311.43

The Texas Natural Resource Conservation Commission (Commission) proposes an amendment to §311.43, Subchapter E, concerning rules relating to Colorado River Watershed. Section 311.43 relates to Effluent Requirements for All Tributaries of Segment 1428 of the Colorado River and Segment 1427, Onion Creek, and Its Tributaries, of the Colorado River Basin.

The proposed amendment includes removing the exemption from compliance with the stringent effluent treatment levels of Subsection (a) for the City of Austin's Walnut Creek facility.

On January 22, 1992, the Texas Water Commission received a petition from Charles Morrison, Gary Morrison and Patricia Morrison Fleming to adopt a rule which eliminates sub-

section (c).

Subsection (c) exempts the City of Austin's Walnut Creek facility from the effluent requirement of five milligram per liter of biochemical oxygen demand, based upon a 30-day average; five milligrams per liter of total suspended solids, based upon a 30-day average; two milligrams per liter of ammonia nitrogen, based upon a 30-day average; and, one milligram per liter phosphorus, based upon a 30-day average. On April 1, 1992, the Texas Water Commission decided to proceed with rulemaking.

The proposed rule clarifies some previously ambiguous language and requires the City of Austin's Walnut Creek facility to meet the stringent effluent limits of subsection (a) by October 1, 1994, unless the discharge is relocated to the main stem of the Colorado River. The City of Austin may relocate its Walnut Creek facility discharge to an area specifically designated in its current permit (Permit Number 10543-011). Alternatively, if the City of Austin desires to relocate the discharge to a point not contemplated in its existing permit, it must apply for and obtain a permit amendment from the Texas Natural Resource Conservation Commission. Other state and/or federal permits may be necessary.

Commission staff has identified that this proposal will result in impacts on the City of Austin. The Commission staff estimates that if the City of Austin elects to relocate its discharge, the cost would be approximately \$10 million. If the City of Austin elects to treat the sewage effluent to the more stringent levels in subsection (a), the estimated cost would be approximately \$20 million.

Stephen Minick, division of budget and planning, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcement or administration of the section. The effects on state government are minimal. The effect on local government will be an increase in cost of between \$10 million and \$20 million depending on the options taken by the affected local government in response to this rule. Relocation of the discharge outfall will be the less expensive alternative to treatment of subject wastewaters to the more stringent parameters.

Mr. Minick has also determined that for each year the first five years this section is in effect the public benefit anticipated as a result of enforcement of or compliance with the section will be improved quality of the waters of the Colorado River Watershed and enhanced enforcement of the regulations of the state regarding discharges of treated wastewaters. There are no direct costs anticipated to small businesses, although increased costs to affected municipal utilities can be expected to be recovered through assessments for wastewater services delivered to all service recipients or other local revenue measures. There are no costs anticipated to persons required to comply with the provisions of this section as proposed.

Comments on the proposal may be submitted to Vic Ramirez, Staff Attorney, Legal Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas

78711. The deadline for submission of comments and requests for public hearing is 30 days after the date of this publication in the *Texas Register*. To facilitate public comment on the proposal, a public hearing will be held on January 4, 1994, at 9:00 a.m., in Room 211, Stephen F. Austin Building, 1700 North Congress Avenue, Austin.

The amendment is proposed under the Texas Water Code, §§5.103, 5.105, and 5.120, which provides the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state and to establish and approve all general policies of the commission.

The proposed amendments will not affect any other codes, articles or statutes.

§311.43. *Effluent Requirements for All Tributaries of Segment 1428 of the Colorado River and Segment 1427, Onion Creek, and Its Tributaries, of the Colorado River Basin.*

(a) (No change.)

(b) Subsection (a) of this section does not apply to any existing facilities which discharge treated domestic sewage effluent into tributaries of Segment 1428 of the Colorado River or Segment 1427, Onion Creek, and its tributaries, of the Colorado River Basin, so long as that facility remains at its permitted flow for the facility currently constructed. However, Subsection (a) of this section shall apply to all permitted facilities and phased facility expansions, not under substantial construction as of September 25, 1986, no later than June 1, 1990. This subsection shall not preclude the commission from imposing more stringent treatment levels to such facilities in the future if the results of water quality studies show that such is necessary.

(c) The City of Austin's Walnut Creek wastewater treatment facility, located at the south side of Farm-to-Market Road 969, approximately one mile east of the intersection of Farm-to-Market Road 969 and United States Highway 183 in Travis County, must by October 1, 1994, meet, at a minimum, the effluent treatment level in subsection (a) of this section unless the discharge is relocated to the main stem of the Colorado River [June 1, 1990 meet, at a minimum, the effluent treatment level in §311.42(a) of this title (relating to Effluent Requirements for the Main Stem of Segment 1428 of the Colorado River)].

(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 December 6, 1993.

TRD-9333093

Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Earliest possible date of adoption: January 10, 1994

For further information, please call: (512) 463-8069

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part XVII. Texas State Soil and Water Conservation Board

#### Chapter 523. Agricultural and Silvicultural Water Quality Management

##### • 31 TAC §523.5

*(Editor's Note: The Texas State Soil and Water Conservation Board 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 State Soil and Water Conservation Board proposes new §523.5, concerning the Memorandum of Agreement between the Texas State Soil and Water Conservation Board and the Texas Natural Resource Conservation Commission that details the agreement procedures for coordinating each agency's nonpoint source pollution programs to protect the State's water. This section establishes the procedures for coordination necessary for implementation of §§523.1-523.4.

Bill Neiser, director of programs, has determined that for each of the first five years the section is in effect the fiscal implications as a result of administering the section will be \$1,881,113 for fiscal year (FY) 1994; \$4,035,187 for FY 1995; \$4,035,187 for FY 1996; \$4,035,187 for FY 1997; and \$4,035,187 for FY 1998.

There are no anticipated fiscal impacts on units of local government. There will be no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to James M. Moore, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76703-0658.

The new section is proposed under the Agriculture Code, Title 7, Chapter 201, §201.020, which authorizes the Soil and Water Conservation Board to adopt rules as necessary for the performance of its functions, and §201.026 which provides authorization for the Board to establish nonpoint source pollution abatement programs.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

found to be within the agency's authority to adopt.

Issued in Temple, Texas, on September 21, 1993.

TRD-9332937

Robert G. Buckley  
Executive Director  
Texas State Soil and  
Water Conservation  
Board

Earliest possible date of adoption: January 10, 1994

For further information, please call: (817) 773-2250

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 19. Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

The Texas Department of Human Services (DHS) proposes amendments to §§19.804, 19.810, 19.1306, 19.1521, and 19.1912, and proposes the repeal of and new §19.1929, in its Long-Term Care Nursing Facility Requirements rule chapter. The purpose of the amendments is to allow certain health professionals to accept physicians' orders in nursing facilities in their areas of practice only, require nursing facilities' emergency disaster plans to be coordinated with local emergency management coordinators, and to delete staff development requirements which are overly prescriptive.

Portions of §19.804 which do not directly pertain to the duties of the director of nursing services have been moved to §19.810, which pertains to the general practice of nursing. Section 19.1306(f) has been expanded to include other health professionals and moved to §19.810, a more appropriate location. Other changes are for clarity and brevity.

The proposed change to §19.1521 will enable emergency management coordinators to include nursing facilities in their planning for potential natural disasters, thereby further ensuring the safety of residents in the facilities.

The current §19.1912(g) is no longer valid. The new rules regarding respite care have been added.

The current §19.1929 is overly prescriptive and needed to be revised to allow nursing facilities' staff freedom to provide care based on their professional expertise.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be inclusion of

amendments necessary to ensure improved care for nursing facility residents. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections.

Questions about the content of the proposal may be directed to Susan Syler at (512) 450-3111 in DHS's Institutional Programs Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-286, 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 I. Nursing Services • 40 TAC §19.804, §19.810

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, §§22.002 and 32.001-32.040.

*§19.804. Director of Nursing Services.* The director of nursing services must be a qualified registered nurse employed full-time who has, in writing, administrative authority, responsibility, and accountability for the functions, activities, and training of the nursing services staff, and who serves only one facility in this capacity.

(1)-(5) (No change.)

[(6) When a licensed nurse takes a verbal or telephone order from a physician, podiatrist, or dentist, the nurse must sign the order. The facility must obtain the physician's, podiatrist's, or dentist's signature on the order and return it to the clinical record within seven working days.

[(7) Licensed nurses must enter, or approve and sign, nurses' notes:

[(A) at least monthly. Routine charting for Medicaid recipients must reflect the recipient's ability as assessed on the basis of the way he performs his activities of daily living at least 60% of the time; and

[(B) at the time of any physical complaints, accidents, incidents, change in condition or diagnosis, and progress. All of the preceding must be promptly recorded as exceptions, and included in the clinical record.

[(8) Any significant adverse changes in the resident's physical or emotional condition must be promptly reported

to the attending physician. Every attempt to make the reports, and every contact made with the attending physician, must be documented in the clinical record.

[(9) If permitted by written policies of the nursing facility, a registered nurse may determine and pronounce a person dead in situations other than when an individual is being supported by artificial means which preclude determination that the person's spontaneous respiratory and circulatory functions have ceased. The facility's nursing staff, and the medical staff or consultant must have jointly developed and approved such policies.

[(A) The apparent death of a resident must be reported immediately to the attending physician, relatives, and if applicable, any guardian or legal representatives.

[(B) The body of a deceased resident must not be removed from the facility without a physician's or registered nurse's authorization (see paragraph (10) of this section). Telephone authorization is acceptable, if not in conflict with local regulations. Authorization by a justice of the peace, acting as a coroner, is sufficient when the attending or consulting physician or registered nurse is not available.

[(C) Any death which involves trauma, or unusual or suspicious circumstances, must immediately be reported to the authorities according to local regulations, and must be reported immediately to TDH according to §19.1921(p) of this title (relating to Operating Procedures and Policies). Deaths must also be reported monthly as specified in §19.2001(d) of this title (relating to Licensure).]

[(6) [(10)] The director of nurses must ensure that all orders originate with a physician, dentist, or podiatrist. [A licensed nurse may accept and carry out a physician's, dentist's, or podiatrist's order for the administration of medications or treatments when that order originates with one of the above licensed practitioners and is merely related or communicated to the RN or LVN through another person. The RN or LVN who carries out the order is responsible for assuring that the order is correct. He is required to question any order which he suspects is not correct.]

#### §19.810. Nursing Practices.

(a) Licensed nurses must practice within the constraints of applicable state laws and regulations governing their practice and must follow the guidelines contained in the facility's written policies and procedures.

(b) [(a)] Regarding the administration of intravenous fluids or medications, [or] extracting blood for laboratory tests, or the insertion of a nasogastric tube, the Licensed Vocational Nurse must have been instructed and have demonstrated competence in the technique [of venipuncture. Furthermore, the LVN must complete the procedure in accordance with the orders of an authorizing physician, and within the guidelines of the written policies and procedures approved by the employer].

[(b) Regarding the technique of insertion of a nasogastric tube, the Licensed Vocational Nurse must have been instructed and have demonstrated competence. Furthermore, the LVN must complete the procedure in accordance with the orders of the authorizing physician, and within the guidelines of the written policies and procedures approved by the employer.]

(c) (No change.)

(d) Enteral tube feedings (i.e. NG, gastrostomy, jejunostomy, etc.) shall be given in accordance with physicians' orders by a [registered or] licensed nurse [only] using established feeding procedures.

(e) (No change.)

(f) Urinary catheters shall be inserted/irrigated in accordance with physicians orders by licensed nurses using established procedures. [Intake and output records shall be kept as indicated by the physician. Catheters shall be positioned at all times to allow for flow by gravity.]

(g) Monitoring of specific restraints must [shall] include observations of the resident at least every hour with changing and positioning as described in §19.401(a) of this title (relating to Resident Behavior and Facility Practice.) Locked restraints are not allowed, except for dutch doors which are allowed as long as the requirements in §19.401 of this title (relating to Resident Behavior and Facility Practice) are met.]

[(h) Locked restraints are not allowed with the exception of dutch doors as long as the requirements in §19.401 of this title (relating to Resident Behavior and Facility Practice) are met.]

(h) [(i)] Fecal impactions must be removed by licensed nurses.

[(j) Nursing personnel must wash or disinfect their hands between treatment of residents. (See §19.1401 of this title (relating to Infection Control.))]

(i) [(k)] Suctioning [When suctioning is necessary for a resident, it] must be done by certified respiratory care practitioners, licensed nurses, or physicians.

(j) [(l)] It is the duty of the facility nursing staff to assure that the routine re-

duction and/or debridement or manicure of nails on hands and feet is performed. Physician orders are not required unless the debridement is medically contraindicated. A physician's order is required for podiatric services.

(k) When a licensed nurse takes a verbal or telephone order from a physician, podiatrist, or dentist, the nurse must sign the order. The facility must obtain the physician's, podiatrist's, or dentist's signature on the order and return it to the clinical record in a timely manner.

(1) A licensed nurse may accept a physician's, dentist's, or podiatrist's order for the administration of medications or treatments when that order originates with one of the licensed practitioners and is merely communicated to the registered or licensed vocational nurse through another person. The nurse is required to question any order which he suspects is not correct.

(2) Licensed physical therapists, licensed occupational therapists, respiratory care practitioners, qualified dietitians, and certified speech pathologists may accept physician orders only within their standards of practice and when they relate directly to their field of practice.

(l) Nurses must enter, or approve and sign, nurses' notes in the following instances:

(1) at least monthly. Routine charting for Medicaid recipients must reflect the recipient's ability as assessed on the way he performs his activities of daily living at least 60% of the time;

(2) at the time of any physical complaints, accidents, incidents, change in condition or diagnosis, and progress. All of these situations must be promptly recorded as exceptions and included in the clinical record.

(m) Any significant adverse changes in the resident's physical or emotional condition must be promptly reported to the attending physician. Every attempt to make the reports and every contact made with the attending physician must be documented in the clinical record.

(n) If permitted by written policies of the nursing facility, a registered nurse may determine and pronounce a person dead in situations other than when an individual is being supported by artificial means which preclude determination that the person's spontaneous respiratory and circulatory functions have ceased. The facility's nursing staff and the medical staff or consultant must have jointly developed and approved such pol-

icies. The policy must include the following points.

(1) The apparent death of a resident must be reported immediately to the attending physician, relatives, and any guardian or legal representatives.

(2) The body of a deceased resident must not be removed from the facility without a physician's or registered nurse's authorization. Telephone authorization is acceptable, if not in conflict with local regulations. Authorization by a justice of the peace, acting as a coroner, is sufficient when the attending or consulting physician or registered nurse is not available.

(3) Any death which involves trauma, or unusual or suspicious circumstances, must be reported immediately to the authorities, in accordance with local regulations, and to the Texas Department of Human Services (DHS), in accordance with §19.1921(p) of this title (relating to General Requirements for a Nursing Facility). Deaths must also be reported to DHS monthly, as specified in §19.2001(d) of this title (relating to Licensure).

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 December 3, 1993.

TRD-9333021 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 N. Pharmacy Services

#### • 40 TAC §19.1306

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, §§22.002 and 32.001-32.040.

#### §19.1306. Drug Orders.

(a)-(e) (No change.)

[(f) Licensed Physical Therapists and Respiratory Care Practitioners may accept orders, including medication orders, only as they relate directly to activities de-

finied by the individual's licensing practice act.]

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

Issued in Austin, Texas, on December 3, 1993.

TRD-9333020 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 P. Physical Plant and Environment

#### • 40 TAC §19.1521

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, §§22.002 and 32.001-32.040.

§19.1521. Safety Operations. The facility must have a written plan with procedures to be followed in an internal or external disaster and for the care of casualties. Plans dealing with natural disasters, such as hurricanes, floods, and tornadoes, must be coordinated with the local emergency management coordinator. Information about the local emergency management coordinator may be obtained from the office of the local mayor or county judge.

(1)-(21) (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 December 3, 1993.

TRD-9333019 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 T. Administration

#### • 40 TAC §19.1912, §19.1929

The new section and amendment 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; 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; and the Health and Safety Code, Chapter 242, which provides the department with the authority to regulate long-term care nursing facilities.

The new section and amendment implement the Human Resources Code, §§22.002 and 32.001-32.040.

#### §19.1912. Additional Clinical Record Requirements.

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

(g) Respite care. Facilities offering respite care must meet the requirements of this chapter, except as provided in paragraph (4) of this subsection. [Facilities participating in the DHS Respite Care Program must follow the documentation requirements of that program until such time the resident may be admitted to the Medicaid Nursing Facility vendor payment system or as a private pay nursing facility resident still residing in a Medicaid certified facility or distinct parts. At that time, all the requirements of these regulations must be met.]

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

(A) Plan of care-A written description of the medical care or the supervision and nonmedical care needed by an individual during respite care.

(B) Respite care-The provision by a facility to an individual, for not more than two weeks for each stay in the facility, of room, board, and care at the level ordinarily provided for permanent residents.

(2) Plan of care. The facility and the individual arranging respite care must agree on the plan of care, and the plan must be filed at the facility before the facility admits the individual.

(A) The plan of care must be signed by:

(i) a licensed physician if the individual needing care requires medical care or treatment; or



(ii) the individual arranging the care if medical care or treatment is not required.

(B) The facility may keep a plan of care for an individual for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed.

(3) Notification. A facility must notify the Texas Department of Human Services (DHS) in writing that it offers respite services.

(4) Inspections. During licensing or certification inspections, or at other times DHS determines necessary, DHS inspects a facility's records of respite care services, physical accommodations for respite care, and the plan of care records to ensure that the respite care services comply with the certification requirements of this chapter, with the following exceptions:

(A) The clinical record of each respite care resident must contain:

(i) general identifying information necessary to care for the individual and maintain his clinical record;

(ii) resident assessment and care plan according to facility policy;

(iii) progress notes on flow sheets which document care and services;

(iv) reports of diagnostic or lab studies;

(v) physician's orders; and

(vi) discharge and readmission information as required by facility policy for respite care services.

(B) Resident assessment requirements of §19.601 of this title (relating to Resident Assessment) apply to respite care services only on the 14th day of care.

(5) Suspension. DHS may require an institution to cease providing respite care if DHS determines that the respite care does not meet the requirement of this chapter and that the facility cannot comply with those requirements in the respite care it provides. DHS may suspend the license of a facility that continues to provide respite care after receiving a written order from DHS to cease, as described in Chapter 90 of this title (relating to Nursing Facilities and Related Institutions).

(6) Licensed capacity. When a facility provides respite care:

(A) the total number of individuals receiving services in the facility must not exceed the number of licensed beds; and

(B) any required nurse-to-resident ratio must include any individual receiving respite care services regardless of the number of hours that the individual spends in the facility.

(h)-(j) (No change.)

§19.1929. Staff Development. Each facility must implement and maintain programs of orientation, training, and continuing in-service education to develop the skills of its staff (see §19.1903 of this title relating to Required Training of Nurse Aides).

(1) Facility training coordinator. The administrator of the facility must designate in writing a facility training coordinator to organize, oversee, and coordinate the facility's program of orientation, job-specific training, and continuing in-service education.

(A) The training coordinator must be professionally or vocationally licensed in health care or must hold a bachelor's degree from an accredited college or university.

(B) A training coordinator may serve more than one facility.

(C) The facility administrator and director of nurses may not serve as the training coordinator.

(2) Minimum continuing in-service education requirements. Minimum continuing in-service education requirements, by job classification, are listed in subparagraphs (A)-(G) of this paragraph. When related to the employee's respective job, attendance at outside meetings or seminars may be used to satisfy the continuing in-service education requirement. The facility must keep records of the total number of hours of in-service education for all employees in the facility as well as records of attendance of each individual employee. The minimum requirements are:

(A) licensed nursing personnel—two hours per quarter;

(B) nurse aides—12 hours annually. For the purpose of this paragraph, a medication aide is considered a nurse aide and must receive the same continuing in-

service education. This in-service education does not qualify as continuing education units required for renewal of a medication aide permit.

(C) food service supervisors, cooks and helpers, and dietary aides—two hours per quarter;

(D) housekeepers, janitors, and laundry workers—one hour per quarter;

(E) activity staff—one hour per quarter;

(F) social services staff—one hour per quarter; and

(G) medical record clerks—one hour per quarter.

(3) Required in-service course content.

(A) Annual in-service training on rehabilitation nursing procedures, the use of restraints, and the promotion of a restraint-free environment must be given to all nursing personnel.

(B) In addition, all facility employees must receive annual in-service training on the following:

(i) the proper technique for prevention and control of infections;

(ii) fire prevention and safety;

(iii) accident prevention;

(iv) confidentiality of resident information;

(v) preservation of resident dignity, including protection of privacy and personal and property rights; and

(vi) services to residents with cognitive impairments.

(C) As part of orientation and annually, each employee must receive instruction regarding Human Immunodeficiency Virus (HIV), as outlined in the educational information provided by the Texas Department of Health Model Workplace Guidelines. At a minimum the HIV curriculum must include:

(i) modes of transmission;

(ii) methods of prevention;

(iii) behaviors related to substance abuse;



(iv) occupational precautions;

(v) current laws and regulations concerning the rights of an AIDS/HIV-infected individual; and

(vi) behaviors associated with HIV transmission which are in violation of Texas law.

(D) The Quality Assessment and Assurance Committee, as described in §19.1917 of this title (relating to Quality Assessment and Assurance), must assist in identifying additional topics for continuing in-service education.

(4) Medicaid Swing Bed Program for Rural Hospitals. A rural hospital participating in the Medicaid Swing Bed Program as specified in §19.2006 of this title (relating to Medicaid Swing Bed Program for Rural Hospitals) satisfies the requirements of this section, if the swing beds are used for no more than one 30-day length of stay per year, per resident.

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 December 3, 1993.

TRD-9333017

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 T. Administration

### • 40 TAC §19.1929

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

The repeal 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 repeal implements the Human Resources Code, §§22.002 and 32.001-32.040.

#### §19.1929. Staff Development.

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 December 3, 1993.

TRD-9333018

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 48. Community Care for Aged and Disabled

### Program for All-inclusive Care for the Elderly (PACE)

#### • 40 TAC §48.2804, §48.2811

The Texas Department of Human Services (DHS) proposes amendments to §48.2804 and §48.2811, concerning risk-based model and reimbursement methodology for Program for All-inclusive Care for the Elderly (PACE), in its Community Care for Aged and Disabled chapter. The purpose of the amendments is to revise the current risk-sharing methodology of Bienvivir Senior Health Services for waiver year three. DHS's share of any losses incurred by the provider will be smaller, and Bienvivir's share of the losses will be greater. Section 48.2804 is also revised to show that waiver year three is the only year Medicare will share any risk.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to decrease the state's share of liability for losses the provider agency may experience. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Gerardo Cantu at (512) 450-3693 in DHS's Community Care Section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-288, 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 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 §§22.001 and 32.001-32.040 of the Human Resources Code.

§48.2804. *Risk-based Model.* For waiver year one and two, [the first year of the waiver,] Bienvivir and Medicaid share risk for Medicaid services; and, beginning with the third [second] waiver year, Medicare will also share risk. [The interim risk is distributed equitably among Bienvivir, Medicaid, and Medicare.] At the end of the third waiver year, Bienvivir will assume full financial risk for the health care services it provides.

§48.2811. *Reimbursement Methodology for Program for All-Inclusive Care for the Elderly (PACE).*

(a)-(c) (No change)

(d) Risk-sharing. DHS participates in a risk-sharing mechanism of waiver participants designed to distribute risk between the users of the program. The users of the program are defined as Medicare, DHS, and the provider. The mechanism is as follows:

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

(5) If a loss occurs, the following formula must be used to determine the amount of loss that is the responsibility of the provider, Medicare, and DHS in the risk-sharing arrangement.

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

(C) Determination of participation amounts. Any remaining allowable loss after applying subparagraph (B) of this paragraph is shared by the provider, Medicare, and DHS. During years one and two of the waiver, DHS assumes the loss not assigned to the provider. During year three, DHS and Medicare share in the loss not assigned to the provider. The loss is allocated pro rata, based on the revenues accrued by the provider from Medicare and DHS for the specified period. The loss-sharing participation formula consists of a series of tiers within each waiver year, each tier specifying an assignment of responsibility for losses at that tier. Calculation at each tier results in an amount of allowable loss covered in that tier. Any loss not covered in that tier is carried forward to the next tier. The loss-sharing is calculated as follows for each year of the waiver:

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

(iii) Waiver Year three.

(I) (No change.)

(II) Tier 2. This tier is equal to 5.0% of revenues. The provider

participates in 40% [20%] and DHS and Medicare participate in 60% [80%] of the loss.

(III) Tier 3. This tier is equal to 10% of revenues. The provider participates in 20% [15%] and DHS and Medicare participate in 80% [85%] of the loss.

(IV) Tier 4. This tier is equal to 5.0% of revenues. The provider

participates in 10% and DHS and Medicare participate in 90% of loss.]

(IV)(V) Tier 4 [5]. This tier is equal to an amount greater than 15.5% [20.5%] of revenues. The provider participates in 100% and DHS and Medicare participate in 0% of the loss.

(iv) (No change.)

(D) (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 December 3, 1993.

TRD-9333016

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

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# Withdrawn Sections

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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*.

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## TITLE 19. EDUCATION

### Part I. Texas Higher Education Coordinating Board

#### Chapter 5. Program Development

#### Subchapter P. Testing and Re- mediation

- 19 TAC §5.318

The Texas Higher Education Coordinating Board has withdrawn from consideration for permanent adoption a proposed amendment to §5.318, which appeared in the September 14, 1993, issue of the *Texas Register* (18 TexReg 6183). The effective date of this withdrawal is December 3, 1993.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333006      James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: December 3, 1993

For further information, please call: (512)  
483-6160



cloth: Hatches

10/8/93

Name: John Gray

Grade: 9

School: Skyline High School, Dallas 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 1. ADMINISTRATION

### Part V. General Services Commission

#### Chapter 115. Building and Property Services Division

##### Space Allocation

###### • 1 TAC §115.50

The General Services Commission adopts new §115.50, concerning office space allocation for Article I and II agencies in leased or owned space, with changes to the proposed text as published in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5939).

The new section implements a new statutory limitation on space allocation. In subsection (e), under the definition of "Usable Office Space," reference is corrected from "subsection (c)" to "subsection (d)." Under subsection (d)(1), "hospital space" is added to the list of facility types to which the section does not apply, to more clearly limit application to office facilities. Under subsection (d)(2), "cafeterias" are added to the list of spaces that may be excluded from the calculation of space allocation ratio because this space is generally not within the office environment. Under subsection (d)(2)(B), the word "shared" has been deleted to allow full-time use of a training center by a single agency to qualify it for exclusion from the calculation. Under subsection (e), the definition of "agency head" is revised by removing the phrase "responsive to a policy-making board or commission" in order to include elected or appointed agency heads. Under subsection (f)(1), the first sentence is revised by adding the words "if any" to the end of the last sentence to allow for those instances where the agency head does not report to a governing body.

The new section establishes a maximum allocation of office space for agencies under Article I and II of the General Appropriations Act; states types of space to which the rule does not apply; provides definitions; and establishes a procedure for requesting space in excess of the maximum allocation.

Comments were received from seven agencies, two non-profit corporations, and two individuals. Concerns were expressed that the rule would limit accessibility of government offices to employees or visitors with disabilities. Flexibility was requested for pilot sites and new models of service delivery, for situations where space is provided at no cost or nominal cost to the state, for staging of any

costs of compliance, and for situations of critical public or client service. Several commenters requested a verbatim recitation of the statute. A suggestion was made that, for purposes of the space limitation, "usable office space" should be redefined to include only individual office or work stations and not any support space normally found in an office. Additional exemptions were requested for emergency leases in general and, specifically, for emergency leases of one year or less that are below market rate and can be cost-justified. An additional exemption was requested for lease space obtained from local governmental entities. An additional exemption was requested for cases in which an agency head certifies in writing that adherence to the square-footage limitation will sacrifice critical public or client services. Additional exemptions were requested for non-APA hearing rooms, internal hallways, file rooms, supply and storage rooms, conference rooms, drafting and related architectural/engineering plan storage space, rooms required for "reasonable accommodation" of individuals under the Americans with Disabilities Act, spare offices for an agency's own itinerant staff, and for growth. Site exemptions were requested for sites with 20 or fewer employees, 30 or fewer employees, and sites where space-reduction is not cost-effective. A suggestion was made that, at co-location sites, it be stated that each agency will be accountable for compliance only as regards its own space, irrespective of any other co-located agencies or the overall site average. Some agencies suggested that the exemption for training centers be expanded to include centers kept in full-time use solely by one agency as well as training centers shared by multiple agencies. The commission agrees with the suggestion, and the rule has been changed accordingly. It was suggested that cafeteria space in office buildings be exempted from the definition of office space. The commission agrees with the suggestion, and the rule has been changed accordingly. It was suggested that hospitals be exempted from the definition of office space. The commission agrees with the suggestion, and the rule has been changed accordingly. An Article I agency asserted that the rule conflicts with its enabling legislation, specifically with its directive "to maintain suitable headquarters for the Department and such other quarters as the director shall deem necessary to the proper functioning of the Department."

Commenting in favor of adoption were: State Preservation Board, Texas Department of Protective and Regulatory Services, Texas Department of Health, and Texas Health and Human Services Commission. Commenting against adoption of the section were: Advo-

cacy Incorporated, Texas Department of Housing and Community Affairs, American Foundation for the Blind, Texas Workers' Compensation Commission, Texas Department of Human Services, Lewis F. Boyd, and Mike Folmar.

Concerning the suggestion on agencies' accountability for compliance at co-location sites, the commission believes the rule provides for such accountability and no change is necessary. The commission disagrees with interpretations that this rule applies to individual offices or accommodations rather than to an overall average at the site. The rule does not limit individual spaces nor accommodation of individuals. The commission disagrees that recitation of the statute would be necessary or helpful. The commission disagrees that additional general exemptions are necessary; additional general exemptions would subvert the statutory limit on space and the statutory intent of overall space and cost reductions. The intention of the plan requirement and relief procedure in the rule is to allow some flexibility in accommodating special situations. These are expected to be few in number. The commission disagrees that the enabling legislation of an Article I agency conflicts with the statutory mandate to limit space allocation. The agency commenting is an Article I agency and is subject to Texas Civil Statutes, Article 601b, §6.021. The commission does not agree that the redefinition of "usable office space" would be reasonable in light of industry standard usage of the term, usage in reports to the legislature for several biennia, and usage during legislative committee debate during hearings on House Bill 2626 and Senate Bill 5 of the 73rd Texas Legislature. The commission does not agree that the legislative intent of the limitation on space allocation would be accomplished by reliance upon a general certification by the agency head. An independent finding by the commission is intended to identify possible opportunities for savings or to support the agency's case that specific additions were, in fact, critical.

The new rule is adopted under Texas Civil Statutes, Article 601b, §6.021, which directs the commission to limit space allocation as set forth in the rule.

##### §115.50. Space Allocation.

(a) Texas Civil Statutes, Article 601b, §6.021, require the commission to allocate space to state agencies in the best and most efficient manner possible and provides that the commission may not allocate space to an Article I or II Agency that exceeds an average of 153 square feet for

each agency employee for each agency site for usable office space.

(b) By August 31, 1995, office space under the commission's jurisdiction shall be allocated to Article I or II agencies at an average space allocation ratio of not more than 153 square feet of usable office space per agency employee for each agency site. For the purpose of calculating the space allocation ratio at a particular site, all offices, workstations, workspaces, storage spaces, support spaces, and circulation spaces within the agency's net usable square-footage shall be included except that type of space listed in subsection (d) of this section.

(c) Each state agency shall propose a plan acceptable to the commission for meeting the target allocation. Such plans shall be submitted by March 31, 1994.

(d) This section applies to use of office facilities obtained through the commission including both state-owned and leased space.

(1) This section does not apply to:

(A) agency sites where 15 or fewer employees are located;

(B) aircraft hangar space;

(C) radio antenna space;

(D) boat storage space;

(E) vehicle parking space;

(F) residential space for a Texas Department of Mental Health and Mental Retardation program;

(G) residential space for a Texas Youth Commission program;

(H) space to be utilized for less than one month for meetings, conferences, seminars, conventions, displays, examinations, auctions, or similar purposes;

(I) warehouse space;

(J) laboratory space;

(K) storage space exceeding 1,000 gross square feet;

(L) hearing rooms required to conduct hearings required under the Administrative Procedure Act, the Government Code, Chapter 2001;

(M) library space; or

(N) hospital space.

(2) The following types of rooms, when clearly enumerated in space requests, will be excluded by the commission from calculation of the space allocation ratio:

(A) state or regional computer operations centers;

(B) full-time, state or regional training centers;

(C) rehabilitation workshops;

(D) client waiting areas at client-service locations;

(E) client training classrooms;

(F) space provided to itinerant staff of another agency at client-service locations;

(G) playrooms at client-service locations;

(H) observation rooms in clinical or protective services offices;

(I) cafeterias;

(J) conference rooms scheduled by the commission for shared use;

(K) telephone/data closets;

(L) trial preparation rooms and litigation file rooms at litigation offices of the Attorney General;

(M) testing areas and public waiting areas at Department of Public Safety driver license offices;

(N) medical examination rooms and clinical laboratories of the Department of Health;

(O) storage areas for pharmaceuticals and medical supplies or for client equipment and appliances; and

(P) a pro rata share of internal circulation space associated with excluded uses at the site.

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

Agency employee—the full-time equivalent of a person performing services on-site under the direction of a state agency, including hours worked by "full-time employees", "part-time employees" and "consultant and contract individuals" as those terms are defined by the State Auditor; including employees paid from funds maintained outside the Treasury, and including hours worked by volunteers performing necessary services.

Agency head—the highest-ranking executive officer with full-time responsibility for the operations of the agency.

Agency site—a building or building complex on a single site or under a single lease contract, where agency business is transacted or services are provided.

Article I or II agency—a state agency listed in Article I or II of the General Appropriations Act.

Net usable square feet—An area within the exterior walls of a building identified as needed by the occupying agency to carry out its function, including interior hallways for the exclusive use of the occupying agency, but shall not include areas reserved for:

(A) public hallways, restrooms, stairwells, and elevator shafts;

(B) mechanical rooms or closets for heating, air conditioning, plumbing, janitorial, electrical, telephone, and other general building services;

(C) interior atriums, courts, etc., for public use; and

(D) fire tower and fire tower court.

Space allocation ratio—the ratio of the total usable office space (in square feet) to the total number of agency employees at the subject site. At sites where two or more agencies are co-located, the sum of agency employees at the site shall be considered.

Space use study—a study conducted by the commission to determine space requirements for the necessary functions of state agencies.

State agency—

(A) any department, commission, board, office, or other agency in the executive branch of state government created by the constitution or a statute of this state, except the Texas High-Speed Rail Authority;

(B) the Supreme Court of Texas, the Court of Criminal Appeals of

Texas, a court of civil appeals, or the Texas Civil Judicial Council; or

(C) a university system or an institution of higher education as defined in the Texas Education Code, §61.003, as amended, other than a public junior college.

Usable office space—for the purpose of calculating an agency's space allocation ratio, that portion of the net usable square feet of an agency site which houses agency staff and operations other than those rooms specifically excluded under subsection (d) of this section.

(f) If an agency desires more than 153 square feet of usable office space per agency employee at a particular site, a written request must be submitted to the commission, demonstrating that it meets one of the criteria in subsection (g) of this section.

(1) Each request must be signed by the agency head and the chairman of the agency's governing body, if any. This authority may not be delegated.

(2) The commission will grant or deny a request in writing.

(3) A summary of all requests and a copy of any requests granted by the commission will be provided to the Legislative Budget Board, the Governor's Budget and Planning Office, and the chairman of the House Appropriations Committee.

(g) The commission may allocate usable office space in excess of 153 square feet per agency employee, if the commission determines that:

(1) a strict application of the standard to a given site would unavoidably and critically impair an agency's functions;

(2) the number of persons routinely working in a space is substantially different from the agency employee calculation;

(3) based upon a space use study conducted by the commission, a particular type of space should be excluded; or

(4) a request is consistent with an agency's plan, previously accepted by the commission, for implementation of this rule.

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 December 1, 1993.

TRD-9332931 Judith M. Porras  
General Counsel  
General Services  
Commission

Effective date: December 23, 1993

Proposal publication date: September 7, 1993

For further information, please call: (512) 463-3583

### Chapter 117. Centralized Services Division

#### Mail and Messenger Services

##### • 1 TAC §117.31

The General Services Commission adopts an amendment to §117.31, concerning mail and messenger services, without changes to the proposed text as published in the October 5, 1993, issue of the *Texas Register* (18 TexReg 6779).

The amendment to §117.31 streamlines and consolidates existing rules.

The amendment to §117.31 outlines the scope of mail and messenger services for state agencies, and adds provisions required by Chapter 906, Acts, 73rd Legislature, (1993), regarding acquisition of mail processing equipment and services and mail practices guidelines.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of the Article.

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 December 1, 1993.

TRD-9332930 Judith Porras  
General Counsel  
General Services  
Commission

Effective date: December 23, 1993

Proposal publication date: October 5, 1993

For further information, please call: (512) 463-3583

##### • 1 TAC §§117.32-117.34

The General Services Commission adopts the repeal of §§117.32-117.34, concerning mail and messenger services, without changes to the proposed text as published in the October 5, 1993, issue of the *Texas Register* (18 TexReg 6780).

The significant content of the repealed sections is consolidated in §117.31.

The repeals consolidate existing rules, delete burdensome language, and will benefit the public through simplified regulations.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of that Article.

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 December 1, 1993.

TRD-9332929 Judith Porras  
General Counsel  
General Services  
Commission

Effective date: December 23, 1993

Proposal publication date: October 5, 1993

For further information, please call: (512) 463-3583

### Chapter 125. Travel and Transportation Division

#### Travel Management Services

##### • 1 TAC §125.19

The General Services Commission adopts an amendment to §125.19, concerning the State Travel Management Program, with changes to the proposed text as published in the October 5, 1993, issue of the *Texas Register* (18 TexReg 6780).

The amendment conforms to Senate Bill 381, Part 3, §§3.01-3.04, 73rd Legislature, concerning institutions of higher education and their use of travel contracts, and limits for purchase and reimbursement of commercial airline and rental car transportation. In §125.19(h), "travel voucher" was changed to "payment voucher", and an exception for promotional companion airfares was added in §125.19(f)(12).

The section specifies under what circumstances institutions of higher education are required to use the contracts for travel services and specifies the conditions under which purchase and reimbursement of airline and rental car transportation may be greater than the contract rates established by the commission.

Comments were received from two persons. One commenter expressed concern that requiring mandatory use of the travel contracts by higher education for only those travel services purchased from state funds would increase their travel program administrative costs because of the need to administer separate travel policies based on funding sources. This commenter also questioned the application of §125.19(f)(11) as it related to non-state employees and contractors who might travel at state expense. The commenter also raised procedural questions regarding coding on payment vouchers required by the comptroller and questioned why use of the travel contracts was mandatory and not optional for those agencies who want to use their funding wisely. Another commenter felt that the use of the term "travel voucher" was too restrictive and that there was no allowance for the use of "Friends Fly Free" or other companion-type air fares. This commenter also expressed concern that no provision was made for payment of "Passenger Facility Charges" which make the total

amount of airline tickets greater than the contracted rates.

The University of Houston and the General Land Office commented against adoption of the section.

The commission disagrees that administrative cost increases are required as a result of the amendment. The commission believes that legislative intent is to permit, not mandate, exclusion of local funds from use of the commission's travel contracts. Therefore, it is the option of each institution to consider whether to have separate travel policies based upon source of funds along with any resulting increases in administrative costs. Section 125.19(f)(11) is necessary to authorize payment of more than the contract rate or fare to persons who through contractual restrictions or definitions are not eligible to use the state's contract fares. Travel voucher coding requirements are not within the authority of the commission and therefore cannot be addressed in the amendment. However, it is expected that specific information regarding voucher requirements will be provided by the comptroller of public accounts. The commission disagrees that use of travel contracts should be optional. Studies of both private business and public sector travel programs, as well as actual experience with the state's travel program, have shown that there is a strong positive correlation between strong, formal, written travel policies and greater achievement in savings. Several of the airlines who proposed contract rates to the state in June, 1993, advised that their interest in offering the state contract rates was in large measure due to the state's strong travel policy. The commission agrees with the suggestion regarding the term "travel voucher" and that there should be a condition for "companion" fares. Section 125.19(h) has been revised and §125.19(f)(12) has been added. Passenger Facility Charges, like surcharges or other mandatory fees, are not included in the commission's contract rates and are therefore outside the definition of the contract fare or rate for the purpose of maximum reimbursement amount. Section 125.19(i) has been added to insure accurate communication annually of the contract rates and fares and what charges are and are not included.

The amendment is adopted under Texas Civil Statutes, Article 601b, §14.01, which provide the General Services Commission with authority to promulgate rules to accomplish the purpose of Article 14.

#### §125.19. Participation by State Agencies.

(a) Except as otherwise provided in this §125.19, state agencies in the executive branch of state government shall participate in the program and use the travel agency, charge card, rental car, airline, hotel, and other travel service contracts that are effective for at least a 12-month term. Institutions of higher education are not required to use the travel agency contracts, but are required to use all other contracts when such purchases are made using general revenue funds or educational and general funds as defined by the Education Code, §51.009.

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

(f) The contracts for travel services must be used as required by §§125.1-125.21 of this title (relating to Travel Management Services) unless the following conditions exist. State agencies shall establish procedures to comply with this subsection and submit them to the commission for approval within 90 days after the effective date of this section. Travel agent contracts are not affected by the conditions listed in paragraphs (4)-(12) of this subsection.

(1) the traveler is already in travel status which renders the use of a contract travel agent impractical or unnecessary;

(2) travel is undertaken as part of a group program for which reservations must be made through a specified source to obtain a specified rate or service;

(3) a contract travel vendor cannot provide services in the time period required to accomplish the purpose of the travel;

(4) a contract travel vendor's services are not available in a location that will reasonably allow the business requirements of a traveler to be fulfilled;

(5) a contract vendor is unable to provide the required services because it is sold-out or does not offer services in the city being visited;

(6) alternative rental car or hotel arrangements can be made at a lower total cost than the contract hotels or rental car companies. For rental cars, total costs include the base rate, loss/damage waiver protection, mileage charge, surcharges, and cost for comparable liability insurance protection. For hotels, the cost of the guest room net of taxes shall be used to compare total costs;

(7) a contract airline offers a fare lower by any amount than the contract fare;

(8) a non-contract airline offers a published fare to the general public which results in a lower total trip cost, including travel time, to the agency. However, lower or identical airfares offered to state travelers only are not included within this exception;

(9) travel is undertaken by persons with disabilities, by persons transporting prisoners or other persons in the custody of the state, or in a medical emergency;

(10) use of contract travel vendors may present a security or safety risk to the traveler;

(11) travel is by persons who under §125.1 of this title (relating to General) are not eligible to use the contract services or rates; or

(12) promotional air fares used by two or more travelers on a companion basis resulting in an average air fare for each traveler lower than the individual contract fare.

(g) (No change.)

(h) A state agency required to use the travel services contracts may not purchase or reimburse a person for the purchase of commercial airline or rental car transportation in an amount exceeding the contract rate established by the Commission unless a condition identified in subsection (f)(3)-(5) or (9)-(12) of this section exists. The existence of the condition must be indicated on or with the payment voucher as specified by the comptroller of public accounts.

(i) Contract rates will be communicated by the commission on an annual basis to state agencies and the comptroller of public accounts.

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 December 1, 1993.

TRD-9332932

Judith M. Porras  
General Counsel  
General Services  
Commission

Effective date: December 23, 1993

Proposal publication date: October 5, 1993

For further information, please call: (512) 463-3583

## Part XII. Advisory Commission on State Emergency Communications

### Chapter 255. Finance

#### • 1 TAC §255.1

The Advisory Commission on State Emergency Communications adopts an amendment to §255.1, without changes to the proposed text as published in the August 13, 1993, issue of the *Texas Register* (18 TexReg 5383).

The section provides the means for funding 9-1-1 systems statewide, taking into consideration the agency's approved strategic plan.

The section increases 9-1-1 surcharge rate from 2/10 of 1.0% to 3/10 of 1.0%. The section provides official notice to telephone companies to bill customers the fee increase on long-distance service.

A total of 16 entities responded favorably; three recommended keeping the rate at 2/10 of 1.0%; and one would approve if funds collected from its area were to be redirected to that area.



Commenting in favor of adoption were Concho Valley Council of Governments, Denco Area 9-1-1 District, Crosby County, East Texas Council of Governments, Cochran County, Lubbock Emergency Communication District, Lamb County, Texas Association of Regional Councils and the 9-1-1 Committee, Middle Rio Grande Development Council, Brazos Valley Development Council, Terry County, South Texas Development Council, Rio Grande Council of Governments, Coastal Bend Council of Governments, and Motley County. Commenting against adoption were Greater Harris County 9-1-1 Network, El Paso County 9-1-1 District, Central Texas Council of Governments, and 9-1-1 Network of East Texas.

The ACSEC rejects recommendations by Greater Harris County 9-1-1 Emergency Network, El Paso County 9-1-1 District, and the 9-1-1 Network of East Texas to keep surcharge fee at 0.2% due to forecasted strategic plan funding needs; and rejects Central Texas Council of Governments' opposition to the increase unless funds collected from area are redirected to that area. The surcharge is designed to be used for statewide purposes; it is not possible to trace money collected by area nor can it be known whether reallocation to some areas will occur.

The amendment is adopted under the Health and Safety Code, Chapter 771, which provides the Advisory Commission on State Emergency Communications with the authority to administer the implementation of statewide 9-1-1 systems.

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 December 3, 1993.

TRD-9333046  
Mary A. Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Effective date: December 24, 1993

Proposal publication date: August 13, 1993

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

◆ ◆ ◆  
• 1 TAC §255.9

The Advisory Commission on State Emergency Communications adopts new §255.9, without changes to the proposed text as published in the August 13, 1993, issue of the *Texas Register* (18 TexReg 5383).

The new section will provide for the funding of Poison Control Centers throughout Texas

The new section sets the surcharge fee at 3/10 of 1.0% and authorizes the telephone companies to bill customers for long-distance service and remit funds to the Advisory Commission on State Emergency Communications for program implementation

Of five responses, three were favorable to rule, and two proposed. Recommendations were that delineation be made between the

0.3% for State 9-1-1, and 0.3% for Poison Control Program. The ACSEC adopted this recommendation.

Commenting in favor of adoption were Kerr Emergency 9-1-1 Network, Middle Rio Grande Development Council, and McLennan County Emergency Assistance District. Commenting against adoption were Brazos Valley Development Council and South Texas Development Council.

South Texas Development Council opposes funding so many centers and the proposed surcharge fee; Brazos Valley Development Council opposes the need to assess the surcharge of 0.3%, does not recognize the need for a network of seven poison control centers, and does not recommend adoption of the proposal to establish a surcharge. The ACSEC rejects recommendations, as Health and Safety Code, Chapter 777, designates six regional centers and requires the Texas Department of Health and the ACSEC to provide for funding of the centers.

The new section is adopted under Senate Bill 773, which provides Advisory Commission on State Emergency Communications with the authority to assess surcharge fee for the funding of designated Poison Control Centers and its program initiatives.

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 December 3, 1993.

TRD-9333045  
Mary A. Boyd  
Executive Director  
Advisory Commission on  
State Emergency  
Communications

Effective date: December 24, 1993

Proposal publication date: August 13, 1993

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

◆ ◆ ◆  
TITLE 10. COMMUNITY  
DEVELOPMENT

Part V. Texas Department  
of Commerce

Chapter 182. Small Business  
Assistance

Subchapter B. Historically Underutilized Businesses

• 10 TAC §§182.50-182.57

The Texas Department of Commerce adopts the repeal of the §§182.50-182.57, concerning Historically Underutilized Businesses, without changes to the proposed text as published in the September 3, 1993, issue of the *Texas Register* (18 TexReg 5876). The repeal is necessary, because the responsibility for historically underutilized business certification has been transferred from the Texas Department of Commerce to the General Services Commission. No comments were re-

ceived from the public concerning the proposed repeal of the historically underutilized businesses rules.

The repeals are adopted under the authority of the Texas Government Code, §481.021(a)(1) and §81.103(23), which provide the Texas Department of Commerce the authority to adopt and enforce necessary rules and the Administrative Procedure Act, Subchapter B, Rulemaking (Vernon's Session Laws 1993), which sets forth the rulemaking procedure to be followed by state agencies in proposing and adopting rules.

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 December 6, 1993.

TRD-9333084  
Michael Regan  
Chief Administrative Officer  
Texas Department of  
Commerce

Effective date: December 27, 1993

Proposal publication date: September 3, 1993

For further information, please call: (512) 320-9401

◆ ◆ ◆  
Chapter 190. Procedures of the  
Board

• 10 TAC §§190.1-190.7

The Texas Department of Commerce adopts new §§190.1-190.7 setting forth the operating procedures of the Texas Department of Commerce and its Policy Board, without changes to the proposed text as published in the October 22, 1993, issue of the *Texas Register* (18 TexReg 7335).

Section 190.1 of the rules contains general provisions, including the composition of the Policy Board, the officers and their duties, tenure and removal policies, compensation and committees and advisory boards.

Section 190.2 contains the general powers of the Policy Board and provides that the Policy Board may delegate to the agency's executive director all of its powers except those relating to the issuance of bonds. It also provides for rulemaking authority and for annual reports to be made to the governor and to the legislature during each regular session thereof. It also requires that the Policy Board establish the amount of bond that shall be executed by the executive director, requires that the agency's internal auditor report to the Policy Board and requires the agency's staff to provide administrative support to the Policy Board.

Section 190.3 relates to public meetings of the Policy Board, requiring, at a minimum, quarterly meetings at such other times as called by the Chairman. Section 190.3 requires that the meetings be open, establishes what constitutes a quorum of the Policy Board and provides information on how the public may address the Policy Board. Further, §190.3 requires that the executive director, or his or her designee, attend the Policy Board

meetings and serve as the liaison between the Policy Board and the public, and that the general counsel or his or her designee shall attend the Policy Board meetings to provide legal advice to the Policy Board and to the executive director and to perform other duties as delegated. section 190.3 also provides that the Policy Board meetings will be conducted in accordance with Robert's Rules of Order unless to do so would conflict with State law. It also provides that reasonable accommodation will be made for disabled or non-English-speaking persons to attend Policy Board meetings.

Section 190.4 sets forth the conflict of interest provisions pertaining to Policy Board members.

Similarly, §190.5 sets forth the conflict of interest provisions pertaining to Policy Board members when they act upon finance programs administered by the Texas Department of Commerce.

Section 190.6 provides that Policy Board members are not individually liable for damage or injury resulting from their performance of official duties. It also provides that they are not individually liable for contracts, commitments and agreements which they execute.

Section 190.7 establishes a procedure through which the public can communicate with, or complain to the Policy Board.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the authority of the Texas Government Code, §481.0043(d), which requires that the Policy Board develop and implement policies that provide the public with a reasonable opportunity to appear before it and to speak on any issue under the jurisdiction of the Policy Board; the Texas Government Code, §481.0044(a), which requires that the Policy Board adopt rules for its internal management and control; and the Texas Government Code, §481.005(d), which requires, among other things, that the Policy Board shall establish policy and adopt rules that it may adopt under law. The rules are further adopted under the authority of the Administrative Procedure Act, Subchapter B, Rulemaking (Vernon's Session Laws 1993), which sets forth the rulemaking procedure to be followed by state agencies in proposing and adopting rule.

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 December 6, 1993.

TRD-9333085

Michael Regan  
Chief Administrative Officer  
Texas Department of  
Commerce

Effective date: December 27, 1993

Proposal publication date: October 22, 1993

For further information, please call: (512) 320-9401

## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 83. Sanitary Rulings

- 22 TAC §§83.2-83.6, 83.9-83.11, 83.13-83.18, 83.21-83.24, 83.26, 83.28, 83.30

The Texas Cosmetology Commission adopts amendments, to §§83.2-83.6, 83.9-83.11, 83.13, 83.14-83.16, 83.17, 83.21-83.24, 83.26, 83.29, 83.30 and new §83.15 and §83.18. Sections 83.2, 83.4, 83.5, 83.6, 83.10, 83.11, 83.18, 83.21, 83.23, 83.24, 83.29, 83.30 are adopted without changes and will not be republished. Sections 83.3, 83.9, 83.13, 83.14, 83.15, 83.16, 83.17, 83.22, and 83.26 are adopted with changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7254).

The new sections and amendments as adopted will better protect the public health and welfare.

The new sections and amendments will require more comprehensive sanitation in the salons, therefore decreasing the spread of communicable and infectious diseases. Concerning §§83.13-83.17, 83.26—to allow for EPA registered containers for sanitized implements. Section 83.6—allow animals in the salons.

Armstrong McCall and Flair Salon commented on the proposed sections.

Agency agreed with comments by Armstrong McCall because changes would better protect the public health and welfare. Agency disagreed with comments made by Flair Salon because the Commissioners feel that animals in the salon or school environment are unsanitary.

The amendments and new sections are adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulations consistent with the Act that are needed to protect the public's health and welfare.

#### §83.3. Proper Quarters.

- (a) (No change.)
- (b) Linoleum or tile fixtures must be tight with no broken areas or badly worn spots. Floors shall be constructed of smooth, hard-finished materials, such as quarry tile, terrazzo, ceramic tile, etc., or covered with washable composition materials such as rubber-base greaseless asphalt tile may be used. Hair cuttings must be immediately swept up and deposited in a disposal receptacle when the haircut is finished. Carpeting is not allowed in shampoo and working areas, but is allowed in reception, dryer, manicuring, and facial areas

provided it is cleaned on a regular basis and kept in a sanitary condition. Those establishments that currently have carpeting in the shampoo and work areas are not required to remove said carpeting until such time as it can no longer be maintained in a sanitary condition. No carpet shall be permitted closer than six feet from the outermost edge of the working station. No carpet shall be permitted in the dispensary area as it is part of the clinic floor, and no carpet shall be permitted from the shampoo bowl to the extended end of the shampoo chair. Walls and fixtures shall be of a sanitary nature. There must be evidence of routine cleaning and proper maintenance. Ceilings must be properly maintained.

(c) The use of a cosmetology establishment as living, dining, or sleeping quarters shall be prohibited. Residential salons shall maintain a separate entrance which shall not open off from living, dining, or sleeping quarters. If a door leads into the residence, it shall be a solid door that remains locked during business hours.

(d) Doors and windows shall be effectively screened. Necessary ventilation shall be provided at all times and adequate light shall be provided for the operator.

(e) Styling stations, working stations, and manicure tables must be disinfected and cleaned prior to client services. All drawers and shelves of the above being used for the storage of rollers, brushes, combs, pins, nets, and equipment must be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution, and shall not be used for storage of non-related cosmetology equipment or supplies. One drawer or cabinet may be designated for storage of personal items.

(f) The premises shall be kept free of rodents, vermin, flies, or other similar insects.

(g) Equipment such as dryer heads and filters must be kept clean at all times.

#### §83.9. Furniture and Equipment.

(a) Furniture, equipment, and or other fixtures shall be of a washable material and kept clean and in good repair. Electrical equipment shall be kept sanitary and safe at all times.

(b) Broken equipment must be removed.

(c) Shampoo bowls will be cleaned and disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution after each use, prior to being used for another client.

**§83.13. Implements Combs, Brushes, and Rollers.**

(a) Each cosmetologist is required to have implements and tools that have been cleaned and disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution before servicing each client.

(b) Rollers, pins, clips, combs, brushes, and cold wave rods shall not be stained from rinses or hair spray, lacquer, or setting lotions.

(c) At no time shall a cosmetology student, or a licensed cosmetologist, keep combs or brushes in their pocket.

(d) When cold wave rods are not in use, they must be covered with a cover or towel, until ready for use. Cold wave rods must be free from any solution, hair end papers, clippies, hairpins, and any additives.

(e) Scissors, razors, clipper blades, or other related equipment and supplies must be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution, must be clean to sight and touch, and stored in an airtight container. Curling irons must be clean to sight and touch.

(f) All types of brushes, all types of rollers, clips, and other hair accessories which have become soiled in any manner shall be placed in a properly labeled receptacle provided for that purpose.

(g) No other items are allowed in drawers or covered containers with clean combs and brushes. Drawers and containers must be kept closed at all times.

**§83.14. Definition of Wet and Dry Sanitizers.**

(a) A wet sanitizer is a container large enough to hold a disinfectant solution in which the objects to be disinfected are completely immersed. A wet sanitizer must have a cover to prevent contamination of the solution. The solution must be a hospital (grade) EPA registered tuberculocidal disinfectant solution. Before immersing objects in a wet sanitizer containing a disinfectant solution, be sure to:

- (1) remove hair and all debris from the object;
- (2) wash thoroughly with hot water and soap;
- (3) rinse thoroughly with clean water and dry thoroughly with a clean towel;
- (4) keep the wet sanitizer clean at all times. The wet sanitizer must be kept clean at all times; and
- (5) after immersion, wipe dry with a clean towel and store in a dry cabinet, or receptacle, or in an EPA registered disinfectant/storage system.

(b) A dry sanitizer is an airtight container. The disinfected implements are kept clean by placing them in the cabinet until ready for use.

(c) (No change.)

**§83.15. Disinfecting Facial Implements.**

(a) Each facial specialist/esthetician must have a wet sanitizer. Tweezers must be disinfected with a hospital grade EPA registered tuberculocidal disinfectant solution during service. Brushes, sponges, chamois, spatulas, and galvanic electrodes must be washed in soap and water and disinfected in a hospital (grade) EPA registered tuberculocidal disinfectant solution and stored in a dry sanitizer or in an EPA registered disinfectant/storage system. Metal implements must be disinfected in said solution and stored in a dry sanitizer.

(b) Each facial specialist/esthetician must have a wet and a dry sanitizer.

(c) Disposable wooden spatulas must be disposed of after each use.

(d) Disposable rubber or latex gloves must be worn at all times when removing wax.

(e) Disposable rubber or latex gloves must be worn at all times in doing extractions during facials.

(f) All depilatories and all paraffin wax which has been adhered to a clients hands, feet, body, or removed from the pot must be disposed of after each use and not be re-used under any circumstances.

(g) All wax pots will be cleaned and disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution with no sticks left standing in the wax at any time. The wax remaining in the pot may remain, all wax removed from the pot must be disposed of.

(h) Headrests of chairs shall be covered with a clean towel or paper sheet for each client.

(i) All areas of the body being treated in a wax service must be cleaned with a broad spectrum antimicrobial agent.

**§83.16. Disinfecting Manicure Instruments While in Use on Client.**

(a) Each manicurist must have wet and dry sanitizers or an EPA registered disinfectant/storage system at his or her station.

(b) Nail brushes, nippers, finger bowls, washable files, washable buffers, and other instruments must be washed in soap and water, thoroughly dried and then completely immersed in a hospital (grade) EPA registered tuberculocidal disinfectant solution and placed in a dry sanitizer or an

EPA registered disinfectant/storage system after each use.

(c) After disinfecting in a hospital (grade) EPA registered tuberculocidal disinfectant solution, implements must be stored in a UV light cabinet or in an EPA registered disinfectant/storage system while not in use.

(d) Emery boards and lotion warming cups must be disposed of after each use.

(e) Clean towels must be used with each client.

(f) Manicurists will also be able to pedicure the feet, and must follow the same sanitary procedures as established for manicuring.

(g) All contaminants in the breathing atmosphere shall be exhausted to the outdoor air.

(h) Under no condition will a manicurist, or manicuring salon, use the product Methyl methacrylate monomer in doing sculptured nails.

(i) Table tops must be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution before servicing each client.

**§83.17. Instruments and Supplies.**

(a)-(c) (No change.)

(d) Razors, scissors, tweezers, combs, brushes, all kinds of rubber discs and all other parts of vibrators, permanent wave apparatus and all other utensils, appliances, or anything that comes into contact with the head, face, neck, or hair, must be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution and kept in a dry sanitizer or an EPA registered disinfectant/storage system after each use.

(e) (No change.)

(f) Shampoo bowls, cups, finger bowls or similar objects, will be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution after each use and prior to being used for another client.

(g) Electrical appliances will be disinfected by wiping the surface with a cotton pad dampened a hospital (grade) EPA registered tuberculocidal disinfectant solution. The solution must remain on the surface for at least ten minutes.

(h) (No change.)

**§83.22. Infectious Disease.**

(a) All cosmetologists should use the utmost caution in waiting on or in rendering services to any person having or suspected of having an infectious disease.

Cosmetologists, after having waited on such a person, or suspected person, shall use thorough disinfecting of towels, clothes, implements, and utensils used by them in rendering work.

(b) (No change.)

§83.26. *Hairgoods and Related Equipment.*

(a) Soiled wigs and hairpieces shall be kept separate by placing in a closed bag to prevent the spread of disease until ready to be disinfected.

(b) (No change.)

(c) Finished wigs and hairpieces shall be placed away from soiled wigs and hairpieces until ready to be returned to the client.

(d) Bowls or containers used to clean or color wigs and hairpieces must be disinfected with a hospital (grade) EPA registered tuberculocidal disinfectant solution after completion of each step in the service.

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 December 1, 1993.

TRD-9332921

Larry Perkins  
Interim Executive Director  
Texas Cosmetology  
Commission

Effective date: January 1, 1994

Proposal publication date: October 19, 1993

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

• 22 TAC §83.7, §83.15

The Texas Cosmetology Commission adopts the repeal of §83.7, and §83.15 without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7254).

Rule 83.7 has been incorporated into other rules and rule 83.15 has been re-written.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulation consistent with the Act that are needed to protect the public's health and welfare.

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 December 1, 1993.

TRD-9332922

Larry Perkins  
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Texas Cosmetology  
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Effective date: January 1, 1994

Proposal publication date: October 19, 1993

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Chapter 89. General Rules and Regulations

- 22 TAC §§89.7-89.10, 89.15, 89.16, 89.18, 89.21, 89.23, 89.25, 89.28-89.30, 89.34, 89.35, 89.39, 89.42, 89.43, 89.46, 89.50, 89.53, 89.55, 89.72, 89.76

The Texas Cosmetology Commission adopts amendments to §§89.7-89.10, 89.15, 89.16, 89.18, 89.21, 89.23, 89.25, 89.28-89.30, 89.34, 89.35, 89.39, 89.42, 89.43, 89.46, 89.50, 89.53, 89.55, 89.72, and 89.76. Sections 89.23, 89.28, 89.35, 89.39, 89.53, 89.55, 89.72, and 89.76 are adopted with changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7255). Sections 89.7-89.10, 89.15, 89.16, 89.18, 89.21, 89.25, 89.29, 89.30, 89.34, 89.42, 89.43, 89.46, and 89.50 are adopted without changes and will not be republished.

The amendments were adopted to protect the public health and welfare.

The adoptions have updated the language of the rules to be consistent with the times and the Statute, and to place into rule what was previously procedure.

Comments were received requesting equality between private cosmetology schools and public school cosmetology programs.

The Texas Association of Cosmetology Schools commented on the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulation consistent with the Act that are needed to protect the public's health and welfare.

§89.23. *Transfer of Hours Between Course.* A student enrolled for a specialty course may withdraw and transfer hours acquired to the operator course not to exceed the amount of hours of that subject in the operator curriculum. Students enrolled in the operator course may withdraw and transfer up to the maximum specialty hours within the operator curriculum for that course.

§89.28. *Withdrawal from School.*

(a) A student may withdraw from school at any time by notifying the school in writing. Cosmetology schools or programs shall drop the student if a student is not in attendance for 30 consecutive working days, unless the student is on an approved leave of absence.

(b) Upon withdrawal, and provided that the agreed tuition and fees have been tendered according to Texas Civil Statutes, Article 8451a, §23, a student is entitled to an official transcript of hours taken and practical application performed at the school withdrawn from. The transcript and practical applications may be picked up in person by the student or his/her agent or mailed at the student's option. The transcript and practical applications must be ready for pickup or, if mailed, postmarked within ten calendar days of receipt, by the school, of notice of withdrawal.

(c) Whenever a student withdraws from a school, a transcript must be prepared showing the number of hours and practical applications completed. A copy of the transcript and practical applications must be kept in the students file for 48 months and the copy must be made available at the request of the commission inspector.

(d) A school may prepare a transcript and practical applications for a student if it believes the student has withdrawn but has not received notice of withdrawal.

§89.35. *Uniforms.*

(a) Cosmetology school students shall wear a uniform of washable material with armpits and chest covered as prescribed by the school. Tank tops, lingerie, see-through fabrics, topless uniforms, and bare feet are not allowed.

(b) Salon employees and independent contractors shall wear an attire of washable material with armpits and chest covered. Tank tops, lingerie, see-through fabrics, topless uniforms, and bare feet are not allowed.

(c) Applicants for a Commission examination must appear in a lab coat, and black or white dress slacks or skirt, or an all white professional uniform.

(1) Dress slacks or dress skirt: black or white, no knits must be plain and clean.

(2) Dress blouse or shirt: with collar, white only, no knits must be plain and clean.

(3) Three-quarter length laboratory coat: white only, no knits must be a plain, clean, professional three-quarter length or longer lab coat.

(4) An all white professional type uniform of washable material with the armpits covered. No knits.

(5) Shoes: (black or white), no heels over one inch tall must be clean and plain. No sandals, no boots, no demi-boots, no open-heeled or open-toed shoes, no high-topped tennis shoes. Any shoe which has loops or holes for laces must be laced.

Slip-on style shoes are acceptable.

§89.39. *New Salon.*

(a) (No change.)

(b) Beauty salon requirements.

(1) (No change.)

(2) Required equipment is as follows:

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

(E) one wet sanitizer; and

(F) one dry sanitizer or an EPA registered disinfectant/storage system.

(c) Additional requirements for all salons.

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

(3) A restroom must be directly connected to the salon with a sink or a public restroom available for the use of clients.

(4)-(10) (No change.)

(d) (No change.)

(e) Facial salon requirements.

(1) (No change.)

(2) Required equipment is as follows:

(A) (No change.)

(B) one wet sanitizer;

(C) one dry sanitizer or an EPA registered disinfectant/storage system;

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

(3) In salons opening after January 1, 1994, each facial specialty/esthetician salon must have hot and cold running water within the facility.

(f) Manicurist salon requirements.

(1) (No change.)

(2) Required equipment is as follows:

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

(C) two professional-type chairs for clients;

(D) one wet and one dry sanitizer or EPA registered disinfectant/storage system at each table; and

(E) (No change.)

(3) Each manicure salon must have hot and cold running water within the facility.

(g) Manicure/Facial specialty salon requirements.

(1) (No change.)

(2) Required facial equipment is as follows:

(A) (No change.)

(B) one wet sanitizer;

(C) one dry sanitizer or EPA registered disinfectant/storage system; and

(D) (No change.)

(3) In salons opening after January 1, 1994, each facial specialty/esthetician salon must have hot and cold running water within the facility.

(4) Required manicure equipment is as follows:

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

(C) two professional-type chairs for clients;

(D) one wet and one dry sanitizer or EPA registered disinfectant/storage system at each table; and

(E) (No change.)

(5) Each manicure/facial salon must have hot and cold running water within the facility.

(h)-(i) (No change.)

(j) No cosmetology establishment shall, in any manner, represent or permit a representation to be made in its behalf that it is a barber shop, whether made by use of a display or device similar to a barber pole or otherwise. It may, however, advertise that services for males are available, with the exception of shaving, trimming or shaving beards or mustaches.

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

(a) The following are the requirements for a private cosmetology school as authorized by the Texas Cosmetology Commission as approved on June 1, 1985.

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

(4) The junior department must contain the following:

(A)-(E) (No change.)

(F) at least one large wet sanitizer.

(5) The senior department must contain the following:

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

(G) wet sanitizer.

(6) One semiprivate facial area with two facial chairs and adequate sanitation (client must be protected from public view).

(7) (No change.)

(8) The school shall have at least one dry sanitizer or an EPA registered disinfectant/storage system (large enough to accommodate junior and senior departments).

(9)-(15) (No change.)

(b) The following are the requirements for a public school cosmetology program.

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

(5) The school equipment list shall contain:

(A)-(E) (No change.)

(F) 16 styling stations covered with formica or similar material, with mirror, and 16 styling chairs (swivel or hydraulic);

(G)-(N) (No change.)

(O) one large wet sanitizer;

(P) one dry container or EPA registered disinfectant/storage system for disinfected implements.

(6)-(7) (No change.)

§89.55. *Refresher Course.* Schools of cosmetology may enroll applicants for the refresher course. A person who holds a valid Texas license may service clients in the school for a 60-day period of time once every three years. The school may receive compensation for services performed by a student holding a valid Texas license; however, the student may not receive compensation.

§89.72. *Curriculum.* The curriculum listed has been established by the Texas Cosmetology Commission and must be followed

by all cosmetology schools. The curriculum shall be posted in a conspicuous place in the school. A current syllabus and lesson plans for each course shall be maintained by the school and be available for inspection.

(1) Operator curriculum.

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

(C) Facial Specialist Curriculum: Total 600 hours.

- (i) orientation-25 hours;
- (ii) sanitation, safety, and first aid-25 hours;
- (iii) anatomy and physiology-90 hours;
- (iv) chemistry-20 hours;
- (v) electricity, machines, and related equipment-60 hours;
- (vi) care of client-15 hours;
- (vii) facial treatment (Cleansing, masking, therapy)-200 hours;
- (viii) superfluous hair removal-20 hours;
- (ix) aroma therapy-15 hours;
- (x) nutrition-10 hours;
- (xi) color psychology-10 hours;
- (xii) make up-75 hours;
- (xiii) management-35 hours;

(D) Manicure Curriculum: Total 250 hours.

- (i) orientation-15 hours;
- (ii) preparation;
- (iii) equipment and implements-15 hours;
- (iv) supplies; and
- (v) procedures-175 hours;

- (I) basic manicure and pedicure;
- (II) oil manicure;
- (III) removal of stains;
- (IV) repair work;
- (V) hand and arm massage;

polish;

artificial nails;

(IX) application of cosmetic fingernails preparation to build new nail; and

(X) application of nail extensions:

nails;

) fiberglass/gels.

(vi) Arms and hands.

(I) Bones:

- (-a-) major bones;
- (-b-) functions.

(II) Muscles-5 hours:

- (-a-) major muscles;
- (-b-) functions.

(III) Nerves:

- (-a-) major nerves;
- (-b-) functions.

(IV) Skin-5 hours:

- (-a-) structure;
- (-b-) functions;
- (-c-) appendages;
- (-d-) conditions;
- (-e-) lesions.

(V) Nails-10 hours:

- (-a-) structure and composition;
- (-b-) growth and regeneration;
- (-c-) nail irregularities; and
- (-d-) nail diseases.

(vii) Bacteriology, Sanitation, and safety measures-15 hours:

(I) sanitation:

- (-a) definitions;
- (-b-) importance;
- (-c-) rules and regulations (T.C.C.); and
- (-d-) methods;

(II) safety measures;

(III) hazardous chemicals; and  
(IV) ventilation odor in salons.

(viii) Professional practices-10 hours:

(I) Manicuring as a profession:

- (-a-) vocabulary; and
- (-b-) ethics.

(II) Salon procedures:

(-a-) hygiene and good grooming;  
(-b-) professional attitudes and salesmanship; and  
(-c-) public relations.

(E) Instructor Curriculum: Total 750 hours.

(i) orientation (theory)-50 hours;

(ii) instruction and theory and lab/clinic operation-350 hours; and

(iii) teaching and lab/clinic management-350 hours.

(F) Instructor with Two Years Experience Curriculum: Total 250 hours.

(i) orientation-10 hours;

(ii) learning theory-20 hours;

(iii) lesson plans-60 hours;

(iv) methods of teaching-60 hours;

(v) visual aids preparation and Use-20 hours;

(vi) classroom Management-30 hours;  
(vii) evaluation techniques-30 hours; and  
(viii) state laws and forms-20 hours.

(G) Hairweaving Specialists Curriculum: Total 300 hours.

(i) sanitation and safety measures-10 hours:

(I) Sanitation:

(-a) definitions;  
(-b) importance;  
(-c) sanitary rules and regulations, and also general rules and regulations set up by TCC; and  
(-d) disinfecting methods of unused hair and fiber.

(II) Safety measures:

(ii) Professional Practices-10 hours:

(I) Hairweaving as a profession:

(-a) vocabulary;  
(-b) ethics.

(II) Salon procedures-10 hours:

(-a) hygiene and grooming;  
(-b) professional attitudes and salesmanship; and  
(-c) public relations.

(III) Hairweaving skills-20 hours:

(-a) purpose and effect;  
(-b) preparation;  
(-c) equipment and implements;

(-d) supplies; and  
(-e) procedures-200 hours:

(-1-) basic hairweaving;

(-2-) repair on hairweaving;

(-3-) shampoo and conditioning of woven hair;

(-4-) advanced hairweaving;

(-5-) special problems; and

(-6-) the hairweaver will only be allowed to practice those skills as enumerated in the hairweaving curriculum.

(iii) Anatomy and Physiology; Scalp-20 hours:

(I) Bones:

(-a) major bones;  
(-b) functions.

(II) Muscles:

(-a) major muscles; and  
(-b) functions.

(III) Nerves:

(-a) major nerves; and  
(-b) function.

(IV) Blood:

(-a) major blood vessels; and  
(-b) functions.

(V) Skin:

(-a) structure;  
(-b) functions;  
(-c) appendages;  
(-d) conditions;  
(-e) lesions.

(VI) Hair or Fiber

used-10 hours:  
(-a) structure and composition;  
(-b) hair regularities; and  
(-c) hair and scalp diseases.

(iv) Chemistry in

hairweaving:

(I) elements, compounds, and mixtures-10 hours:

(-a) properties of; and  
(-b) chemistry of water.

(II) composition and uses of cosmetics in hairweaving-10 hours.

(H) Shampoo and Conditioning Specialist Curriculum: Total 150 hours. Under no conditions will the certificate holder do any other skills but those prescribed in this subparagraph by the Commission.

(i) Professional practices-5 hours:

(I) shampooing as a profession;

(II) vocabulary; and

(III) ethics.

(ii) Salon procedures-5 hours:

(I) hygiene and grooming;

(II) professional attitudes and salesmanship; and

(III) public relations.

(iii) Shampooing and conditioning skills-10 hours:

(I) purposes and effects;

(II) preparation;

(III) equipment and implements; and

(IV) supplies.

(iv) Procedures-100 hours:

(I) basic shampoo techniques on all types of shampoo;

(II) application and removal of all types of conditioners;

(III) removal of hair color stains;

(IV) application of weekly rinses or semi-permanent rinses not requiring hydrogen peroxide;

(V) removal of bleaches requiring shampoo;

(VI) scalp and neck massage;

(VII) removing hair tints requiring shampoo;

(VIII) cleansing and conditioning of all hair goods;

(IX) hair and scalp analysis; and

(X) scalp and hair manipulations.

(v) Scalp and Neck; Anatomy and Physiology-10 hours:

- (I) Bones:
  - (-a-) major bones;
  - (-b-) functions.

- (II) Muscles:
  - (-a-) major muscles;
  - (-b-) functions.

- (III) Nerves:
  - (-a-) major nerves;
  - (-b-) functions

- (IV) Blood:
  - (-a-) major blood vessels;
  - (-b-) functions

- (V) Skin:
  - (-a-) structure;
  - (-b-) functions;
  - (-c-) appendages;
  - (-d-) condition; and
  - (-e-) lesions.

(vi) chemistry of shampoo and conditioner-10 hours;

(I) Elements, compounds, and mixtures:

- (-a-) properties of;
- (-b-) acid and alkali (ph); and
- (-c-) chemistry of water.

(II) Composition and uses of shampoo and conditioner.

(vii) Sanitation and Safety-10 hours:

- (I) Sanitation:
  - (-a-) definitions;
  - (-b-) importance;
  - (-c-) TCC rules and regulations and sanitary rulings; and
  - (-d-) methods.

(I) Wig Specialist Curriculum: Total 300 hours.

- (i) Cutting and shaping, scissors and razor-20 hours;
- (ii) Styling-50 hours;
- (iii) Cleaning-10 hours;
- (iv) Sizing-5 hours;
- (v) Alterations; installation of elastic-10 hours;
- (vi) Rolling-30 hours;
- (vii) Drying-5 hours;
- (viii) Conditioning-10 hours;

(ix) Brushing Technique Prior to Styling-10 hours;

(x) Combing out-50 hours;

(xi) Measuring head for proper size-5 hours;

(xii) Preparation of wig on block-5 hours;

(xiii) Hot Iron-19 hours;

(xiv) Knowledge of color ring, J & L-1 hour,

(xv) Coloring, tinting, bleaching-37 hours;

(xvi) Eye tabbing-10 hours;

(xvii) Identification and recognition, definition-wigs, wiggery, wigology-pertaining to any human, synthetic, or animal hairpiece-10 hours;

(xviii) Sanitation and disinfecting-10 hours, and

(xix) History, background, and salesmanship-3 hours.

(2) (No change.)

§89.76. Minimum Requirements for Cosmetology School Separate Facility.

(a)-(c) (No change.)

(d) The practical work area shall contain the following:

(1)-(19) (No change.)

(20) at least one large wet sanitizer;

(21) at least one dry sanitizer or an EPA registered disinfectant/storage system;

(22)-(24) (No change.)

(e)-(r) (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 December 1, 1993.

TRD-9332919

Larry Perkins  
Interim Executive Director  
Texas Cosmetology  
Commission

Effective date: January 1, 1994

Proposal publication date: October 19, 1993

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

◆ ◆ ◆  
• 22 TAC §89.73, §89.74

The Texas Cosmetology Commission adopts new §89.73 and §89.74. Section 89.73 is adopted with changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7263). Section 89.74 is adopted without changes and will not be republished.

New §89.73 was adopted due to an AG Opinion stating that Fashion Photography Salons are under jurisdiction of this agency. Section 89.74 encourages instructors to seek voluntary continuing education.

Section 89.73 provides guidelines for the licensing of Fashion Photography Salons. Section 89.74 sets guidelines for voluntary continuing education for instructors

No comments were received regarding adoption of the new sections.

The new rules are adopted under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to issue rules and regulation consistent with the Act that are needed to protect the public's health and welfare.



**§89.73. Fashion Photography Salon Requirements.**

(a) Employees performing cosmetology services must be licensed by the Texas Cosmetology Commission.

(b) No person may engage in the fashion photography business in this state unless a license for the business is obtained as required by the Texas Cosmetology Commission. Any fashion photography business operating prior to the effective date of these rules shall be given 90 days to submit its application and fees to the Commission.

(c) High fashion photography business salon requirements.

(1) Required floor space shall be a minimum of 180 square feet for the first operator and not less than an additional 110 square feet of working, dispensary, studio, sales, wardrobe, and reception areas for each additional operator, exclusive of restrooms, utility, heating, and/or cooling.

(2) Required equipment for the business is:

(A) one working station for each operator;

(B) one styling chair for each operator;

(C) one hand held dryer for each operator;

(D) one wet sanitizer; and

(E) one dry sanitizer or an EPA registered disinfectant/storage system;

(F) one shampoo bowl if performing wet service.

(3) Carpeting shall not be allowed in areas where cosmetics are directly applied, but may be used in reception, studio, wardrobe, dryer, and facial areas, provided it is cleaned regularly and kept sanitary. Those establishments that currently have carpeting in shampoo and work areas shall remove the carpeting when it can no longer be maintained in a sanitary condition.

(4) The business shall provide hot and cold running water within the salon.

(5) A public restroom must be available for the use of clients.

(6) An identifiable sign with the name of the high fashion photography business must be displayed.

(7) The business shall maintain cabinets for clean linen and closed containers for soiled linen.

(8) The business shall maintain a sufficient number of combs and brushes

(9) Floors, walls, and equipment must be clean and sanitary.

(10) The business must be properly ventilated and adequately screened unless air conditioned.

(11) The business shall post an identifiable sign stating the name, mailing address, and telephone number of the regulatory board (see §89.43 of this title (relating to Posted in Salon or School)).

(12) The business shall not be operated in conjunction with any establishment selling food or drink, and shall be separated by a solid wall and have a separate entry if located in the same building

(d) The requirements of §89.75 of this title (relating to Field Trips) supersede and control over the requirements of §89.39 of this title (relating to New Salon).

(e) A high fashion photography business shall be subject to the sanitary rules of §83.1 of this title (relating to Enforcement).

(f) Any employee of a fashion photography business providing photography, clerical, or other services not involving cosmetology need not be licensed as a cosmetologist by the Texas Cosmetology Commission.

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 December 1, 1993

TRD-9332920 Larry Perkins  
Interim Executive Director  
Texas Cosmetology  
Commission

Effective date: January 1, 1994

Proposal publication date: October 19, 1993

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

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

**Chapter 166. Annual Registration**

**• 22 TAC §§166.1-166.3**

The Texas State Board of Medical Examiners adopts the repeal of §§166. 1-166.3, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7273).

Extensive rewrite was required with simultaneous adoption of new sections.

The repeals will function by clarification.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The repeals implement Texas Civil Statutes, Article 4495b, §3 01.

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 December 3, 1993

TRD-9333056 Bruce A Levy, M D, J D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date December 24, 1993

Proposal publication date October 19, 1993

For further information, please call (512) 834-7728, Ext 402

**• 22 TAC §§166.1-166.5**

The Texas State Board of Medical Examiners adopts new §166.2, with changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7274). Sections 166 1 and 166 3-166 5 were adopted without changes and will not be republished.

The new sections were mandated by Senate Bill 1062, 73rd Legislature.

The sections will function by clearly defining registration requirements for physicians.

Comments were received from an individual physician, as well as the Texas Osteopathic Medical Association. The individual physician suggested setting up the Continuing Medical Education Program similar to that of the American Medical Association. The board disagreed with this comment because it would be contradictory to Senate Bill 1062. The board accepted a suggestion made by Texas Osteopathic Association to change the wording of §166 2(a)(1)(C) to more clearly define the type of CME credit approved by the American Osteopathic Association.

The new sections are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The adopted sections implement Texas Civil Statutes, Article 4495b, §3.01 and §3 025.

**§166.2. Continuing Medical Education.**

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

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

(A) designated for AMA/PRA Category 1 credit by a CME sponsor accredited by the Accreditation Council for Continuing Medical Education or the Texas Medical Association;

(B) approved for prescribed credit by the American Academy of Family Physicians;

(C) designated for AOA Category 1 credit required for osteopathic physicians by an accredited CME sponsor approved by the American Osteopathic Association;

(D) approved by the Texas Medical Association based on standards established by the AMA for its Physician's Recognition Award; or

(E) approved by the Council on Medical Specialty Societies.

(2) The remaining hours may be composed of informal self-study, attendance at hospital lectures, grand rounds, or case conferences and shall be recorded in a manner that can be easily transmitted to the board upon request.

(b) A physician must report on the annual registration form the number of hours and type of continuing medical education completed during the previous year.

(c) A licensee shall be presumed to have complied with this section if in the preceding 36 months the licensee becomes board-certified or recertified in a medical specialty and the medical specialty program meets the standards of the American Board of Medical Specialties, the American Medical Association, the Advisory Board for Osteopathic Specialists and Boards of Certification, or the American Osteopathic Association.

(d) A physician may request in writing an exemption for the following reasons:

- (1) catastrophic illness;
- (2) military service of longer than one year's duration outside the state;
- (3) medical practice and residence of longer than one year's duration outside the United States; or

(4) good cause shown on written application of the licensee that gives satisfactory evidence to the board that the licensee is unable to comply with the requirement for continuing medical education.

(e) Exemptions are subject to the approval of the executive director/medical director.

(f) A temporary exemption under subsection (d) of this section may not exceed one year but may be renewed annually, subject to the approval of the board.

(g) Subsection (a) of this section does not apply to a licensee who is retired and has been exempted from paying the annual registration fee under §166.3 of this title (relating to Retired Physician Exemption).

(h) This section does not prevent the board from taking disciplinary action with respect to a licensee or an applicant for a license by requiring additional hours of continuing medical education or of specific course subjects.

(i) The board may require written verification of both formal and informal credits from any licensee within 30 days of request. Failure to provide such verification may result in disciplinary action by the board.

(j) Physicians in residency/fellowship training will satisfy the requirements of subsection (a)(1) and (2) of this section by their residency or fellowship program.

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

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 December 3, 1993.

TRD-9333057 Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date. December 24, 1993

Proposal publication date. October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402

**Chapter 167. Reinstatement of Medical License**

**• 22 TAC §§167.1-167.3**

The Texas State Board of Medical Examiners adopts the repeal of §§167.1-167.3, without changes to the proposed text as published in the October 22, 1993, issue of the *Texas Register* (18 TexReg 404).

Existing §167.1, concerning reinstatement of a medical license following cancellation for nonpayment of annual registration, is being repealed and rewritten to comply with Senate Bill 1062, 73rd Legislature. It has been moved to Chapter 166 of this title (relating to Physician Registration).

The repeals will function by omission.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The repeals implement Texas Civil Statutes, Article 4495b, §3.01.

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 December 3, 1993.

TRD-9333054 Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: December 24, 1993

Proposal publication date: October 22, 1993

For further information, please call: (512) 834-7728, Ext. 402

**• 22 TAC §167.1, §167.2**

The Texas State Board of Medical Examiners adopts new §167.1 and §167.2, without changes to the proposed text as published in the October 22, 1993, issue of the *Texas Register* (18 TexReg 7405).

The new sections comply with Senate Bill 1062, 73rd Legislature.

The sections will function by clarification of rules regarding reinstatement of medical license following cancellation.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The new sections implement Texas Civil Statutes, Article 4495b, §4.10.

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 December 3, 1993.

TRD-9333055

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

Effective date: December 24, 1993

Proposal publication date: October 22, 1993

For further information, please call: (512) 834-7728, Ext. 402

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**Chapter 171. Institutional Permits**

• **22 TAC §171.1**

The Texas State Board of Medical Examiners adopts an amendment to §171.1, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7275).

The amendment allows the board to process institutional permit applications more expeditiously.

The section will function by increasing the period of time for which an initial institutional permit will be issued.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The amendment implements Texas Civil Statutes, Article 4495b, §3.01

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 December 3, 1993

TRD-9333053

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

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call (512) 834-7728, Ext. 402

◆ ◆ ◆  
• **22 TAC §171.9**

The Texas State Board of Medical Examiners adopts an amendment to §171.9 without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 275).

The amendment more clearly defines the type of license or permit issued to a physician holding a faculty position of assistant professor level or higher.

The section will function by changing the name of the teaching fellow permit to faculty temporary license.

One comment was received from Texas Tech University Health Sciences Center School of Medicine requesting consideration for adding the title of instructor to the permit. This had previously been discussed by the board and it was felt this permit should be issued to Assistant Professor level or higher.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The adopted amendments implement Texas Civil Statutes, Article 4495b, §3.01

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 December 3, 1993

TRD-9333051

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

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call (512) 834-7728, Ext. 402

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**Chapter 175. Schedule of Fees and Penalties**

• **22 TAC §175.1, §175.2**

The Texas State Board of Medical Examiners adopts an amendment to §175.1 and §175.2, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7276).

Senate Bill 1062, 73rd Legislature, mandated increased penalty fees for delinquent registration. Several fees have also been increased to help recover costs for implementing programs.

The section will function through collection of fees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The amendment implements Texas Civil Statutes, Article 4495b, §3.01 and §3.10.

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 December 3, 1993.

TRD-9333052

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

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402

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**Chapter 179. Investigation Files**

• **22 TAC §179.5**

The Texas State Board of Medical Examiners adopts an amendment to §179.5, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7277).

The amendment will avoid unnecessary confusion and is consistent with Texas Civil Statutes, Article 6252-13c and board rule 168.

The section will function by properly addressing criminal conviction.

There was one comment received from the Texas Medical Association which addressed a different section of Chapter 179 and had no relevance to the proposed amendment.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The adopted amendment implements Texas Civil Statutes, Article 6252-13c.

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 December 3, 1993

TRD-9333050

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

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402

Chapter 187. Procedure  
Subchapter B. Prehearing

• 22 TAC §§187.17, 187.19, 187.24

The Texas State Board of Medical Examiners adopts amendments to §§187.17, 187.19, and 187.24, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 *TexReg* 277).

The amendments are mandated by Senate Bill 1062, 73rd Legislature, in §4.03(d) of the Medical Practice Act. The sections will function by further defining Informal Settlement Conference procedures and Show Compliance Conference procedures, and will streamline administrative processes.

Comments on §187.18 and §187.24 were received from the Texas Medical Association. The board disagreed with the comments related to §187.18 for the following reasons. Section 179.2 of this title (relating to Request for Information and Records from Physicians) provides for a two-week response time in regard to board requests to licensees for medical records. The suggested language is therefore an unnecessary restriction on the board's statutory subpoena powers. The board disagreed with the comments related to §187.24 for the following reasons. The suggested language goes beyond the requirements of statute. The proposed requirement that documents provided to board representatives be provided to the licensee or the licensee's attorney is not mandated by statute, and could compromise investigative files which are confidential by statute at this procedural stage. The suggested language is too narrow in that it fails to address professional failures involving single events, and is therefore not in the best interest of the public. The statutory language is necessarily broad to allow for evolution in the standard of care and to address single incidents of incompetence by a physician reflecting lack of ability, lack of judgment, or lack of fitness to practice.

The amendments are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The amendments implement Texas Civil Statutes, Article 4495b, §4.03(d) and §4.025.

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 December 3, 1993.

TRD-9333049 Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402



Chapter 193. Standing  
Delegating Orders

• 22 TAC §193.7

The Texas State Board of Medical Examiners adopts amendments to §193.7, without changes to the proposed text as published in the October 19, 1993 issue of the *Texas Register* (18 *TexReg* 283).

The amendment eliminates confusion caused by a subsection which is no longer applicable.

The section will function by omission of unnecessary information.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The adopted amendment implements Texas Civil Statutes, Article 4512m.

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 December 3, 1993.

TRD-9333048 Bruce A. Levy, M.D., J.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402



Part XVI. Texas State  
Board of Physical  
Therapy Examiners

Chapter 347. Registration of  
Physical Facilities

• 22 TAC §§347.1, 347.2,  
347.4-347.6, 347.9, 347.11,  
347.12, 347.15

The Texas State Board of Physical Therapy Examiners adopts new §§347.1, 347.2, 347.4-347.6, 347.9, 347.11, 347.12, and 347.15. Sections 347.2, 347.4, 347.5, 347.12 are adopted with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 *TexReg* 5718). Sections 347.1, 347.6, 347.9, 347.11, and 347.15 are adopted without changes and will not be republished.

The new sections set requirements for applications for registration of physical therapy facilities and annual renewal of registered facilities; set requirements for facilities which

are registered; provide penalties for failure to register and provide for disciplinary action.

The rules will require all facilities which are not exempt to register with the board and to annually renew their certification.

The board held two public hearings to receive comments on proposed rules Chapter 347 on September 7, 1993, and on October 14, 1993.

The board received comments from two persons asking that their facilities be exempted from the requirement for registration. The board responds that it does not have authority under the Act to make such exemptions.

The board received comments from 105 persons in favor of the proposed rules.

The board received comments in opposition to proposed rules Chapter 347, 22 TAC, from the Texas Osteopathic Medical Association, the Texas Orthopedic Association, the Texas Medical Association, the Texas Neurological Association, and one individual. They maintain that the rules violate Texas Civil Statutes, Article 4512e, §6(a) because they would restrict a licensee of another state agency from performing health care services that are within the scope of the applicable licensing Act. Also, they maintain that the rules violate the Medical Practice Act, Article 4495b because they attempt to regulate the licensees of the Medical Board.

The board disagrees with these comments. The proposed rules adhere to Section §27 of Article 4512e, which requires the board to register facilities in which the practice of physical therapy is conducted. The section further provides that a facility licensed under the Health and Safety Code, Subtitle B, Title 4, is exempt from the requirements for registration in this section. Physicians' offices are not included in the Health and Safety Code reference. Section 1 of Article 4512e defines physical therapy facility as a physical site, such as a building, office, or portable facility, where the practice of physical therapy takes place. A physical therapy facility must be under the direction of a physical therapist licensed by the board and meet any additional requirements as may be established by the board. Therefore, any facility which meets this criteria must be registered by the board.

The proposed rules do not limit the licensee of another state agency from performing health care services within the scope of the applicable licensing Act. The rules simply adhere to the Act by requiring that when "physical therapy" as defined by the Act is provided or practiced by a licensee of this board, it must be done in a registered physical therapy facility (or those exempted in accordance with the Act). Therefore, a licensee of the Medical Practice Act, Article 4495b, if he or she hires a physical therapist to provide physical therapy at his/her office or in any location, must register this facility with the board. The rules, however, in no way prohibit a licensee of another health profession licensing Act, such as the Medical Practice Act, from delegating authority to anyone, even a licensed physical therapist, to perform delegated medical acts, such as rehabilitative medicine.

The commenters further claim that the rules attempt to regulate the licensees of another board. The board disagrees with this comment because the rules simply comply with the directive of the Physical Therapy Practice Act regarding registration of physical therapy facilities as defined by the Act.

Article 4512e, §27, states that the rules adopted in regard to registration of facilities should not prohibit a licensed individual from practicing in a facility within the scope of such individual's licensure. The proposed rules in no way limit a physician, in a physician's office, from delegating to a physical therapist, or anyone else, delegatable medical practice. However, if a physician or if the individual to whom care is delegated at a facility claims to be a physical therapist or represents himself to be a physical therapist or claims to offer or offers physical therapy, then that facility, such as a physician's office, must be registered.

The commenters claim that the proposed rules are unconstitutional as they violate Section 31 of Article XVI of the Constitution of Texas because they would regulate physician services and professional businesses and thereby give a preference to one segment of the healing arts over another in contradiction of Constitutional mandates.

The board disagrees with this comment. The proposed rules only adhere to the directive to the board in Article 4512e to establish a registration of facilities program and to provide exemptions per the Health and Safety Code, Subtitle B, Title 4. They give no preference to any requirement of the healing arts over another. On the contrary, the rules require all facilities to be registered that provide physical therapy.

The commenters further claim that in §347.1, Definitions, the definition of a physical therapy facility does not reflect the exemption that is contained in the Physical Therapy Act for other licensed health care professionals.

The board disagrees with this comment. While it is true that a restriction is made in the Physical Therapy Practice Act, §6 to allow persons who are licensed by other Acts to practice within the scope of their practice Acts, there is also the statement in the Act, §1 that the practice of physical therapy means ... "publicly professing to be or holding oneself out to be a physical therapist or as providing physical therapy." Therefore anyone, regardless of their licensure by another entity, cannot claim to provide physical therapy unless they are a licensee of this board.

The commenters state that §347.2, Requirement for Practice Setting of Licensees, is an attempt to pass a rule to prohibit licensed physical therapists from practicing in physician's offices and that this is a direct attempt to regulate physician offices and medical practice as it concerns physical therapy and that this is a violation of the anti-trust laws.

The board responds that anyone who claims to provide physical therapy other than a licensee of this board is violating the Physical Therapy Practice Act, §1.

The board in no way wishes to prohibit licensees of this board from practicing physical therapy in physician's offices. However, the

Physical Therapy Practice Act requires that when this does occur the facility must be registered with the board. Therefore, this is in no way a violation of the anti-trust laws.

The registration of facilities was not formerly required by the Act; this amendment was made by the 73rd Legislature and no grandfather provision was included in the new legislation. Therefore, what was required or not required of physical therapists before this change in state law by the Legislature cannot be used as an argument to exempt physician's offices when licensees of this board provide physical therapy in them.

The commenters state that the rule reflects no underlying public health or necessity for prohibiting licensed physical therapists from working as physical therapists in professional settings for licensed health care professionals who are exempt from the Physical Therapy Act.

The board responds that the wisdom of the Legislature in amending the Act to require registration of physical therapy facilities is at issue. It is thought by this board that the Legislature wished to promote and protect the public health in requiring this registration. The board has received a written statement from Senator Steve Cariker that supports the board's position. The board adheres to such a philosophy since registration will allow the state to know where physical therapy is practiced and to monitor that practice in conformity with the Act and rules. Additionally, the rules in no way prohibit physical therapists from working as physical therapists in a professional setting for a licensed health care professional, however, now the setting, i.e. facility, must be registered as a physical therapy facility if that facility or person rendering the care in the facility claims to offer or offers physical therapy or represents himself as a physical therapist.

These commenters indicated that in §347.6, Exemptions to Registration, the exceptions are too restrictive and fail to take into account the exemption in the Act for health care providers who are practicing within the scope of their own licensure Act.

The board responds that the exemptions proposed by rule are those indicated in the Act. The board excluded home health because it does not fit the definition for a physical therapy facility, nor does the educational setting or colleges or universities.

The commenters maintain that §347.11, Failure to Register, is an attempt to regulate the offices of physicians and other health care providers that are specifically exempt from the Act. The commenters state that the proposed rules are in violation of the Act since it is permissible in other practice Acts of health care professionals to utilize physical therapists in their practice settings. The commenters state there is no statutory basis for these rules and that they are a violation of the antitrust laws and are a restraint of trade.

The board responds that it is given authority by the Act to discipline licensees of the board who fail to adhere to the Act and rules. It is consistent with the Act that physical therapists who hold themselves out as physical

therapists or who offer to perform or perform physical therapy must practice in a facility that is registered by the board or exempted by registration. It is inconsistent to have a registration of facilities program and to continue to allow physical therapists to practice physical therapy in facilities which are not registered or exempt.

The board further responds that no one is exempt from the Act, §1 which states that "the practice of physical therapy means ..publicly professing to be or holding oneself out to be a physical therapist or as providing physical therapy," and that a "physical therapy facility is a physical site, such as a building, office, or portable facility where the practice of physical therapy takes place." "A physical therapy facility must be under the direction of a physical therapist licensed by the board and meet any additional requirements as may be established by the board."

The board is not attempting to limit the utilization of physical therapists by other health care professions. It simply is adhering to the directive of the act which states that physical therapy facilities, as defined by the act, must be registered by the board.

The commenters further maintain that the physician who delegates to licensed and to unlicensed individuals has the legal authority for the care provided under his control. Also, the commenter states that the Legislature did not intend for the Physical Therapy Practice Act to intrude upon the Medical Practice Act.

The board agrees with these comments. Acts appropriately delegated under another health professions practice Act are the responsibility of that health care professional practicing under the scope of his practice Act. However, once a physical therapist has received a referral from the physician, or any other health care provider authorized to refer, for the provision of physical therapy treatment, the legal authority for the care of that patient, i.e. the liability, falls primarily to the physical therapist, not to the other health care professional. The Physical Therapy Board has statutory authority regarding complaints covering physical therapists.

The board further responds that the requirement to register physical therapy facilities and the definition of a physical therapy facility in the Act is very simple and direct. The board believes that the intent of the act was not to intrude in any way upon other health professions and that it indeed does not.

One commenter claimed that the new rule would result in a flight of physical therapists from hospitals to private settings. The commenter explained that private practice settings may offer higher salaries to lure physical therapists. The board does not agree with this. The board has no control over the private business practices, such as salary scales, of any entity. The proposed rule is neutral on its face and in its application regarding this issue.

More recent comments submitted by the Texas Medical Association and the Texas Physical Therapy Association generally support the rule, but suggest the following language be added to the proposed rule

"A facility may register, but shall not be required to register, under this section if such facility does not perform or hold itself out as performing or offering to perform physical therapy, as defined in the Act, §1, although services may be performed at that facility under the direction and supervision of a licensed health care professional acting within the scope of that person's license and as permitted by the applicable licensing act and rules promulgated thereunder, for example the Texas Medical Practice Act, §3.06(d) (1), Texas Civil Statutes, Article 4495b. Further, in conformance with the Act, §6, these rules shall not apply to a facility in which persons licensed under another health care services Act practice under the authority of that Act and within the scope of their license and such facility and the persons performing services in that facility are in conformance with the Act, §7."

The board basically agrees with the proposed change in that it clarifies the board's position. The board only has the authority to regulate the practice of physical therapy and the accompanying authority to regulate facilities which offer to perform or perform physical therapy. Therefore, the board adopts the proposed language: "A facility shall not be required to register, under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform physical therapy, as defined in the Act, §1."

Two commenters said the \$300 fee for registration was too high. The board disagrees. Three hundred dollars, in light of the amounts of other license fees, is within a reasonable range and is necessary to accomplish the statutory mandate of assessing fees to recover the costs of the registration of facilities program.

The new sections are adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

**§347.2. Requirement for Practice Setting of Licensees.** All licensees of this Act who practice in Texas, can practice only in registered facilities or in practices or facilities that are exempted by the Act and rules. A facility shall not be required to register under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform physical therapy as defined in the Act, §1.

**§347.4. Requirements for Registration Application.**

(a) Registration applications must include the following information:

- (1) name of the facility;
- (2) street address of the facility;

(3) mailing address, if different from the street address;

(4) if a corporation:

(A) the name, address, and social security number of any person who directly or indirectly owns or controls 5.0% or more of the outstanding shares of stock in the facility in a privately held corporation and 25% or more in a publicly held corporation in the facility and the percentage of ownership;

(B) the name and address of each director; and

(5) the name, address, telephone number, and social security number of the sole proprietor or partners;

(6) if any other type of organization, the type of organization the name, address, and telephone number of each owner;

(7) the total square feet of the facility.

(8) the name and license number of the physical therapist-in-charge and his notarized signature;

(9) names and license numbers of other licensees of this Act who practice in the facility.

(b) The signature of the person who submits the registration application must be notarized.

(c) The board will not consider an application as officially submitted until the applicant pays the registration fee. The fee should accompany the application form.

(d) The board shall consider whether the proposed facility complies with the Act and this chapter of the rules.

(e) Reasons for the board to deny registration:

- (1) non-payment of registration fee;
- (2) failure to submit all required information on the application form;
- (3) falsification of information on the application form.
- (4) violation of the Act or rules.

(f) If the board does not register the entity which applies to be a registered facility, the application fee will not be returned.

(g) If one or more facilities are owned by an individual, partnership, corporation, or other entity, the board requires one primary application and addendum pages for each additional site registered.

**§347.5. Requirements for Registered Facilities.**

(a) A physical therapy facility must be registered by the board. The registration application must be obtained from the board office.

(b) All physical therapy facilities must register with the board and pay a registration fee no later than July 31, 1994, or within 60 days of the first patient treatment whichever is later. A renewal fee will be required in the original month of registration, in the year following the original registration year.

(c) A registered facility must display the registration certificate in a prominent location in the facility where it is available for inspection by the public. A registration certificate issued by the board is the property of the board and must be surrendered on demand by the board.

(d) A registered facility is subject to random inspection to verify compliance with the Act and this chapter by authorized personnel of the board at any reasonable time.

(e) A registered facility must renew registration annually by completing a renewal application and submitting the required fee.

(f) A registered facility must have a licensed person to supervise the provision of physical therapy in accordance with the Act and rules.

(g) A registered facility is required to adhere to the Physical Therapy Practice Act and rules of the board.

(h) A registered facility is required to report any change in the physical therapist-in-charge of the facility to the board no later than ten days after it occurs.

(i) A registration issued under this chapter shall not be transferred or sold to another person or owner.

(j) Change in ownership requirements.

(1) The new owner of a physical therapy facility must apply for registration as a new applicant within 60 days.

(2) The former owner of a facility must return the registration certificate to the board within ten days of the sale of the facility.

(k) A registered facility may advertise as a "Physical Therapy Facility Registered by the Texas State Board of Physical Therapy Examiners." Facilities which are not registered by the board may not refer to themselves as registered facilities.



§347.12. *Restoration of Registration.* When a facility fails to renew their registration within the renewal month, the facility is subject to fees as follows.

(1) If the facility registration has been expired for 90 days or less, the facility may renew by paying the required renewal fee and a restoration fee that is one-half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, the facility may renew by paying all unpaid renewal fees and a restoration fee that is equal to the renewal fee.

(3) If the facility registration has been expired for more than one year, the facility may renew the registration by paying all unpaid renewal fees and a restoration fee which is double the renewal fee.

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 18, 1993.

TRD-9333004

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: December 24, 1994

Proposal publication date: August 27, 1993

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

◆ ◆ ◆  
**TITLE 28. INSURANCE**  
**Part II. Texas Workers'**  
**Compensation**  
**Commission**

**Chapter 110. Required Notices**  
**of Coverage**

**Subchapter B. Employer Notices**

• **28 TAC §110.101**

The Texas Workers' Compensation Commission adopts new §110.101, with changes to the proposed text as published in the June 22, 1993, issue of the *Texas Register* (18 TexReg 4130). Changes were made to the title and other portions of the rule to clarify that the rule applies to both covered and non-covered employers. Many structural changes were made so the provisions which address requirements which apply to all employers come before provisions that apply to only one or another type of employer. Changes made to the sections of the rule describing posted notice requirements include consolidating the notices so that only one posting will be required, including specific references to occupational illnesses, identifying the time within

which actions must occur, and describing the requirement to show good-cause for failing to provide timely notice. Incorporating the time-frame for reporting the injury and reference to the requirement to show good cause for failing to timely report meets the agency policy of educating the participants regarding their rights under the system because employee failure to notify their employer in a timely manner may result in the loss of rights. The text of the rule was changed to set out specific times within which the employer has to post or provide the notices required by this rule and to clarify that the notice requirements upon dropping or canceling coverage only apply when there will be a gap in coverage.

This rule is required by the Texas Labor Code, §406.005, which authorizes the commission to adopt rules governing the form and content of the notices the employer is required to post, §409.041, which requires the employer to notify its employees of the ombudsman program in the form and manner prescribed by the commission, and §411.081, which requires the employer to notify its employees of the safety hotline in the form and manner prescribed by the commission. The rule incorporates the ombudsman notice as part of the "employee assistance" described in the notice. Employee assistance broadens the agency implementation of the ombudsman program required by law and combines the required program with customer service principles for a program that will better serve participants in the system.

Under the Act, employers have an obligation to notify their employees of whether the employer is covered by workers' compensation insurance. This involves both posting notices and providing direct notice to each employee. Additionally, employers are obliged to notify employees about assistance available from the commission, and about the commission's toll-free telephone line for reporting unsafe working conditions. This rule consolidates all the commission regulatory powers related to employer notices which are currently described in several other rules. It also adds specific form and content information for certified self-insured employers to appropriately notify employees of the covered status of the employer.

Comments opposing portions of the rule and supporting changes to those portions were received from TU Electric.

Summaries of the comments and commission responses are as follows:

The rule should be written in active voice and the notices should be combined to eliminate repetitive words and phrases.

The commission agrees with the recommendation, though not all the specific words and phrases proposed by the commenter. Changes proposed to the text of the notices, for the most part, adopt the commenter's proposed text.

Notices should be printed in smaller type and not bold type. This would produce a more readable notice and allow more information to be included on the same notice.

The commission agrees with the recommendation to vary the type size and weight in

order to attract the attention of employees while providing all the necessary information in a compact format.

Proposed subsection (b)(5) is incorrect in stating that the employee has five days from beginning employment to make their election since they have five days from receipt of the employer's notification of obtaining coverage.

The commission disagrees with the statement that subsection (b)(5) incorrectly limits the employee to five days from the beginning of employment. The law actually does require the election within five days of beginning employment. However, the rule does not address the election opportunity for the employee when the previously not covered employer obtains coverage. Adding the phrase "or within five days after receiving written notice from the employer that the employer has obtained coverage..." after the word "employment", will address the concern that the rule does not deal with the election when the employer becomes covered after the employee starts work.

Proposed subsection (b) is not clear in requiring the employer to provide written notice to all effected employees when the employer cancels or obtains coverage.

The commission agrees and amends the text to require written notice when the employer cancels or obtains coverage. The commission also extends the clarification of the rule to specify when the employee is "hired".

This rule should require the employer to tell employees that they have coverage from a carrier but that claims will be handled by a third-party administrator.

The commission disagrees. The employer is not necessarily in a position to know whether the carrier has employed a third-party administrator to handle claims, or to know which of multiple third-party administrators employed by an insurance company will handle the claims arising in that employer's business. To require the employer to provide that information in the notice would be an unreasonable burden.

Section 110.101 is adopted under the Texas Labor Code §402.061, which authorizes the commission to adopt rules necessary to administer the Act; §406.005, which authorizes the commission to adopt rules governing the form and content of the notices the employer is required to post; §409.041, which requires the employer to notify its employees of the ombudsman program in the form and manner prescribed by the commission; and §411.081, which requires the employer to notify its employees of the safety hotline in the form and manner prescribed by the commission.

*§110.101. Covered and Non-Covered Employer Notices to Employees.*

(a) In addition to the posted notice required by subsection (e) of this section, covered and non-covered employers must notify their employees of coverage status, in writing. This additional notice:

(1) shall be provided at the time an employee is hired, meaning when the

employee is required by federal law to complete both a W-4 form and an I-9 form or when a break in service has occurred and the employee is required by federal law to complete a W-4 form on the first day the employee reports back to duty;

(2) shall be provided at the time the employer notifies the insurance carrier that the employer is dropping coverage if there will be a period during which the employees will not be covered;

(3) shall be provided at the time an employer obtains coverage, as necessary to allow the employee to elect to retain common law rights;

(4) must include the text required in the posted notice; and

(5) if the employer is covered by workers' compensation insurance, or becomes covered, whether by commercial insurance or by becoming a certified self-insurer, must include the following statement: "You may elect to retain your common law right of action if, no later than five days after you begin employment or within five days after receiving written notice from the employer that the employer has obtained coverage, you notify your employer in writing that you wish to retain your common law right to recover damages for personal injury. If you elect to retain your common law right of action, you cannot obtain workers' compensation income or medical benefits if you are injured."

(b) Notices required to be posted by this rule shall be posted:

(1) by the non-subscribing employer as provided in subsection (c) of this section;

(2) by the employer who is opting out of workers' compensation, at the time the employer notifies the carrier of the cancellation;

(3) by the employer or certified self-insurer who elects to cancel their policy or withdraw from self-insurance, at the time the insurance carrier is notified of the cancellation or the commission is notified of the withdrawal, unless a new policy will maintain continuous coverage in which case the employees will be notified at the time the new policy takes effect;

(4) by the employer who becomes covered either by an insurance policy or by certified self-insurance, at the time coverage or certification takes effect; and

(5) by the employer whose workers' compensation policy is cancelled by the insurance carrier, at the time the cancellation becomes effective if no new policy is obtained.

(c) Notices posted or provided on and after the effective date of this rule shall

contain the specific text required by this rule. Notices posted prior to the effective date of this rule, in compliance with prior commission rules will not need to be replaced with the text required by this rule. However, any time the information regarding coverage status, insurance carrier, safety hotline number, or third-party administrator changes, or upon notification by the commission, the notice shall be replaced with the text required by this rule.

(d) An employer who recruits an employee in Texas to perform services outside of Texas, actually hires outside of Texas, and has notices of coverage posted conspicuously at the place of hire and at the business location where the employee will perform services, is not required to provide the additional notice required in subsection (a) of this section to the employee.

(e) Covered and non-covered employers must post notices in the workplace to inform employees about workers' compensation issues as required by this rule. These notices must be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis. The notices shall be printed with a title in at least 30-point bold type, subject in at least 20-point bold type, and text in at least 19-point normal type, and shall include English, Spanish, and any other language common to the employer's employee population. The text for the notices shall be the text provided by the commission on the sample notice without any additional words or changes.

(1) Employers insured through a commercial insurance company must post the following notice:

**"NOTICE TO EMPLOYEES CONCERNING WORKERS' COMPENSATION IN TEXAS COVERAGE:**

(Name of employer) has workers' compensation insurance coverage from (name of commercial insurance company) to protect you in the event of work-related injury or illness. This coverage is effective from (effective date of policy). Any injuries or illnesses which occur on or after that date will be handled by (name of commercial insurance company). An employee or a person acting on the employee's behalf must notify the employer of an injury or illness not later than the 30th day after the date on which the injury occurs or the date the employee knew or should have known of an illness, unless the commission determines that good cause existed for failure to provide timely notice. Your employer is required to provide you with coverage information when you are hired or whenever the employer becomes, or ceases to be, covered by workers' compensation insurance.

**EMPLOYEE ASSISTANCE:** The Commission provides free information about how to file a workers' compensation claim. Commission staff will explain your rights and responsibilities under the Workers' Compensation Act and assist in resolving disputes about a claim. You can obtain this assistance by contacting your local Commission field office or by calling 1-800-252-7031.

**SAFETY HOTLINE:** The Commission has established a 24-hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate occupational health and safety laws. Employers are prohibited by law from suspending, terminating, or discriminating against any employee because he or she in good faith reports an alleged occupational health or safety violation. Contact the Division of Workers' Health and Safety at 1-800-452-9595."

(2) Employers who become certified self-insurers must post the following notice:

**"NOTICE TO EMPLOYEES CONCERNING WORKERS' COMPENSATION IN TEXAS COVERAGE:** Effective on (effective date of certificate) (name of employer) has been certified by the Texas Workers' Compensation Commission as a self-insured employer providing workers' compensation insurance to protect you in the event of work-related injury or illness. Claims for injuries or illnesses which occur on or after that date will be handled by (name of third-party administrator). An employee or a person acting on the employee's behalf must notify the employer of an injury or illness not later than the 30th day after the date on which the injury occurs or the date the employee knew or should have known of an illness, unless the commission determines that good cause existed for failure to provide timely notice. Your employer is required to provide you with coverage information when you are hired or whenever the employer becomes, or ceases to be, covered by workers' compensation insurance.

**EMPLOYEE ASSISTANCE:** The Commission provides free information about how to file a workers' compensation claim. Commission staff will explain your rights and responsibilities under the Workers' Compensation Act and assist in resolving disputes about a claim. You can obtain this assistance by contacting your local Commission field office or by calling 1-800-252-7031.

**SAFETY HOTLINE:** The Commission has established a 24-hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate occupational health and safety laws. Employers are prohibited by law from suspending, terminating, or discriminating against any employee because he or she in good faith reports an alleged occupational health or safety viola-



tion. Contact the Division of Workers' Health and Safety at 1-800-452-9595."

(3) Employers who elect not to be covered by workers' compensation, or who cancel or terminate coverage must post the following notice:

"NOTICE TO EMPLOYEES CONCERNING WORKERS' COMPENSATION IN TEXAS COVERAGE: (Name of employer) DOES NOT have workers' compensation insurance coverage to protect you from damages resulting from work-related illness or injury. However, you may have rights under the common law of Texas. Your employer is required to provide you with coverage information when you are hired or whenever the employer becomes, or ceases to be, covered by workers' compensation insurance.

**SAFETY HOTLINE:** The Commission has established a 24-hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate occupational health and safety laws. Employers are prohibited by law from suspending, terminating, or discriminating against any employee because he or she in good faith reports an alleged occupational health or safety violation. Contact the Division of Workers' Health and Safety at 1-800-452-9595."

(f) Failure to post or to provide notice as required in this rule is a violation of the Act and commission rules and the violator may be subject to administrative penalties.

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 December 3, 1993.

TRD-9333008

Susan Cory  
General Counsel  
Texas Workers'  
Compensation  
Commission

Effective date: January 1, 1994

Proposal publication date: June 22, 1993

For further information, please call: (512) 440-3592



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 19. Long-Term Care Nursing Facility Requirements for Licensure and Medicaid Certification

##### Subchapter C. Resident Rights

###### • 40 TAC §19.204

The Texas Department of Human Services (DHS) adopts an amendment to §19.204, concerning protection of resident funds, in its Long-Term Care Nursing Facility Requirements rule chapter.

The justification for the amendments is to comply with changes in federal requirements which specify items or services which may and may not be billed to a nursing facility resident's personal funds, and specify notification requirements when charging for items or services.

The amendment will function by ensuring that the personal funds of nursing facility residents are protected from unauthorized or improper use.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs, and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §§22.002 and 32.001-32.040. The amendment is adopted in compliance with federal requirements to be effective October 1, 1993.

###### §19.204. Protection of Resident Funds.

(a)-(j) (No change.)

(k) Limitation on charges to personal funds. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare. Items or services included in Medicare or Medicaid payment which may not be billed to the resident's personal funds by the facility include:

(1) nursing services as required in §19.801 of this title (relating to Nursing Services);

(2) dietary services as required in §19.901 of this title (relating to Dietary Services);

(3) an activities program as required in §19.502 of this title (relating to Activities);

(4) room and bed maintenance services;

(5) routine personal hygiene items and services as required to meet the needs of residents, including, but not limited to:

(A) hair hygiene supplies;

(B) comb;

(C) brush;

(D) bath soaps, disinfecting soaps, or specialized cleansing agents when indicated to treat special skin problems or to fight infection;

(E) razor;

(F) shaving cream;

(G) toothbrush;

(H) toothpaste;

(I) denture adhesive;

(J) denture cleaner;

(K) dental floss;

(L) moisturizing lotion;

(M) tissues;

(N) cotton balls;

(O) cotton swabs;

(P) deodorant;

(Q) incontinent care and supplies;

(R) sanitary napkins and related supplies;

(S) towels;

(T) washcloths;

(U) hospital gowns;

(V) over-the-counter drugs.

(W) hair and nail hygiene services;

(X) bathing;

(Y) personal laundry; and

(6) medically-related social services as required in §19.503 of this title (relating to Social Services General Requirements).

(1) Items and services that may be charged to a resident's personal funds. The facility may charge the resident for requested services that are more expensive than or in excess of covered services in accordance with §19.1701 of this title (relating to Vendor Payment (Items and Services Included)). The following list contains general categories and examples of items and services that the facility may charge to a resident's personal funds if they are requested by a resident, if the facility informs the resident that there will be a charge, and if payment is not made by Medicare or Medicaid:

(1) telephone;

(2) television and/or radio for personal use;

(3) personal comfort items, including smoking materials, notions and novelties, and confections;

(4) cosmetics and grooming items and services in excess of those for which payment is made under Medicare or Medicaid;

(5) personal clothing;

(6) personal reading material;

(7) gifts purchased on behalf of a resident;

(8) flowers and plants;

(9) social events and entertainment offered outside the scope of the activities program, provided under §19.502 of this title (relating to Activities);

(10) noncovered special care services, such as privately hired nurses and aides;

(11) private room, except when therapeutically required, such as isolation for infection control; and

(12) specially-prepared or alternative food requested instead of the food generally prepared by the facility, as required in §19.901 of this title (relating to Dietary Service).

(m) request for items or services that may be charged to a resident's personal funds. The facility must:

(1) not charge a resident, nor his representative, for any item or service not requested by the resident;

(2) not require a resident, nor his representative, to request any item or service as a condition of admission or continued stay; and

(3) inform the resident or his representative, when he requests an item or service for which a charge will be made, that there will be a charge for the item or service and the amount of the charge.

(n) Access to financial record. The individual financial record must be available on request to the resident, responsible party, or legal representative.

(o) Quarterly statement. The individual financial record must be available, through quarterly statements and on request, to the resident or his legal representative. The statement must reflect any recipient funds which the facility has deposited in an account as well as any recipient funds held by the facility in a petty cash account. The statement must include at least the following:

(1) balance at the beginning of the statement period;

(2) total deposits and withdrawals;

(3) interest earned, if any;

(4) identification number and location of any account in which the recipient's personal funds have been deposited; and

(5) ending balance.

(p) Banking charges.

(1) Charges for checks, deposit slips, and services for pooled checking accounts are the responsibility of the facility and may not be charged to the recipient, family, or responsible party. These costs, however, may be reported as allowable costs by the facility on its cost report.

(2) Bank service charges and charges for checks and deposit slips may be deducted from the individual checking accounts if it is the recipient's written, individual choice to have this type of account to preserve his dignity and independence.

(3) Bank fees on individual accounts established solely for the convenience of the facility are the responsibility of the facility and may not be charged to the recipient, family, or responsible party. However, the facility may report these costs as allowable costs on its cost report.

(4) The facility may not charge the recipient, family, or responsible party for the administrative handling of either type of account. These costs may be reported as allowable costs by the facility on its cost report.

(5) If the facility places any part of the resident's money in savings accounts, certificates of deposit, or any other plan whereby interest or other benefits are accrued, the facility must distribute the interest or benefit to participating residents on an equitable basis. If pooled accounts are used, interest must be prorated on the basis of actual earnings or end-of-quarter balances.

(q) Access to funds.

(1) Personal funds held in the facility. Upon a Medicaid recipient's request, or transfer or discharge, the facility must return to the recipient, the representative payee, responsible party, or the legal representative the full balance of the recipient's personal funds that the facility has received for holding, safeguarding, and accounting. Because funds held in the facility are usually small amounts, the facility is expected to meet this requirement during normal business hours at the time of request, transfer, or discharge, whichever occurs first. Response to requests received during hours other than normal business hours must be made immediately at the beginning of the next normal business hours. For purposes of this paragraph, normal business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding national holidays.

(2) Personal funds held outside the facility. Upon request or if a recipient is transferred or discharged, the facility must, within five business days, return to the recipient, representative payee, responsible party, or the legal representative the full balance of a recipient's personal funds that the facility has deposited in an account, including any interest accrued.

(r) Handling of monthly benefits. If the Social Security Administration has determined that a Title II and Title XVI Supplementary Security Income (SSI) benefit to which the recipient is entitled should be paid through a representative payee, the provisions in 20 CFR 404.1601-404.1610 for Old Age, Survivors, and Disability Insurance benefits and 20 CFR 419.601-419.690 for SSI benefits apply.

(s) Change of ownership. If the ownership of a facility changes, the old owner must transfer the bank balances or trust funds to the new owner with a list of the residents and their balances. The old owner must get a receipt from the new owner for the transfer of these funds. The old owner must keep this receipt for audit purposes.

(t) Alternate forms of documentation. Without prior written approval of DHS, alternate forms of documentation, including affidavits, will not be accepted by the department to verify the resident's personal fund expenditures or as proof of com-

pliance with any requirements specified in these requirements for resident's personal funds.

(u) Effective November 5, 1990, a nursing facility may not impose charges for certain Medicaid-eligible individuals, for nursing facility services that exceed the per diem amount established by the Texas Department of Human Services for such services. "Certain Medicaid-eligible individuals" means an individual who is entitled to medical assistance for nursing facility services, but for whom such benefits are not being paid because, in determining the individuals' income to be applied monthly to the payment for the costs of nursing facility services, the amount of such income exceeds the payment amounts established by DHS.

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 December 2, 1993.

TRD-9332971 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: October 1, 1993

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

### ◆ ◆ ◆ Subchapter F. Quality of Life • 40 TAC §19.501

The Texas Department of Human Services (DHS) adopts amendments to §§19.501, 19.602, 19.701, 19.801, 19.1001, 19.1501, and 19.1922, concerning quality of life, comprehensive care plans, quality of care, nursing services, physician services, physical plant and environment, and resident care policies, in its Long Term Care Nursing Facility Requirements for Licensure and Medicaid Certification chapter, without changes to the proposed text as published in the June 4, 1993, issue of the *Texas Register* (18 TexReg 3555).

The justification for the amendments is to add provisions to the rules that emphasize that children have unique medical and psychosocial needs and that the care delivered must address those needs.

The amendments will function by improving the care of children in nursing facilities

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provide the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer

federal medical assistance funds. The amendment implements the Human Resources Code, §§22.001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333015 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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

### ◆ ◆ ◆ Subchapter G. Resident Assessment • 40 TAC §19.602

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §§22.001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333014 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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

### ◆ ◆ ◆ Subchapter H. Quality of Care • 40 TAC §19.701

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs, and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333013 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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

### ◆ ◆ ◆ Subchapter I. Nursing Services • 40 TAC §19.801

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §§22.001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333012 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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

### ◆ ◆ ◆ Subchapter K. Physician Services • 40 TAC §19.1001

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §§22.001, 22.002, and

sources Code, §§22. 001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333011 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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



## Subchapter P. Physical Plant and Environment

### • 40 TAC §19.1501

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds. The amendment implements the Human Resources Code, §§22. 001, 22.002, and 32.001-32.041

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 December 3, 1993.

TRD-9333010 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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



## Subchapter T. Administration

### • 40 TAC §19.1922

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs; and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001, 22.002, and 32.001-32.041.

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 December 3, 1993.

TRD-9333009 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: February 1, 1994

Proposal publication date: June 4, 1993

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



## Part XIX. Texas Department of Protective and Regulatory Services

### Chapter 700. Child Protective Services

The Texas Department of Protective and Regulatory Services (TDPRS) adopts the repeal of §§700.701-700.703 and adopts new §§700.701-700.705, concerning services to families, in its child protective services chapter. The repeals and new sections are adopted without changes to the proposed text as published in the October 22, 1993, issue of the *Texas Register* (18 TexReg 7408).

The justification for the repeals and new sections is to strengthen and improve TDPRS's services to families whose children have not been removed from the home and to families with children who are returning home from court-ordered substitute care. A secondary purpose of the repeals and new sections is to integrate those services with TDPRS's new risk-based service system.

The repeals and new sections will function by defining and distinguishing three types of in-home services to families: family preservation services, intensive family-preservation services, and reunification support services. The sections also establish criteria for beginning and ending each type of service, and they set forth risk-based service-planning requirements for family preservation services.

No comments were received regarding adoption of the repeals and new sections

## Subchapter G. Family Preser- vation Services

### • 40 TAC §§700.701-700.703

The repeals are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 41, which authorizes the department to enforce laws for the protection of children. The repeals are also adopted under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect; and under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS. The repeals implement Texas Family Code §34.51(a)-(c).

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 December 1, 1993.

TRD-9332912 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: January 15, 1993

Proposal publication date: October 22, 1993

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

## Subchapter G. Services to Families

### • 40 TAC §§700.701-700.705

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs; and Chapter 41, which authorizes the department to enforce laws for the protection of children. The new sections are also adopted under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect; and under Texas Civil Statutes, Article 4413 (503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS. The new sections implement Texas Family Code §34.51(a)-(c).

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 December 1, 1993.

TRD-9332970

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

Effective date: January 15, 1994

Proposal publication date: October 22, 1993

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



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### Texas Department of Insurance Exempt Filing

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

*(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)*

The State Board of Insurance of the Texas Department of Insurance, at a public meeting held at 9:00 a.m., on December 1, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, adopted amendments as proposed by Staff of the Texas Automobile Rules and Rating Manual (the Manual) and the Texas Standard Provisions for Automobile Insurance Policies (the Standard Provisions), to conform to statutory changes made by the 73rd Legislature: new Amendatory Endorsement TE 00 40, Rule 13 (Cancellation), and Rule 50 (Antitheft Discount).

New Amendatory Endorsement TE 00 40, to be included in both the Manual and the Stan-

dard Provisions, is needed to amend the Common Policy Conditions used with the Business Auto, Garage, and Truckers Coverage Forms to comply with the requirements of Section 20.11 of HB 1461, amending the Insurance Code, Article 21.49-2A(b). The changes prohibit an insurer from cancelling a policy that is a renewal or continuation policy except for reasons specified in the statute. The statute also continues to prohibit cancellation of a policy in its initial policy period after 60 days following issuance, except for reasons specified in the statute. The amendments to Manual Rule 13 contain the same prohibitions as Endorsement TE 00 40. Prior to the statutory change, an insurer was allowed to cancel any Business Auto, Garage, or Truckers Coverage Form for any reason during the first 60 days, even a renewal or continuation policy. The change to Manual Rule 50 compels any insurer to apply the prescribed antitheft discount to comprehensive coverage for a vehicle with a qualifying antitheft device. This change conforms Rule 50 to the Insurance Code, Article 5.03-2, as amended by Senate Bill 26. Staff's petition (Reference Number A-0993-24-1), was published in the October 29, 1993, issue of the *Texas Register* (18 TexReg 7535). 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 are filed with the Chief Clerk under Reference Number A-0993-24-1, and are incorporated by reference by Board Order Number 60575.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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 notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedures and Texas Register Act.

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

issued in Austin, Texas, on December 3, 1993.

TRD-9333061

Linda K von Quintus-Dom  
Chief Clerk  
Texas Department of  
Insurance

Effective date: January 1, 1994

For further information, please call: (512) 463-6328





Name. Hilda Z Razo  
Grade. 10  
School Skyline High School, Dallas 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 of Agriculture

Thursday, December 16, 1993, 10:00 a.m.

Texas Sheep and Goat Raisers Association,  
233 West Twohig

San Angelo

According to the agenda summary, the Texas Sheep and Goat Commodity Board will hear opening remarks; review and approval of minutes; review and approval of fiscal affairs, reports of officers, discussion and action: new business, unfinished business, scheduling of next meeting; discussion of other business; and adjourn.

Contact: Minnie Savage, 233 West Twohig, San Angelo, Texas 76903, (915) 659-8777.

Filed: December 7, 1993, 9:38 a.m.

TRD-9333181

Thursday, December 16, 1993, 1:00 p.m.

5215 Loop 289 South

Lubbock

According to the agenda summary, the State Seed and Plant Board will discuss and act on minutes of last meeting, application for certification eligibility of new varieties under the Texas Certification Program, appeal of decision, telephone conference procedures; and discuss other business

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691

Filed: December 2, 1993, 2:24 p.m.

TRD-9332944

Monday, December 13, 1993, 1:30 p.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

According to the agenda summary, the Fire Ant Advisory Board will call the meeting to order, briefing on cooperative agreement; report on cooperative agreement; discussion and action on cooperative agreement; report on research and regulatory activities; report on fundraising activities; and discussion of other business.

Contact: Craig Casselberry, P.O. Box 12847, Austin, Texas 78711, (512) 463-7432

Filed: December 3, 1993, 3:42 p.m.

TRD-9333025

Monday, December 20, 1993, 2:30 p.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

According to the complete agenda, the Seed Quality Program will hold a public hearing to take public comment regarding the department's proposed amendments to the regulations relating to the Texas Seed Law. The amendments concern language clarification for labeling hermetically sealed seed containers and to increase the penalty fee for filing of late quarterly reports relating to seed inspection fees as published in the November 26, 1993 issue of the *Texas Register*

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (512) 542-3691

Filed: December 3, 1993, 3:44 p.m.

TRD-9333040

Thursday, January 6, 1994, 10:00 a.m.

Texas Department of Agriculture, 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: Craig Casselberry, P.O. Box 12847, Austin, Texas 78711, (512) 463-7432.

Filed: December 3, 1993, 11:44 a.m.

TRD-9332993

## Texas Commission on Alcohol and Drug Abuse

Monday, December 13, 1993, 9:00 a.m.

710 Brazos, Eighth Floor Conference Room

Austin

According to the complete agenda, the Criminal Justice Issues Committee will call to order; discussion of Juvenile Treatment Program, action on Memorandum of Understanding with the Texas Youth Commission, the Juvenile Probation Commission, and the Texas Commission on Alcohol and Drug Abuse, and adjourn.

Contact: Denise F. Mosel, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8720

Filed: December 2, 1993, 4:35 p.m.

TRD-9332967

**Monday, December 13, 1993, 9:00 a.m.**

710 Brazos

Austin

According to the complete agenda, the Offender Credentialing Committee will call to order; review applications for the Licensed Chemical Dependency Counselor; and adjourn.

**Contact:** Mike Ezzell, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8257.

**Filed:** December 2, 1993, 11:28 a.m.

TRD-9332923

**Monday, December 13, 1993, 10:00 a.m.**

710 Brazos, Perry Brooks Building, Commission Meeting Room (Small)-Eighth Floor

Austin

According to the complete agenda, the Audit Committee will call to order; discuss agency's internal audit function; and adjourn.

**Contact:** Otis E. Williams, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8720.

**Filed:** December 2, 1993, 11:28 a.m.

TRD-9332924

**Monday, December 13, 1993, 10:00 a.m.**

710 Brazos, Perry Brooks Building, Commission Meeting Room (Small)-Eighth Floor

Austin

Emergency revised agenda

According to the complete emergency revised agenda, the Audit Committee will have presentation by Price Waterhouse on internal audit reports; review of internal audit on accounting for grants and contracts, auditing and accounting requirements for contractors, administrative budgeting and planning system, and performance measures report for Fiscal Year 1993.

Reason for Emergency: The emergency status is necessary as action needed on items in order to meet state auditor's office requirements regarding evaluation of audit reports for Fiscal Year 1993.

**Contact:** Otis E. Williams, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8720.

**Filed:** December 6, 1993, 4:08 p.m.

TRD-9333160

**Monday, December 13, 1993, 6:00 p.m.**

710 Brazos, Perry Brooks Building, Eighth Floor Conference Room

Austin

According to the complete agenda, the Grant and Contract Review Committee and Criminal Justice Review Committee will

call to order; unsolicited request for funds; reallocation; non-competitive renewal; purchase of service for fiscal year 1994; non-competitive negotiation of awards; treatment alternatives to incarceration request for proposals for fiscal year 1994; transitional treatment centers request for proposals for fiscal year 1994; information items; schedule of next meeting; and adjourn.

**Contact:** Steve Casillas or Lynn Brunn-Shank, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8265.

**Filed:** December 2, 1993, 4:35 p.m.

TRD-9332968

## Texas Alternative Fuels Council

**Thursday, December 16, 1993, 10:00 a.m.**

105 West 15th Street, Room 106, John H. Reagan Building

Austin

According to the complete agenda, the Texas Alternative Fuels Council will call the meeting to order; consideration of minutes from October 7, 1993, council meeting; final adoption of rules for Alternative Fuels Conversion Fund; Texas Department of Commerce memorandum of understanding; report on development of rules for bond program; council administrator; adoption of Alternative Fuels Council logo; adoption of Alternative Fuels Council grant application form; approval of Alternative Fuels Council news release; other business; public comment; and adjourn.

**Contact:** Soll Sussman, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5039.

**Filed:** December 6, 1993, 2:03 p.m.

TRD-9333140

## State Banking Board

**Monday, December 13, 1993, 2:00 p.m.**

2601 North Lamar Boulevard

Austin

According to the agenda summary, the Board agenda will include: review and approval of minutes of previous meeting; consideration of proposed rule relating to substitute members of the State Banking Board; consideration of proposed rules relating to non-exclusive delegation of board authority to propose rules; consideration of proposed amendment to 7 TAC §33.32, concerning recovery of the cost of preparing the agency record for purpose of Judicial Review of a Decision of the Board; consideration of conversion application for Heritage Na-

tional Bank, Red Oak; consideration of interim charter applications; consideration of change of domicile application for Texas Independent Bank, Irving; review of the status of other pending applications; review of discontinuance of unmanned teller machines; and the board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of TBC.

**Contact:** Lynda A. Drake, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1322.

**Filed:** December 3, 1993, 3:03 p.m.

TRD-9333007

## State Bar of Texas

**Friday, December 10, 1993, 9:15 a.m.**

The Texas Law Center, 1414 Colorado, Suite 206

Austin

According to the agenda summary, the Commission of Lawyer Discipline will call to order/introductions/review: minutes; status reports; commission's compliance with State Bar Act, Texas rules of disciplinary procedure and orders of the Supreme Court; budget and organization of general counsel's office; Special Counsel Program; special counsel with prior discipline history; budget and organization of commission; collection of attorney's fees in disciplinary actions; assignment of special counsel; presentations by trial staff; closed executive session, pursuant to Texas Civil Statutes, Article 6252-17(2)(e) and (g); discuss pending litigation; matters pending before evidentiary panels of grievance committees; personnel matters; discuss and take action on those matters considered in closed executive session; discuss future meetings of the commission; discuss other matters as appropriate; public comment; and adjourn.

**Contact:** Anne Dorris, P.O. Box 12487, Austin, Texas 78701, 1-(800) 204-2222.

**Filed:** December 2, 1993, 2:30 p.m.

TRD-9332946

## Texas Bond Review Board

**Tuesday, December 14, 1993, 10:00 a.m.**

Committee Room Five, Fifth Floor, Clements Building, 300 West 15th Street

Austin

According to the agenda summary, the Staff Planning Meeting will call the meeting to order; approval of minutes; discussion of proposed issues; other business; and adjourn.



Contact: Albert L. Bacarisse, 300 West 15th Street, Austin, Texas 78701, (512) 463-1741.

Filed: December 6, 1993, 2:24 p.m.

TRD-9333142

◆ ◆ ◆  
**Texas Child Care Development Board**

Thursday, December 16, 1993, 9:00 a.m.

Sam Houston Building, Room 710, 201 East 14th Street

Austin

According to the complete agenda, the Board will welcome guests; introductory remarks; review report to Legislature; report on Capitol Complex Child Care Center; discuss plan for increasing center enrollment; new business; and adjourn.

Contact: Alice Embree, P.O. Box 12017, Austin, Texas 78711-2017, (512) 463-2181, Ext. 2220.

Filed: December 6, 1993, 2:03 p.m.

TRD-9333139

◆ ◆ ◆  
**Texas Education Agency (TEA)**

Monday-Tuesday, January 17-18, 1994, 9:00 a.m.

DoubleTree Hotel, 6505 IH-35 North

Austin

According to the agenda summary, the Texas Committee on Braille Textbook Production will call the meeting to order; welcoming remarks; report on current status of the commission; report on current status of braille production; reports from other commission members; report of subcommittee on national distribution system; report of subcommittee on graphics; and public input. On Tuesday, tour of Texas School for the Blind and Visually Impaired; report of subcommittee on EIMS (Electronic Instruction Media Systems); report of subcommittee on Tag documentation; discussion of subcommittee reports; future directions and charges; plans for future meetings; and summary and wrap-up.

Contact: Patty McFarland, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362.

Filed: December 3, 1993, 3:43 p.m.

TRD-9333028

**Texas Employment Commission**

Tuesday, December 14, 1993, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the commission will approve prior meeting notes; staff reports; discussion of and authorization for a fair market value appraisal and other services necessarily attendant to the sale of the Houston Woodvine agency owned building; consideration and possible approval of: bid for interior renovation at Amarillo Seventh Street agency-owned building; bid for cooling tower repair at the TEC Annex Building, 1411 Brazos, Austin; bid for purge system retrofit at the TEC Annex Building, 1411 Brazos, Austin; and bid for granite repairs at the TEC Main Building, 101 East 15th Street, and the TEC Trinity Building, 1117 Trinity Street, Austin; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Dockets 49 and 50; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: December 6, 1993, 4:07 p.m.

TRD-9333159

◆ ◆ ◆  
**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 discuss and possibly act on request for changes to 37 TAC Chapter 429, concerning fire inspector certification, discussion and possible action on request for changes to 37 TAC Chapter 431, concerning fire and arson investigator certification; and discussion and possible action on future meeting dates, agenda items, and locations

Contact: Jack Woods, 3006B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: December 7, 1993, 8:12 a.m.

TRD-9333173

**Office of the Governor, Criminal Justice Division**

Tuesday, December 14, 1993, 10:00 a.m.

CJF Conference Room, First Floor, 221 East 11th Street

Austin

According to the agenda summary, the board will review and approve draft of Statewide Drug Strategy as part of application for funds from the Bureau of Justice Assistance under the Fiscal Year 1994 Formula Block Grant Program. (Texas Narcotics Control Program).

Contact: Jimmy Willborn, 221 East 11th Street, Austin, Texas 78701, (512) 463-1788.

Filed: December 3, 1993, 1:34 p.m.

TRD-9332998

◆ ◆ ◆  
**Texas Department of Health**

Wednesday, December 15, 1993, 10:00 a.m.

Suite G-100, American Lung Association, 3520 Executive Center Boulevard

Austin

According to the complete agenda, the Technical Advisory Committee on Tuberculosis Elimination will discuss approval of the minutes from the previous meeting, discuss and possibly act on: tuberculosis update; organization, chairperson selection, length of terms for individual members; laboratory updates; Centers for Disease Control/National Institute for Occupational Safety and Health Guidelines, energy testing; recommendation for therapy-four drugs; new policy relating to non-tuberculous mycobacteria; American Lung Association/Centers for Disease Control review January 18-21, 1994, Senate Bill 57; recommendation for testing of children; booster testing; multiple drug resistance, coalition for tuberculosis elimination; American Lung Association of Texas contract; Robert Wood Johnson Foundation; and other items not requiring committee action

Contact: John A. Bybee, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7447. For ADA assistance, contact Richard Butler at (512) 458-7695 or T.D.D at (512) 458-7708 at least two days prior to the meeting.

Filed: December 2, 1993, 4:25 p.m.

TRD-9332959

**Wednesday, December 15, 1993, 10:00 a.m.**

Room S-402, the Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Code Enforcement Officer Advisory Committee will discuss approval of the minutes from the previous meeting; discuss and possibly act on: election of officers; chairman's report; program manager's report; changes in rules; amendments to 25 Texas Administrative Code, §130; and the next meeting date.

**Contact:** Sandi Laurent, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6650. For ADA assistance, call Richard Butler at (512) 458-7695 or T.D.D. at (512) 458-7708 at least two days prior to the meeting.

**Filed:** December 2, 1993, 4:25 p.m.

TRD-9332960

**Thursday, December 16, 1993, 8:30 a.m.**

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Family Planning Interagency Advisory Council will discuss approval of the minutes from the previous meeting; discuss and possibly act on: official council status; organizational update (bureau/division/program and role of regional staff); training update; strategies for Title XX claims processing; National Heritage Insurance Company manual; public hearings; Regional Coordinating Committee meeting report; old business, program update; and council recognition. The Regional Coordinating Chairs will meet at 2:00 p.m. on December 15, 1993, in Room T-607, Texas Department of Health, 1100 West 49th Street. (No Medical Subcommittee meeting will be held.)

**Contact:** Patti Patterson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7000. For ADA assistance, call Richard Butler at (512) 458-7695 or T.D.D. at (512) 458-7708 at least two days prior to the meeting

**Filed:** December 2, 1993, 4:25 p.m.

TRD-9332961

### **The Texas Health Benefits Purchasing Cooperative**

**Tuesday, December 14, 1993, 10:00 a.m.**  
1525 Elm Street, Second Floor

Dallas

According to the agenda summary, the cooperative will review and adopt minutes of previous meetings; report of interim executive director; report on executive director

search; discussion and adoption of budget; discussion of proposals for administrators; discussion of rules of participation; discussion of regional subdivisions; and discussion of participating plan requirements.

**Contact:** Rebecca Lightsey, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956.

**Filed:** December 6, 1993, 4:23 p.m.

TRD-9333164

### **Health and Human Services Commission**

**Thursday, December 16, 1993, 10:00 a.m.**

Texas Mental Health and Mental Retardation, 909 West 45th Street, Auditorium

Austin

According to the complete agenda, the Long-Term Care Task Force agenda will consist of: introduction; review of agenda; overview of HHS agency long-term care services; vision, programs, service delivery mechanism; break; discussion of definition of Long-Term Care; lunch; discussion of key components of vision and principle statements; review of criteria for chair and discussion of process for electing chair; break; election of chair; general business; discussion of key decision points, key information or presentations wanted by committee, conduct of meetings, process for designing workplan; and other issues identified by task force; set calendar for 1994; set next agenda; and adjourn.

**Contact:** Sonica Lieou or Judy Okimura, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759, (512) 502-3200.

**Filed:** December 7, 1993, 8:50 a.m.

TRD-9333175

### **Texas Historical Commission**

**Friday, December 17, 1939, 9:30 a.m.**

105 West 15th Street, Reagan Building, Room 106

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 Procedures; a discussion of Sunset Commission's review; designation of 18 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:** December 6, 1993, 2:32 p.m.

TRD-9333145

### **Texas Department of Human Services**

**Tuesday, December 14, 1993, 10:00 a.m.**

8407 Wall Street, N-301

Austin

According to the complete agenda, the Advisory Committee for Personal Care Facilities will call the meeting to order; conduct a roll call; introduce visitors; discuss licensing standards for Long Term Care facilities; and adjourn.

**Contact:** Barbara Crenwelge, P.O. Box 149030, Mail Code Y-976, Austin, Texas 78714-9030, (512) 834-6697.

**Filed:** December 2, 1993, 4:25 p.m.

TRD-9332962

### **Texas Incentive and Productivity Commission**

**Tuesday, December 14, 1993, 10:00 a.m.**

Reagan Building, First Floor, Room #103, 15th and Congress

Austin

Revised agenda

According to the revised agenda summary, the commission will call the meeting to order and members present, approval of minutes of previous meeting; discussion of Council on Competitive Government; consideration of revisions to productivity bonus program rules for approval; approval to adopt proposed changes to State Employee Incentive Rules, approval to publish for comment procedural rules regarding cost of copies of open records; election of vice chair; consideration of employee suggestions for approval; consideration of 1994 productivity plans; report on administrative matters; and adjournment.

**Contact:** M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

**Filed:** December 3, 1993, 11:45 a.m.

TRD-9332995

## Texas Department of Insurance

Monday, December 13, 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 Argonaut Insurance Company, Menlo Park, California, which holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:44 p.m.

TRD-9333039

Monday, December 13, 1993, 1:00 p.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the Department will consider a request by Maverick Acoustics, Inc. for a hearing on additional premiums owed applicable to the Workers' Compensation Assigned Risk Program.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:44 p.m.

TRD-9333038

Tuesday, December 14, 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 Metropolitan Life 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: December 3, 1993, 3:44 p.m.

TRD-9333037

Wednesday, December 15, 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 Boston Old Colony 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: December 3, 1993, 3:44 p.m.

TRD-9333036

Wednesday, December 15, 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 Robert Watson Willis, Houston, who holds a Group I, Legal Reserve Life Insurance Agents' license and a Group II, Insurance Agents' license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:44 p.m.

TRD-9333035

Wednesday, December 15, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2082 (TDI #9212350109) to consider a filing by Metropolitan General Insurance Company of a flex rate that is 70% over the benchmark rate for all classes and territories and for all coverages except UM which will remain at 30% over the benchmark rate for private passenger auto for sub-standard business, pursuant to Article 5.101, §3(f), Texas Insurance Code, and Texas Government Procedure Act and the Rules of Practice and Procedure.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: December 7, 1993, 9:28 a.m.

TRD-9333180

Wednesday, December 15, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2081 (TDI #9212350108) to consider a filing by Metropolitan Property and Casualty Insurance Company of a flex rate ranging from 12%

to 60% above the benchmark rate by class of driver, coverage and territory for private passenger auto for standard business pursuant to Article 5.101, §3(f), Texas Insurance Code, and Texas Government Procedure Act and the Rules of Practice and Procedure.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: December 7, 1993, 9:28 a.m.

TRD-9333179

Thursday, December 16, 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 Dennis Lee Burkholder, San Antonio, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license; to consider whether disciplinary action should be taken against Sandra A. Marrin, San Antonio, who holds a Group I, Legal Reserve Life Insurance Agent's license; and to consider whether disciplinary action should be taken against Burk and Associates, Inc., San Antonio, which holds a Third Party Administrator's Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:44 p.m.

TRD-9333034

Friday, December 17, 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 Continental Casualty Company, Chicago, Illinois, which holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:43 p.m.

TRD-9333033

Friday, December 17, 1993, 1:00 p.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the Department will consider whether the Certifi-

cate of Deposit filed by August, Inc., and held by the State Treasurer should be released.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: December 3, 1993, 3:43 p.m.

TRD-9333032

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**Texas Juvenile Probation Commission**

Wednesday, December 15, 1993, 3:00 p.m.

2015 South IH-35

Austin

According to the complete agenda, the Internal Audit Committee will call the meeting to order; public comments; Internal Audit Committee report-waiver of TJPC standards, Title IV-E Audit; annual report; update on prior audits; review of the Fiscal Year 1994 internal audit contract; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1993, 1:22 p.m.

TRD-9333133

Wednesday, December 15, 1993, 6:30 p.m.

Four Seasons Hotel, 98 San Jacinto Boulevard

Austin

According to the complete agenda, the Evaluation Committee will call the meeting to order; evaluation of the executive director; and adjourn. This meeting will be closed to the public under the authority of Texas Civil Statutes, Article 6252.17, §(g).

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1993, 1:22 p.m.

TRD-9333132

Thursday, December 16, 1993, 7:30 a.m.

2015 South IH-35

Austin

According to the complete agenda, the Board will call the meeting to order; finance/budget committee report-allocation of deobligated state aid, allocation of deobligated community corrections funds; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1993, 1:55 p.m.

TRD-9333138

Thursday, December 16, 1993, 9:00 a.m.

2015 South IH-35

Austin

According to the complete agenda, the Board will call the meeting to order; excused absences; approval of October 24, 1993 minutes; finance/budget committee report-allocation of deobligated state aid, allocation of deobligated community corrections funds; evaluation committee report; internal audit committee report-waiver to TJPC standards, Title IV-E audit, annual report, update on prior audits; report on update of TJPC's probation standards; TJPC/State Board of Education joint board committee report; update on the blueprint for juvenile justice report; memorandum of understanding on abused and neglected children in the juvenile justice system; director's report-evaluation of community corrections program; update on the commission for children and youth; results of partnership survey; update on "CHOICES" Program; public comment; schedule next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: December 6, 1993, 1:55 p.m.

TRD-9333137

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**Lamar University System**

Thursday, December 9, 1993, 9:30 a.m.

John Gray Institute-Map Room, 855 Florida Beaumont

According to the agenda summary, the Lamar University System called to order; approval of minutes; chair's report; chancellor's report; executive session; reconvened open meeting; recess for committee meetings; finance and audit committee; building and grounds committee; student relations and services committee; personnel committee; reconvened board of regents meeting; considered approval of committee reports; regents comments; and other reports.

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: December 2, 1993, 4:26 p.m.

TRD-9332964

**Texas Department of Licensing and Regulation**

Friday, December 17, 1993, 9:30 a.m.

E.O. Thompson Building, 920 Colorado, Room 1012

Austin

Revised Agenda

According to the complete agenda, the Texas Commission of Licensing and Regulation will hold a regular meeting according to the following outline: I. call to order; II. roll call and certification of quorum; III. contested cases; IV. motion for rehearing; V. agreed orders; VI. rules submissions; VII. staff reports; VIII. executive session; IX. open session/public comments; X. discussion of date, time, and location of next commission meeting; and XI. adjournment.

Contact: Phyllis Wilson, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3173.

Filed: December 2, 1993, 3:56 p.m.

TRD-9332956

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**Texas State Board of Medical Examiners**

Friday, December 10, 1993, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the agenda summary, the Hearings Division's agenda includes requests for termination and modification of probation and probation appearances.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: December 2, 1993, 1:28 p.m.

TRD-9332933

Tuesday, December 14, 1993, 9:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

According to the complete agenda, the Hearings Division's agenda includes a probation appearance by Dennis M. Shaughnessy, M.D., Midland. (Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes, regarding pending or contemplated litigation).

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: December 6, 1993, 4:15 p.m.

TRD-9333162

**Wednesday, December 15, 1993, 9:00 a.m.**

1812 Centre Creek Drive, Suite 300  
Austin

According to the complete agenda, the Hearings Division's agenda includes: termination requests: Rodney Norman Dotson, M.D., Carrizo Springs; David A. Katemdahl, M.D., San Antonio; probationary appearance: Douglas Hall Rankin, M. D., Austin; modification requests: Dennis Alan Uldrich, M.D., San Antonio; and Michael H. McCallum, M.D., New Braunfels. (Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b) and §2.09(o), Texas Civil Statutes, regarding pending or contemplated litigation).

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: December 6, 1993, 4:16 p.m.

TRD-9333163

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**Texas Council on Offenders  
with Mental Impairments**

**Monday, December 13, 1993, 9:30 a.m.**

TDCJ-Board of Pardons and Paroles, 8610 Shoal Creek Boulevard  
Austin

According to the complete agenda, the Executive Committee will hear introductions; public comments; approve minutes; hear committee reports; status report on House Bill 771 (Specialized Mental Health Deputies); discuss objectives/issues; hear the Nominating Committee report; executive director's report; discuss objectives/issues; hear the Nominating Committee report; executive director's report; discuss agenda/schedule for the next Executive Committee meeting; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: December 6, 1993, 10:20 a.m.

TRD-9333099

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**Texas Natural Resource Conservation Commission**

**Friday, December 10, 1993, 8:30 a.m.**

River Place, Overlook Room, 4207 River Place Boulevard

Austin

According to the agenda summary, the commissioners will meet with division di-

rectors and the executive committee in a management workshop to discuss various topics related to the management of the Texas Natural Resource Conservation Commission (TNRCC).

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: December 2, 1993, 2:18 p.m.

TRD-9332940

**Tuesday, December 14, 1993, 9:30 a.m.**

1414 Colorado, Texas Law Center, Room 104

Austin

According to the agenda summary, the Task Force 21 agenda consist of: opening remarks; TNRCC priorities for Task Force 21; update on draft spill rules; update on House Bill 2537; overview-Office of Water Resource Management; overview-Office of Waste Management; update on Notification Advisory Committee; lunch break; Hearings Task Force rules; overview-Office of Air Quality; Proposition 2; UIC regulations; and public comment.

Contact: Laura Clark, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-1381.

Filed: December 3, 1993, 1:27 p.m.

TRD-9332997

**Wednesday, December 15, 1993, 9:00 a.m.**

Stephen F. Austin Office Building, Room 118, 1700 North Congress Avenue

Austin

According to the complete agenda, the purpose of the hearing will be to determine whether to affirm, modify, or set aside Emergency Order 93-9E granted on November 17, 1993, to American Waste Water Limited. The Order authorizes American Waste Water Limited to operate a Type V (grease trap) municipal solid waste management facility located on a 6.6563-acre site at 250 Gellhorn in the City of Houston, Harris County.

Contact: Margaret Ligarde, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Filed: December 2, 1993, 11:29 a.m.

TRD-9332925

**Wednesday, December 15, 1993, 9:00 a.m.**

Stephen F. Austin Office Building, Room 118, 1700 North Congress Avenue

Austin

According to the agenda summary, the commission will consider approving the following matters: water quality enforcement;

temporary authorization; solid waste enforcement; solid waste management plan; petroleum storage tank enforcement; water well enforcement; enforcement pilot project; district matters; rules; air quality matters; 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 actions, 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: December 6, 1993, 4:14 p.m.

TRD-9333161

**Wednesday, December 15, 1993, 9:00 a.m.**

Stephen F. Austin Office Building, Room 118, 1700 North Congress Avenue

Austin

According to the agenda summary, the commission will consider approving the following matters: waste discharge permit; water right permits; district matters; water utility matters; final action emergency order; contract; examiner's 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 actions, 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: December 6, 1993, 4:06 p.m.

TRD-9333158

**Wednesday, January 5, 1994, 4:00 p.m.**

6 Main Street, City Auditorium City Hall Canadian.

According to the agenda summary, the commission will hold a meeting on an application by the City of Canadian authorizing a Type V municipal solid waste transfer station. The proposed site contains approximately 6.236 acres of land and is located approximately one mile south of the City of Canadian directly north of and adjacent to Airport Road and U.S. Highway 60/83 in Hemphill County.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 908-6687 or (512) 908-6688.

Filed: December 3, 1993, 4:59 p.m.

TRD-9333069

**Thursday, January 6, 1994, 10:00 a.m.**  
409 Broadway, City Hall Council Meeting  
Silverton

According to the agenda summary, the commission will hold a meeting on an application by the City of Silverton authorizing a Type V municipal solid waste transfer station. The proposed site contains approximately 22 acres of land and will be located approximately seven miles east of Silverton, 2,500 feet north of State Highway 86 and 6,000 feet south State Highway 256 in Briscoe County.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 908-6687 or (512) 908-6688.

Filed: December 3, 1993, 5:00 p.m.

TRD-9333070

**Thursday, January 13, 1994, 10:00 a.m.**  
900 Seventh Street, Room 200, County Judges Courtroom  
Wichita Falls

According to the agenda summary, the commission will hold a meeting on an application by IMC Waste Disposal authorizing a Type VGG (grease and grit trap) municipal solid waste management facility. The proposed site covers approximately 1.15 acres of land and is located at 1900 Waurika Freeway at the northeast corner of property located at the intersection of State Highway 240 and State Highway 79 in Wichita County.

Contact: Cynthia Hurd, P.O. Box 13087, Austin, Texas 78711, (512) 908-1773.

Filed: December 3, 1993, 5:00 p.m.

TRD-9333071

## Texas Optometry Board

**Tuesday, December 14, 1993, 9:30 a.m.**  
Sheraton Austin Hotel, 500 North IH-35  
Austin

According to the agenda summary, the board will hold informal conferences of the Investigation Enforcement Committee beginning at 9:30 a.m. and 10:00 a.m., respectively. At 10:30 a.m., the Investigation-Enforcement, Continuing Education and Rules Committees will meet. Following a lunch break, all committees will meet at 1:30 p.m., followed by a special meeting of the board to consider reports of committees, legal counsel, executive director and secretary-treasurer; consider adoption of proposed rules 273.10, 273.11, 277.1-277.6, and 279.14, as published in the *Texas Register*; consider proposed rules to implement House Bill 1479, clarification of Rule 273.5, consider matters involving Health Professions Council, DEA numbers,

general mailings; Attorney General Letter Opinion 93-84 and Attorney General Opinion Request RG-631; and executive session to consider matters pending and contemplated in accordance with §551.071, Government Code.

Contact: Lois Ewald, 9101 Burnet Road, Suite 214, Austin, Texas 78758, (512) 835-1938.

Filed: December 6, 1993, 2:56 p.m.

TRD-9333152

## Texas Board of Pardons and Paroles

**Tuesday, December 14, 1993, 9:00 a.m.**  
8610 Shoal Creek Boulevard  
Austin

According to the agenda summary, the Parole Board consider, discuss and act on the following items: approval of minutes for meeting of September 9, 1993; consider, discuss and vote to proceed with the repeal and adoption of agency rules in accordance with the administrative procedures and Texas Register Act involving the following areas: general provisions; parole and parole process; hearings; mandatory supervision; board policy statements and memoranda of understanding; consider and discuss Governor's Office information reports regarding the criminal justice division; IPTC Program and the Criminal Justice Policy Council; consider and discuss continuity of care for inmates with mental illness and mental retardation; consider and discuss PPD program services on education and employment; consider and discuss reports regarding: SCR 26; personnel; hearing; hearing section and clemency section; discussion of full board training and consider and discussion of training program curriculum for new board members; discussion and review of pending litigation; presentation of executive committee report; review and possible revision of board rule on parole certificates regarding substance abuse; and presentation and discussion of Board of Pardons and Paroles budget report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407

Filed: December 6, 1993, 3:22 p.m.

TRD-9333154

**Monday-Wednesday, December 13-15, 1993, 1:30 p.m.**  
1550 East Palestine, Suite 100  
Palestine

According to the agenda summary, the Parole Board 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 78758, (512) 406-5407.

Filed: December 3, 1993, 9:49 a.m.

TRD-9332973

**Thursday December 16, 1993, 9:30 a.m.**  
1212 North Velasco, Suite 201  
Angleton

According to the agenda summary, the Parole Board 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 78758, (512) 406-5407.

Filed: December 3, 1993, 9:49 a.m.

TRD-9332976

**Thursday-Friday, December 16-17, 1993, 9:30 a.m.**

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, the Parole Board 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 78758, (512) 406-5407.

Filed: December 3, 1993, 9:49 a.m.

TRD-9332974

**Thursday-Friday, December 16-17, 1993, 1:00 p.m. and 9:00 a.m. respectively.**

Route 5, Box 258-A

Gatesville

According to the agenda summary, the Parole Board Panel(s) (composed of three board member(s)) will receive, review, and consider information and reports concerning

prisoners/inmates and administrative releases 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 78758, (512) 406-5407.

**Filed:** December 3, 1993, 9:49 a.m.

TRD-9332975

**Thursday-Friday, December 16-17, 1993, 1:30 p.m.**

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, the Parole Board Panel(s) (composed of three board member(s)) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases 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 78758, (512) 406-5407.

**Filed:** December 3, 1993, 9:49 a.m.

TRD-9332972

◆ ◆ ◆  
**Texas Public Finance Authority**

**Wednesday, December 15, 1993, 9:00 a.m.**

William P. Clements Building, 300 West 15th Street, Committee Room Five

Austin

According to the agenda summary, the Board will call the meeting to order; approval of October 7, 1993, board meeting minutes; consider a supplemental resolution to the Master Lease Purchase Program authorizing the expansion of the Master Lease Purchase Program from \$75,000,000 to \$100,000,000, and substituting the Texas Treasury as liquidity provider in place of CIBC; consider hiring bond counsel to prepare a supplemental resolution in connection with the expansion of the Master Lease Purchase Program and the substitution of the liquidity provider; report on Alternative Fuels Financing Program; consider a request for financing from the Texas Department of Criminal Justice in the amount of \$177,527,151; consider a request from Texas Department of Justice to transfer

moneys from project fund balances to other authorized projects; discuss formulation of ethics policy; approve form of autopsy report for competitive issues and for negotiated issues; discuss selection of co-financial advisor and procedures related thereto; consider authorizing the executive director to retain bond counsel to perform on-going compliance on bond issues, on an as needed basis, where fees may not exceed \$3,000; other business; and adjournment. Persons with disabilities who have special communication or other needs who are planning to attend the meeting should contact Brett Larson or Evelyn Casper at (512) 463-5544. Requests should be made as far in advance as possible.

**Contact:** Michell Frazier, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

**Filed:** December 6, 1993, 5:12 p.m.

TRD-9333169

◆ ◆ ◆  
**Public Utility Commission of Texas**

**Monday, December 13, 1993, 3:00 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 12009-application of GTE Southwest, Inc., and Contel of Texas, Inc. to provide new services and equipment in its Respective Emergency Services 9-1-1 tariff.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 2, 1993, 11:29 a.m.

TRD-9332927

**Wednesday, December 15, 1993, 9:00 a.m.**

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12456-application of East Texas Electric Cooperative, Inc to amend Certificate of Convenience and Necessity for a proposed transmission line within Anderson, Houston, Cherokee, Smith, and Van Zandt Counties

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 3, 1993, 3:44 p.m.

TRD-9333041

**Thursday, December 16, 1993, 9:00 a.m.**

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12535-application of Cap Rock Electric Cooperative, Inc for authority to change rates.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 6, 1993, 2:47 p.m.

TRD-9333149

**Monday, December 20, 1993, 1:30 p.m.**

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12476-complaint of Amberwood, Inc. against Houston Lighting and Power Company

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 6, 1993, 3:22 p.m.

TRD-9333153

◆ ◆ ◆  
**Railroad Commission of Texas**

**Friday, December 3, 1993, 3:30 p.m.**

1701 North Congress Avenue, 12th Floor Conference Room 12-100

Austin

Emergency meeting

According to the complete agenda, the commission responded to the Council on Competitive Government's Request for bids relating to the Comptroller's print shop.

Reason for Emergency: The emergency status was necessary as responses to the Council on Competitive Government's request for bid relating to the Comptroller's Print Shop was due December 3, 1993; approval by the Commission of the final draft of the Commission's response was required before submission. The next regular meeting of the Commission is December 13, 1993, after the deadline for submitting a response

**Contact:** Brenda Loudermilk, P O Box 12967, Austin, Texas 78701, (512) 463-7149

**Filed:** December 3, 1993, 12:30 p.m.

TRD-9332999

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111  
Austin

According to the complete agenda, the Commission will consider and act on the Personnel Division Director's report on division administrations, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel. The following matters will be taken up for consideration and/or decision by the commission; commission budget, fiscal, administrative or procedural matters, strategic planning; and personnel and staffing, including restructuring or transferring the Oil Field Theft Division.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

Filed: December 3, 1993, 11:14 a.m.

TRD-9332979

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111  
Austin

According to the complete agenda, the commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin Hodgkiss, P.O. Box 12967, Austin, Texas 78701, (512) 463-6901.

Filed: December 3, 1993, 11:14 a.m.

TRD-9332980

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111  
Austin

According to the complete agenda, the Commission will consider and act on agency budget, fiscal and administrative matters and the administrative services division director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-2967.

Filed: December 3, 1993, 11 14 a.m.

TRD-9332981

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the automatic data processing division director's report on division administration, bud-

get, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: December 3, 1993, 11:14 a.m.

TRD-9332982

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: December 3, 1993, 11:14 a.m.

TRD-9332983

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the division director's report on budget, personnel and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: December 3, 1993, 11:15 a.m.

TRD-9332984

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider category determinations under §§102(c),(1),(B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755

Filed: December 3, 1993, 11:15 a.m.

TRD-9332985

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The commission may consider the procedural status of any contested case if 60 days

or more have elapsed from the date the hearing was closed or from the date the transcript was received. The following additional matters will be taken up for consideration and/or decision by the commission: contracts and grants; may discuss comionetas operations; may discuss the State of Texas Emergency Management Plan, Annex GG, Emergency Recovery Plan; and commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: December 3, 1993, 11:15 a.m.

TRD-9332986

**Monday, December 13, 1993, 9:30 a.m.**  
1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider Docket Number 03-0201710, commission called hearing to determine whether certain commission rules and regulations have been violated by County Management, Inc., Pecan Creek Unit, Well Number One, Giddings (Austin Chalk-Gas) Field, Fayette County, motion for rehearing.

Contact: David Clarkson, P.O. Box 12967, Austin, Texas 78711, (512) 463-6924.

Filed: December 3, 1993, 4:04 p.m.

TRD-9333043

**Friday, December 17, 1993, 8:30 a.m.**

1701 North Congress Avenue, 12th Floor  
Conference Room 12-126

Austin

According to the agenda summary, the Commission will hear oral argument concerning Docket Numbers 7B-94,861-7B-94,863, Bruce A. Clark, Franke Leases, Callahan County Regular Field, Callahan County.

Contact: Dwight Martin, P.O. Box 12967, Austin, Texas 78711, (512) 463-6924.

Filed: December 3, 1993, 11:13 a.m.

TRD-9332978

◆ ◆ ◆  
**Texas Rehabilitation Commission**

**Monday, December 13, 1993, 11:00 a.m.**

4900 North Lamar Boulevard, Room 6302

Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners will call the meeting to order; election of officers; recess to committee meetings, and adjourn.



**Contact:** Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

**Filed:** December 3, 1993, 4:59 p.m.

TRD-9333068

**Monday, December 13, 1993, 11:15 a.m.**  
4900 North Lamar Boulevard, Room 6302  
Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners Complaint Review Committee will call the meeting to order; review and discussion of complaints; and adjournment.

**Contact:** Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

**Filed:** December 3, 1993, 4:59 p.m.

TRD-9333067

**Monday, December 13, 1993, 11:45 a.m.**  
4900 North Lamar Boulevard, Room 6302  
Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners Continuing Education Committee will call the meeting to order; review and discussion of continuing education curriculum; and adjournment.

**Contact:** Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

**Filed:** December 3, 1993, 4:59 p.m.

TRD-9333066

**Monday, December 13, 1993, 1:00 p.m.**  
4900 North Lamar Boulevard, Room 6302  
Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners Application Review Committee will call the meeting to order; review and discussion of applications; and adjournment.

**Contact:** Linda Vaclavik, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

**Filed:** December 3, 1993, 4:58 p.m.

TRD-9333065

## Texas House of Representatives

**Monday, December 13, 1993, 1:30 p.m.**  
Capitol Extension, Room E1.030, 1100 North Congress Avenue  
Austin

According to the complete agenda, the Joint Interim Committee on the Texas Cultural Endowment Fund will call the meeting to order; presentation by Texas Arts Commis-

sion staff on implementation of House Bill 2223; staff presentation on funding options; discussion; other business; and adjournment.

**Contact:** Mark Moreno, Representative Junell's Office, P.O. Box 2910, Austin, Texas 78768-2910, (512) 463-0472.

**Filed:** December 3, 1993, 11:44 p.m.

TRD-9332992

## Texas County and District Retirement System

**Thursday, December 16, 1993, 9:00 a.m.**  
98 San Jacinto Boulevard, Little Colony Room  
Austin

According to the agenda summary, the Board of Trustees chairman will open meeting; approve minutes of September 23-24, 1993, regular board meeting; consider and pass on applications for service and disability retirement benefits; approve applications for TCDRS participation; discuss interest earnings on investments and determine interest rate for 1993; adopt resolutions regarding transfers to distributive benefits account of endowment fund and from endowment fund-general reserves account to expense fund; approve financial statements and budget amendment-depreciation expense; adopt budget for 1994; receive reports from chairman, actuary, legal counsel, investment counsel, and William A. Mercer; consider purchase of office building; adopt depository agreement; consider investment policy amendments; elect officers for 1994; and adjourn meeting.

**Contact:** Terry Horton, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

**Filed:** December 6, 1993, 2:24 p.m.

TRD-9333141

## Texas Senate

**Monday, December 13, 1993, 1:30 p.m.**  
1400 Congress Avenue, Capital Extension, Room E1.030  
Austin

According to the complete agenda, the Joint Interim Committee on the Texas Cultural Fund will call the meeting to order; presentation by Texas Arts Commission staff on implementation of House Bill 2223; staff presentation on funding options, discussion; other business; and adjournment.

**Contact:** Lisa Mayes, P.O. Box 12068, Austin, Texas 78711, (512) 463-0370.

**Filed:** December 6, 1993, 5:13 p.m.

TRD-9333170

**Monday, December 13, 1993, 1:30 p.m.**

1400 Congress Avenue, Capital Extension, Room E1.030

Austin

According to the complete agenda, the Texas State Laureate Poet Committee will hold an organizational meeting to discuss the selection of: one State Poet Laureate to serve through June 30, 1994; and one State Poet Laureate to serve from July 1, 1994, through June 30, 1995.

**Contact:** Mario Munoz, P.O. Box 12068, Austin, Texas 78711, (512) 463-0118.

**Filed:** December 6, 1993, 5:13 p.m.

TRD-9333172

**Friday, December 17, 1993, 10:00 a.m.**

University of Texas at Arlington, E. H. Heford University Center, Bluebonnet Ballroom

Arlington

According to the complete agenda, the Joint Select Committee to Review the Central Education Agency will call the meeting to order; summary of previous evaluations of the Central Education Agency; lunch; "The Do's and Dont's of Reorganization" public testimony on the above subject matter; update from Commissioner Meno on the revision of the Education Code; report from staff on Senate Bill 7 court proceedings and implementation, and adjournment.

**Contact:** Pat Hicks, One Capitol Square, Austin, Texas 78701, (512) 463-00100.

**Filed:** December 6, 1993, 5:13 p.m.

TRD-9333171

## Texas State Soil and Water Conservation Board

**Wednesday-Thursday, December 15-16, 1993, 1:00 p.m.**

311 North Fifth Street, Conference Room  
Temple

According to the complete agenda, the Board will hold a workshop to discuss and take appropriate action on the following implementation of Senate Bill 503, reauthorization of the Federal Clean Water Act; Coastal Zone Management Act, and agency strategic planning.

**Contact:** Robert G Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

**Filed:** December 6, 1993, 1:22 p.m.

TRD-9333134

## Texas Guaranteed Student Loan Corporation

Friday, December 10, 1993, 9:30 a.m.

12015 Park 35 Circle, Suite 300

Austin

According to the complete agenda, the Board of Directors will discuss approval of minutes; chair's report; personnel committee report; budget/finance/audit committee report; review and adopt Fiscal Year 1994 budget, executive session, consultation with attorneys on litigation issues, management salary review, review and approval of Ray, Wood and Fine Contract addendum; president's report, future meeting dates, and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Suite 300, Austin, Texas 78754, (512) 835-1900

Filed: December 2, 1993, 1:31 p.m.

TRD-9332934

## Supreme Court of Texas

Friday, December 17, 1993, 9:00 a.m.

First Floor, 201 West 14th Street

Austin

According to the complete agenda, the Task Force on Judicial Ethics will hold a discussion with members of the Supreme Court of Texas regarding Canon Five of the revised Texas Code of Judicial Conduct, and related provisions, concerning political activity by judges, public testimony concerning possible amendments to the Texas Code of Judicial Conduct and the operation of both the State Commission on Judicial conduct, and continued Task Force review of possible Code amendments and commission operations.

Contact: Irene Luvaul, P.O. Box 12248, Austin, Texas 78711, (512) 463-1344.

Filed: December 2, 1993, 1:34 p.m.

TRD-9332935

## Texas Sustainable Energy Development Council

Wednesday, December 15, 1993, 8:30 a.m.

Texas Public Utility Commission, 7800 Shoal Creek Boulevard, Commissioner's Hearing Room

Austin

According to the complete agenda, the Council will call the meeting to order, review and comment on *Texas Register* draft

requests for proposals, review and comment on preliminary work plan; review and comment on a petition to the Public Utility Commission to reduce barriers to renewable energy use, review new business as proposed by the Council; and adjourn.

Contact: Charlotte Banks, 201 East 14th Street, Austin, Texas 78701, (512) 463-1745

Filed: December 3, 1993, 1:47 p.m.

TRD-9333001

## Teacher Retirement System

Friday, December 10, 1993, 8:30 a.m.

1000 Red River Street, Fifth Floor Board Room

Austin

According to the agenda summary, the Board of Trustees will approve minutes, creation of and appointments to committees, designation of persons to serve as title-holding corporation directors, approval of fiduciary counsel, consideration of audit and real estate committee reports; amendment of pension and health insurance budgets, update on annual financial report, consideration of proposed rules, investment review and recommendations; selection of advisor for alternative asset investments, reports of active group health insurance program, member benefits division, general counsel, and executive director, update on health insurance survey of school districts, discussion of probationary status of chief financial officer, and evaluation of executive director. The Board may enter into closed session as provided by the Texas Open Meetings Act, §§2(e) and (g).

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: December 2, 1993, 3:55 p.m.

TRD-9332955

## The Texas A&M University System, Board of Regents

Wednesday, December 8, 1993, 6:00 p.m.

The Texas A&M University, MSC Annex, Clark Street, Board of Regents Meeting Room

College Station

According to the agenda summary, the Committee for Academic Campuses will consider the following items: mission statements for Texas A&M-Corpus Christi, Texas A&M-Kingsville, Texas A&M International and West Texas A&M; Center for Border Crime Research; Center for Demo-

graphics and Socioeconomics Research and Education; electronic history project; license agreements; establishment of Department of Environmental Engineering; and adoption of resolution to accept a landscape planning grant.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1993, 2:35 p.m.

TRD-9332950

Thursday, December 9, 1993, 9:00 a.m.

The Texas A&M University, Facilities Planning and Construction Building, University Drive and Asbury, Conference Room 200

College Station

According to the agenda summary, the Facilities Planning and Building will discuss initiation of construction projects, appropriations for designs; allocation for designs; selection of architect/engineers, and reports from system administration

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1993, 3:10 p.m.

TRD-9332951

Thursday, December 9, 1993, 11:00 a.m.

The Texas A&M University, MSC Annex, Clark Street, Board of Regents Meeting Room

College Station

According to the agenda summary, the Board of Regents will discuss 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, emeritus titles, appointments and promotions, terminations, tenure, contract

actions by the Chancellor or CEOs, construction project appropriations by the Chancellor; resolution on FAMIS; budget and fiscal transfers, salary increases and new positions; and gifts, grants, loans and bequests.

**Contact:** Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

**Filed:** December 2, 1993, 4:25 p.m.

TRD-9332963

**Thursday, December 9, 1993, 11:00 a.m. (Reconvene Friday, December 10, 1993, 8:00 a.m.)**

The Texas A&M University, MSC Annex, Clark Street, Board of Regents Meeting Room

College Station

Revised agenda

According to the revised agenda summary, the Board of Regents will authorize Texas A&M University to contract for the provision of electricity, steam, chilled water and hot water.

**Contact:** Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

**Filed:** December 6, 1993, 11:29 a.m.

TRD-9333106

**Thursday, December 9, 1993, 11:00 a.m. (Reconvene Friday, December 10, 1993, 8:00 a.m.)**

The Texas A&M University, MSC Annex, Clark Street, Board of Regents Meeting Room

College Station

Revised agenda

According to the revised agenda summary, the Board of Regents will authorize Texas A&M University to contract for the provision of electricity, steam, chilled water and hot water.

**Contact:** Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

**Filed:** December 6, 1993, 1:22 p.m.

TRD-9333135

## Texas Turnpike Authority

**Tuesday, December 14, 1993, 9:00 a.m.**

3015 Raleigh Street

Dallas

According to the agenda summary, the Contract Awards Committee will consider the following: executive session, with respect to

the Dallas North Tollway project various supplemental agreements to existing contracts, Contract DNT RM-155, and Interlocal Agreement Contract DNT-205, interagency agreement with the Texas Attorney General, contracts for an executive search firm, Contract FSF-40, and Supplemental Agreement Number Four to Contract MLB-17

**Contact:** Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200

**Filed:** December 3, 1993, 4:04 p.m.

TRD-9333044

**Tuesday, December 14, 1993, 9:00 a.m.**

3015 Raleigh Street

Dallas

Revised agenda

According to the revised agenda summary, the Contract Awards Committee will consider the following executive session, with respect to the Dallas North Tollway project various supplemental agreements to existing contracts, Contract DNT RM-155, and Interlocal Agreement Contract DNT-205, interagency agreement with the Texas Attorney General, contracts for an executive search firm, Contract FSF-40, and Supplemental Agreement Number Six to Contract MLB-17

**Contact:** Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

**Filed:** December 14, 1993, 10:20 a.m.

TRD-9333100

## University of Texas System

**Tuesday, December 14, 1993, 10:00 a.m.**

Midland Hilton Hotel

Midland

According to the agenda summary, the Board for Lease of University Lands will discuss approval of the August 12, 1993, minutes of the Board for Lease meeting, approval of tracts offered and opening of bids received on or before Tuesday, December 14, 1993, report on Board for Lease in-kind royalty oil sale, report on release of old geological data, discussion of future lease sale, and approval of lease awards to highest bidders

**Contact:** Linward Shivers, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4462

**Filed:** December 2, 1993, 1:23 p.m.

TRD-9332928

## Texas Board of Veterinary Medical Examiners

**Tuesday, December 14, 1993, 11:00 a.m.**

Texas A&M University, MSC, Room 140 College Station

According to the complete agenda, the December Examination Review Committee will review examination results, convene in open session and then go into executive session in accordance with Opinion of Attorney General H-484, 1974 and JM-640, 1987

**Contact:** Ron Allen, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183

**Filed:** December 6, 1993, 9:54 a.m.

TRD-9333090

## Regional Meetings

**Meetings Filed December 2, 1993**

**The Bastrop Central Appraisal District Appraisal Review Board** met at 1200 Cedar Street, Bastrop, December 9, 1993, at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925. TRD-9332945

**The Brazos Valley Development Council Brazos Valley Regional Advisory Committee** on Aging met at the Council Offices, 1706 East 29th Street, Bryan, December 7, 1993, at 2:30 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9332947.

**The Jasper County Appraisal District (Revised agenda.) Board of Directors** met at 137 North Main, Jasper CAD Office, Jasper, December 9, 1993, at 5:00 p.m. Information may be obtained from David W. Luther, 137 North Main, Jasper, Texas 75951, (409) 384-2544. TRD-9332939.

**The Lower Colorado River Authority Retirement Benefits Committee** met at 3701 Lake Austin Boulevard, Hancock Building, Room 110, Austin, December 7, 1993, at 11:30 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3371. TRD-9332954

**The Permian Basin Regional Planning Commission Board of Directors** met at 2910 La Force Boulevard, Midland International Airport, Midland, December 8, 1993, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1063. TRD-9332948

**The Region 14 Education Service Center (Revised agenda.)** Board of Directors will meet at 1850 Highway 351, Abilene, December 16, 1993, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601 TRD-9332943.

**The San Antonio-Bexar County Metropolitan Planning Organization Inermodal Terminal Study Oversight Committee** will meet in the Second Floor Conference Room-Convention Center, Administrative Office (Alamo at Market), San Antonio, December 10, 1993, at 2:00 p.m. Information may be obtained from Charlotte Roszelle, 434 South Main, Suite 205, San Antonio, Texas 78204, (210) 227-8651 TRD-9332936

**The Texas Panhandle Mental Health Authority Board of Trustees** met at 7201 I-40 West, Second Floor, Amarillo, December 9, 1993, at 10:30 a.m. Information may be obtained from Shirley Hollis, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699 TRD-9332926

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**Meetings Filed December 3, 1993**

**The Austin-Travis County MHMR Center Finance and Control Committee** met at 1430 Collier Street, Austin, December 7, 1993, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141 TRD-9333000

**The Austin-Travis County MHMR Center Board of Trustees** met at 1430 Collier Street, Board Room, Austin, December 9, 1993, at 8:00 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-4031 TRD-9333073

**The Barton Springs/Edwards Aquifer Conservation District Board of Directors-Regular Meeting** met at 1124-A Regal Row, Austin, December 9, 1993, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441 TRD-9332996

**The Central Appraisal District of Taylor County Board of Directors** will meet at 1534 South Treadway, Abilene, December 15, 1993, at 1:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381 TRD-9333031

**The Coastal Bend Council of Governments Membership** will meet at the Nueces County Courthouse, Commissioners Courtroom, Third Floor, 901 Leopard Street, Corpus Christi, December 10, 1993, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus

Christi, Texas 78469, (512) 883-5743. TRD-9332969.

**The Coleman County Water Supply Corporation Board of Directors** met at The Corporation office, 214 Santa Anna Avenue, Coleman, December 8, 1993, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9332977

**The Dallas Area Rapid Transit Board of Directors' Meeting** met at 1401 Pacific Avenue, DART Conference Room "C", First Floor, Dallas, December 7, 1993, at 11:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific, Dallas, Texas 75202, (214) 749-3347. TRD-9332990

**The Dallas Area Rapid Transit Committee-of-the-Whole** met at 1401 Pacific Avenue, DART Conference Room "C", First Floor, Dallas, December 7, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific, Dallas, Texas 75202, (214) 749-3347. TRD-9332990

**The Denton Central Appraisal District Appraisal Review Board Meeting** will meet at 3911 Morse Street, Denton, December 15, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904 TRD-9332991

**The Denton Central Appraisal District Board of Directors Meeting** will meet at 3911 Morse Street, Denton, December 21, 1993, at 5:00 p.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904 TRD-9333029

**The East Texas Council of Governments Executive Committee** met at ETCOG Office, Kilgore, December 9, 1993, at 2:00 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641 TRD-9332994

**The Golden Crescent Regional Planning Commission (Revised Agenda.) Board of Directors** met at Building #102, Victoria Regional Airport, Victoria, December 8, 1993, at 5:00 p.m. Information may be obtained from Wanda Mercer, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587 TRD-9333026

**The Golden Crescent Private Industry Council** met at 2401 Houston Highway, Victoria, December 8, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872 TRD-9333027

**The Gonzales County Appraisal District Board of Directors** met at 928 Saint Paul

Street, Gonzales, December 9, 1993, at 6:00 p.m. Information may be obtained from Glenda Strackbein, 928 Paul Street, Gonzales, Texas 78629, (210) 672-2879. TRD-9333074

**The Hickory Underground Water Conservation District Number One Board and Advisors** met at 2005 South Bridge Street, Brady, December 9, 1993, at 6:15 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9333058.

**The Hockley County Appraisal District Appraisal Review Board** met at 1103-C Houston, Levelland, December 7, 1993, at 7:00 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654 TRD-9333059

**The Lee County Appraisal District Appraisal Review Board** met at 218 East Richmond Street, Giddings, December 8, 1993, at 9:00 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942 (409) 542-9618. TRD-9333042

**The Lower Rio Grande Valley Tech Prep Consortium** also known as Tech Prep of the Rio Grande Valley, Inc. Board of Directors met at the TSTC Conference Center (formerly Short Course Center), 2424 Boxwood, Harlingen, December 8, 1993, 3:00 p.m. Information may be obtained from Pat Bubb, TSTC Conference Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9332958

**The Manville Water Supply Corporation Board of Directors** met at Manville Office in Coupland off Highway 95 on Spur 277, Coupland, December 9, 1993, at 7:00 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044 TRD-9333030

**The Mason County Appraisal District Board of Directors** will meet at 202 Westmoreland, Mason, December 13, 1993, at 10:30 a.m. Information may be obtained from Deborah Geistweidt, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989 TRD-9333005

**The Sabine Valley Center Board of Trustees** met at 107 Woodbine Place, Administration Building, Bramlette Lane, Longview, December 9, 1993, at 7:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, 107 Woodbine Place, Longview, Texas 75601, (903) 758-2471 TRD-9332987

**The West Central Texas Council of Governments Private Industry Council** met at 1025 East North Tenth Street Abilene, December 9, 1993, at 10:30 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544 TRD-9333002

**Meetings Filed December 6,  
1993**

**The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees** met at 1430 Collier Street, Board Room, Austin, December 9, 1993, at 8:00 a.m. The emergency revised agenda was necessary to as items added to agenda needed immediate board action. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9333151.

**The Bosque County Central Appraisal District Appraisal Review Board** will meet at Highway 6 at the Circle, Meridian, December 10, 1993, at 9:00 a.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9333150.

**The Ellis County Appraisal District Appraisal Review Board** will meet at 406 Sycamore Street, Waxahachie, December 14, 1993, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552 TRD-9333167.

**The Ellis County Appraisal District Appraisal Review Board** will meet at 406 Sycamore Street, Waxahachie, December 15, 1993, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552 TRD-9333168.

**The Erath County Appraisal District Board of Directors** will meet at 1390 Harbin Drive, Board Room, Stephenville, December 14, 1993, at 7:00 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9333088.

**The Education Service Center Region 12 Administrative-Board of Directors** will meet at 401 Franklin Street, Waco, December 17, 1993, at 9:00 a. m Information may be obtained from Harry J Beavers, P.O Box 1249, Waco, Texas 76703-1249, (817) 756-7494 TRD-9333101

**The Gonzales County Appraisal District Board of Directors** met at 928 St Paul Street, Gonzales, December 9, 1993, at 6:00 p.m. Information may be obtained from Glenda Strackbein, P O Box 867, Gonzales, Texas 78629, (512) 672-2879 TRD-9333103.

**The Henderson County Appraisal District Board of Directors** will meet at 1751 Enterprise Street, Athens, December 13, 1993, at 7:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9333098.

**The Middle Rio Grande Quality WorkForce Council** met at the Holiday Inn, Rose Room, Uvalde, December 8, 1993, at 12 30 p.m. Information may be obtained from Pat Gonzales, 209 North Getty, Uvalde, Texas 78801, (512) 278-2528. TRD-9333104

**The North Texas Municipal Water District Board of Directors** will meet at the Administrative Offices, 505 East Brown Street, Wylie, December 16, 1993, at 4:00 p.m Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405 TRD-9333091

**The Nueces-Jim Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors** will meet at the SCS Office, 548 South Highway 77, Suite B, Robstown, December 14, 1993, at 2.00 p m Information may be obtained from Denuse Lawhon, 548 South Highway 77, Suite B, Robstown, Texas 78380, (512) 668-8363. TRD-9333092

**The Palo Pinto Appraisal District Board of Directors** will meet at the Palo Pinto County Courthouse, Palo Pinto, December 15, 1993, at 3 00 p m Information may be obtained from Jackie F. Samford, P.O Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9333079.

**The Region VIII Education Service Center Board of Directors** will meet at the Mt. Pleasant Country Club, 1000 Country Club Lane, Mt Pleasant, December 17, 1993, at 10.45 a.m Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt Pleasant, Texas 75456-1894, (903) 572-8551 TRD-9333144.

**The San Antonio River Authority Board of Directors** will meet at 100 East Guenther Street, December 15, 1993, at 2:00 p m Information may be obtained from Fred N Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373 TRD-9333089

**The Southwest Milam Water Supply Corporation Board** will meet at Bob's Steakhouse, Industrial Boulevard, Cameron,

December 14, 1993, at 7:00 p. m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9333102.

**The Tarrant Appraisal District Tarrant Appraisal Review Board** will meet at 2329 Gravel Road, Fort Worth, December 15-16, 1993, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884 TRD-9333136

**The Tax Appraisal District of Bell County Board of Directors** will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, December 15, 1993, at 7:00 p.m. Information may be obtained from Mike Watson, P O Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 26 TRD-9333143.

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**Meetings Filed December 7,  
1993**

**The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees** met at 1430 Collier Street, Board Room, Austin, December 9, 1993, at 8.00 a m (Emergency revised agenda). The emergency status was necessary as items added to agenda needed immediate board action Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141 TRD-9333178.

**The Central Appraisal District of Nolan County Board of Directors** will hold an emergency meeting at the Nolan County Courthouse, Third Floor, 100 East Third Street, Sweetwater, December 10, 1993, at 7 00 a m The emergency status is necessary as this was the only time a quorum can be formed. Information may be obtained from Steven G. Beck, P.O Box 1256, Sweetwater, Texas 79556, (915) 235-8421 TRD-9333182

**The TML Group Benefits Risk Pool Board of Trustees, Group Benefits Risk Pool** will meet at Southwest Towers, Austin, December 10, 1993, at 10:00 a.m Information may be obtained from Suzanne Steindorf, 211 East Seventh Street, Austin, Texas 78701, (512) 320-7861 TRD-9333176

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CONTOUR: CLOTH (HATCH-VALUE)



Name: Robert Woods

Grade: 12

School: Skyline High School, Dallas ISD

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas State Board of Public Accountancy

### Correction of Error

The Texas State Board of Public Accountancy submitted a Notice of Public Hearing for proposed changes to four of the *Rules of Professional Conduct* to be held at 10 00 a.m., January 19, 1994 in the William Hobby State Office Building, 333 Guadalupe, Room 100, in Austin. The notice appeared in the December 3, 1993, *Texas Register* (18 TexReg 8997).

Due to a typographical and proofreading error by the *Texas Register* the Table of Contents lists the notice as appearing on page 8897. The notice was printed on page 8997.



## Texas Commission on Alcohol and Drug Abuse

### Correction of Error

The Texas Commission on Alcohol and Drug Abuse submitted a Notice of Open Meeting for the Board of Commissioners to meet on Tuesday, December 14, 1993, 8:30 a.m. The notice was published in the December 13, 1993, *Texas Register* (18 TexReg 8982).

An agenda item was published as "action on adoption of Committee activities" It should read "action on adoption of agency policies; report on Offender Credentialing Committee activities, report on Grant and Contract Review Committee activities"



## Texas Department of Criminal Justice

### Correction of Error

The Department of Criminal Justice adopted 37 TAC §§152.21, 152.22, and 152.31. The rules appeared in the December 3, 1993, *Texas Register* (18 TexReg 8975).

Due to a proofreading error by the *Texas Register* the preamble read that the agency adopted the repeal of the rules. The rules are not repealed. They were adopted without changes to the proposed text as published in the October 8, 1993, *Texas Register* (18 TexReg 6940).



## Employees Retirement System of Texas

### Request for Proposals

In accordance with Texas Insurance Code, Article 3.50-2, as amended, the Employees Retirement System of

Texas (ERS) announces a Request for Proposals (RFP) to provide ongoing technical assistance to the ERS in the maintenance of a flexible benefits program for state employees. The plan shall include, but not be limited to, general consultant services, communication and enrollment, and administration.

Firms wishing to respond to the request must have prior demonstrated work experience in the areas for which it proposes to provide flexible benefits consultative services to the ERS. In addition, firms should have a working knowledge of the State of Texas policies and procedures which may affect the delivery of a flexible benefits program.

The RFP instructions which detail information regarding the project are available upon request from the ERS.

The deadline for receipt of the proposals in response to this request will be 5 00 p.m., central standard time, December 20, 1993.

The ERS reserves the right to accept or reject any or all proposals submitted. The ERS is under no legal requirement to execute a resulting contract on the basis of this advertisement.

The ERS intends to use responses as a basis for further negotiations of specific plan details. The ERS will base its choice on cost, 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 Yuri Prentice, Director of Flexible Benefits, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207, (512) 867-3296.

Issued in Austin, Texas, on December 2, 1993.

TRD-9332957

Charles D. Travis  
Executive Director  
Employees Retirement System of Texas

Filed: December 2, 1993



**Texas Environmental Awareness  
Network**

**Notice of Monthly Meeting**

The Texas Environmental Awareness Network, an association of state agency and environmental and educational organizations, will meet Wednesday, December 8, 1993, at 9:00 a.m. at Texas Parks and Wildlife Department, Wild Basin Preserve Offices, 805 South Capital of Texas Highway, Austin, Texas 78746.

For information about the meeting, or to place an item on the agenda, contact Bob Murphy, TEAN Team Leader, at (512) 389-4360.

Issued in Austin, Texas, on November 30, 1993.

TRD-9332886      John Williams  
                            Secretary  
                            Texas Environmental Awareness Network

Filed: December 1, 1993



**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
-----	----	-----	----	-----	-----
Richmond	Southern Cotton Oil Company	L04732	Richmond	0	11/29/93
Sugar Land	Information and Computing Technology, Inc.	L04731	Sugar Land	0	11/15/93
Throughout Texas	Art's Inspection and Pipe Service	L04735	Odessa	0	11/17/93
Throughout Texas	Hydrogeologic/Engineering of Texas, Inc.	L04740	Galveston	0	11/29/93
Throughout Texas	ATSER Corporation	L04741	Houston	0	11/30/93

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Alvin	GAMX	L04375	Friendswood	5	11/23/93
Amarillo	Syncor International Corporation	L03398	Amarillo	15	11/15/93
Arlington	HCA Arlington Medical Center	L02228	Arlington	33	11/16/93
Austin	Texas Research Institute, Inc.	L02632	Austin	11	11/15/93
Bellville	Bellville General Hospital	L03295	Bellville	12	11/12/93
Conroe	Medical Center Hospital	L01769	Conroe	32	11/17/93
Corpus Christi	Radiology Associates	L04169	Corpus Christi	9	11/15/93
Dallas	Kaiser Foundation Health Plan of Texas	L03755	Dallas	15	11/15/93
El Paso	Columbia Medical Center - East	L02551	El Paso	22	11/15/93
El Paso	Sierra Medical Center	L02365	El Paso	23	11/22/93
Fort Worth	All Saints Episcopal Hospital	L02212	Fort Worth	30	11/15/93
Fort Worth	Syncor International Corporation	L02905	Fort Worth	35	11/16/93
Hondo	Medina Community Hospital	L03323	Hondo	8	11/15/93
Houston	Yale Clinic and Hospital	L02047	Houston	12	11/15/93
Houston	Bellaire General Hospital	L02038	Houston	22	11/16/93
Houston	Diagnostic Clinic of Houston	L03452	Houston	15	11/17/93
Houston	Sunbelt Regional Medical Center	L03306	Houston	13	11/15/93
Houston	Rice University	L01772	Houston	13	11/18/93
Houston	Kelsey-Seybold Clinic, P.A.	L00391	Houston	39	11/23/93
Houston	St. Luke's Episcopal Hospital & Texas Heart Institute	L00581	Houston	49	11/29/93
Humble	Northeast Medical Center Hospital	L02412	Humble	35	11/22/93
Kilgore	Ana-Lab Corporation	L04451	Kilgore	1	11/24/93
Kosse	U. S. Silica Company	L03150	Kosse	7	11/30/93

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Lubbock	Methodist Hospital	L00483	Lubbock	75	11/24/93
Lufkin	Memorial Medical Center of East Texas	L01346	Lufkin	50	11/15/93
Midland	West Texas Nuclear Pharmacy, Partners	L04573	Midland	6	11/15/93
Pasadena	N D S Products	L00991	Pasadena	32	11/29/93
San Antonio	South Texas Interventional Vascular Group	L04377	San Antonio	2	11/15/93
San Antonio	Women's and Children's Hospital	L03656	San Antonio	13	11/12/93
San Antonio	Metropolitan Hospital	L02232	San Antonio	28	11/19/93
San Antonio	SmithKline Beecham Clinical Laboratories	L02417	San Antonio	17	11/22/93
Tahoka	Lynn County Hospital District	L03383	Tahoka	8	11/18/93
Texas City	Phibro Energy USA, Inc.	L02578	Texas City	13	11/29/93
Throughout Texas	Service and Compliance Consultants	L03873	Coldspring	8	11/15/93
Throughout Texas	Midland Inspection and Engineering, Inc.	L03724	Odessa	44	11/18/93
Throughout Texas	Quality Assurance Services Inc.	L04601	Grand Prairie	4	11/18/93
Throughout Texas	Ebasco Services Inc.	L02662	Houston	39	11/18/93
Throughout Texas	Longview Inspection, Inc.	L03720	Longview	48	11/18/93
Throughout Texas	Longview Inspection	L01774	Houston	75	11/18/93
Throughout Texas	Texas Tech University	L01536	Lubbock	48	11/15/93
Throughout Texas	SiTECH, Inc.	L04073	Port Neches	26	11/23/93
Throughout Texas	Southern Services, Inc.	L02683	Lake Jackson	42	11/23/93
Throughout Texas	Dyess-Peterson Testing Laboratory, Inc.	L01123	Amarillo	39	11/29/93
Throughout Texas	Industrial NDT Company, Inc.	L04570	Deer Park	7	11/29/93
Throughout Texas	Kooney X-Ray, Inc.	L01074	Barker	68	11/30/93
Throughout Texas	Suntrac Services, Inc.	L03062	Webster	14	11/30/93
Wichita Falls	Wichita General Hospital	L00350	Wichita Falls	48	11/15/93

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Arp	Baker Tank Company	L02599	Arp	20	11/15/93
Deer Park	SGS Control Services, Inc.	L02901	Deer Park	6	11/30/93
Houston	Twelve Oaks Hospital	L02432	Houston	14	11/19/93
Houston	Osteoporosis Diagnostic Center of Houston	L03728	Houston	10	11/22/93
Port Arthur	Fina Oil and Chemical Company	L03498	Port Arthur	10	11/30/93
Throughout Texas	Coastal Testing Laboratories, Inc.	L01945	Houston	23	11/18/93
Throughout Texas	City of Arlington	L02899	Arlington	6	11/29/93

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Throughout Texas	Southern Inspection Service	L01657	Houston	12	11/18/93
Throughout Texas	Westinghouse Electric Corporation	L04610	Pittsburgh, PA	2	11/18/93

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Action
-----	----	-----	----	-----	-----
Galveston	University of Texas Medical Branch	L01299	Galveston	0	11/19/93

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 December 1, 1993.

TRD-9333003 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: December 3, 1993

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**Texas Department of Human Services**  
**Public Notice Open Solicitation**

Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Jim Hogg County, County Number 124, identified in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5679). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced area must submit a written reply (as described in 40 TAC §19.2004) to TDHS. Gary L. Allen, Certification, Provider Enroll-

ment and Billing Services, Long Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333094 Nancy Murphy  
Section Manager, Policy and Document  
Support  
Texas Department of Human Services

Filed: December 6, 1993

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**Texas Department of Insurance**  
**Cancellation of Notice of Public Hearings**

This is the written request by the Texas Department of Insurance that the following items which were submitted for posting to The *Texas Register* on October 27, 1993, be cancelled:

TRD-9331134-Public Hearing under Docket Number 2059 (November 29, 1993, 10: 00 A.M.);

**Company License**

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for name change in Texas for Southwest International Reinsurance Company, a foreign fire and casualty company. The proposed new name is General Security Indemnity Company. The home office is in New York, New York.

Application for name change in Texas for American Spirit County Mutual Insurance Company, a domestic fire and casualty company. The proposed new name is Great Texas County Mutual Insurance Company. The home office is in Dallas.

Application for name change in Texas for Zurich American Life Insurance Company, a foreign life, accident, and health company. The proposed new name is Zurich Life Insurance Company of America. The home office is in Schaumburg, Illinois.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333063 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of Insurance

Filed: December 3, 1993

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**Consulting Services—Award of Contract**

The Texas Department of Insurance (the department), in accordance with the provisions of Texas Civil Statutes, Article 6252-11c (codified under Chapter 2254, Subchapter B, Government Code), files this statement of award of contract for consulting services.

On November 30, 1993, the department executed a contract for consulting services to assist the department in the transition required by the department's sunset legislation. On November 18, 1993, the department received, in ac-

cordance with the provisions of Texas Civil Statutes, Article 6252-11c, §10, an emergency waiver from the Governor's Budget and Planning Office.

**Emergency.** The department requested and received an emergency waiver from the Governor's Budget and Planning Office from the requirements of Texas Civil Statutes, Article 6252-11c, §4 and §5. Due to an unforeseen emergency, the department had a substantial need for the consulting services in a time frame which made compliance with §4 and §5 not feasible.

The nature of the department's unforeseen emergency was the interaction of new state legislation with the dates of the Governor's announcement of her nominee for Commissioner of Insurance and the assumption of duties by that individual. Under the provisions of House Bill Number 1461, 73rd Texas Legislature, Regular Session, the department must implement a transition from a regulatory agency under the direction of both the State Board of Insurance and the Commissioner of Insurance to a regulatory agency under the direction of the Commissioner of Insurance (the transition). On October 8, 1993, the Governor announced her nominee for Commissioner of Insurance, J. Robert Hunter; the date announced for Mr. Hunter's assumption of the Commissioner's duties was November 1, 1993. Under the provisions of §1.23 of House Bill Number 1461, Mr. Hunter's November 1, 1993 assumption of the Commissioner's duties included assumption of authority over areas of activity of the department which were under the authority of the State Board of Insurance prior to September 1, 1993.

The department had a substantial need for the consulting services effective November 1, 1993, the date of the appointed Commissioner's assumption of duties and could not comply with Texas Civil Statutes, Article 6252-11c, §4 and §5 prior to that date. The appointed Commissioner's assumption of duties presented the department with significant and immediate issues for which the department required technical expertise. The department could not adequately perform the consulting services with its own personnel or through interagency contract.

The department based its choice of the Consultant on the Consultant's demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services.

**Project Description.** The selected Consultant shall assist the department by providing recommendations to the department in connection with the transition.

Consultant shall provide the department with biweekly written or oral status reports of Consultant's services under the contract. Consultant shall provide, on or before January 15, 1994, a final written report and oral report which includes detailed recommendations for the department's implementation of this transition. Consultant's recommendations shall include recommendations for the effective and efficient management of the department's regulatory duties.

Consultant shall meet with members of the State Board of Insurance individually, the Commissioner of Insurance, key department personnel and others to discuss matters required for Consultant's performance under the contract.

**Name and Address of Consultant.** Steven L. Miller, Senior Consultant, Manatt, Phelps & Phillips, 11355 West Olympic Boulevard, Los Angeles, California 90064.

**Value of Contract and Effective Date.** The value of the contract shall not exceed \$45,000. The term of the contract is November 19, 1993, the effective date of the waiver, through February 18, 1994, unless earlier terminated as provided in the contract. Consultant shall be evaluated under standards of performance outlined in the contract prior to payment of any invoices under the contract.

**Due Date of Reports.** Consultant shall provide the department with biweekly written or oral status reports. On or before January 15, 1994, Consultant shall provide the department with a final written report and oral report which includes recommendations for the department's implementation of the transition.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333062 Linda K. von Quintus-Dom  
Chief Clerk  
Texas Department of Insurance

Filed: December 3, 1993

◆ ◆ ◆  
**Transfer of Authority to the  
Commissioner of Insurance**

On November 18, 1993, came on for consideration the transfer of the authority of the State Board of Insurance granted under subsection (c) of §1.23 of House Bill 1461, 73rd Legislature, 1993, to the Commissioner of Insurance. After consultation with Commissioner Hunter, due deliberation and consideration the Board voted, without objection, to transfer this authority to the Commissioner of Insurance effective December 16, 1993.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333060 Linda K. von Quintus-Dom  
Chief Clerk  
Texas Department of Insurance

Filed: December 3, 1993

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**Texas Department of Mental Health  
and Mental Retardation**

**Public Hearing Regarding Chapter 405,  
Subchapter E (Electroconvulsive  
Therapy)**

The Texas Department of Mental Health and Mental Retardation (TXMHMR) will be holding a public hearing at 9:00 a.m., Friday, December 17, 1993, in the Central Office Auditorium located at 909 West 45th Street, Austin. The purpose of this public hearing will be to accept oral and written testimony concerning the proposal of Chapter 405, Subchapter E, of Title 25, concerning electroconvulsive therapy. Individuals requiring an interpreter for the hearing impaired should contact Linda Logan, Director of Policy Development, by calling (512) 206-4516 at least 72 hours prior to the hearing.

Issued in Austin, Texas, on December 2, 1993.

TRD-9332941 Linda Logan  
Director, Policy Development  
Texas Department of Mental Health and  
Mental Retardation

Filed: December 2, 1993

## Public Hearing Regarding §401.464 (Notification and Appeals Process)

The Texas Department of Mental Health and Mental Retardation (TXMHMR) will be holding a public hearing at 9:00 a.m., Wednesday, December 15, 1993, in the Central Office Auditorium located at 909 West 45th Street, Austin. The purpose of this public hearing will be to accept oral and written testimony concerning the proposal of §401.464 of Title 25 (relating to Notification and Appeals Process). Individuals requiring an interpreter for the hearing impaired should contact Linda Logan, Director of Policy Development, by calling (512) 206-4516 at least 72 hours prior to the hearing.

Issued in Austin, Texas, on December 3, 1993.

TRD-9332942  
Linda Logan  
Director, Policy Development  
Texas Department of Mental Health and  
Mental Retardation

Filed: December 2, 1993

## Texas Natural Resource Conservation Commission Correction of Errors

The Texas Natural Resource Conservation Commission proposed amendments to 30 TAC §305.69, concerning solid waste permit modification at the request of the permittee, §305.502, concerning waste treatment fee program, §§335.501-335.503, and 335.507-335.514, concerning waste classification. The rules were published in the November 23, 1993, *Texas Register* (18 TexReg 8640).

On page 8643, third column, under §305.69(h), the word "newly" was misspelled.

On page 8648, in the preamble to §§305.501-305.507, the reference to §305.502 was misprinted as "concerning to definitions". It should read "relating to definitions". Also, the reference to an amount in Stephen Minick's analysis was misprinted as "\$1,160.00". It should read "\$1,160,000".

On page 8661, second column, fifth paragraph, third line, the word "Commission" was omitted. It should read "...Texas Natural Resource Conservation Commission".

On page 8663, first column, under §335.508(7)[(6)], the reference to "Texas Solid Waste Disposal Act, the Health and Safety Code, §361.019" should be followed with "(Vernon Pamphlet 1992)".

On page 8663, second column, under §335.509(c), the word "he" should be in brackets. It should read "Upon request of [he]the executive director...."

## Declaration of Administrative Completeness and Application to Renew Texas Weather Modification License

Declarations of Administrative Completeness and Applications to Renew Weather Modification Licenses were issued on December 2, 1993. Issuance of a license, or renewal of an existing license, merely certifies that the

person(s) or organization holding the license is(are) competent to conduct weather modification activities. A permit is required before the licensee can actually begin conducting weather modification/control activities.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain matters. The Executive Director will renew the licenses unless one or more persons file written protests and/or requests for hearing within ten days from the date these notices are published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the application number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed conditions which would satisfy your concerns and cause you to withdraw your request for hearing.

If one or more protests and/or requests for hearing are filed, the Executive Director will not renew the license and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will renew the licenses ten days after *Texas Register* publication of this notice, or thereafter. If you wish to appeal a license renewed by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the license renewal.

Requests for a public hearing or questions concerning procedures should be submitted in writing to Bill Ehret, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Atmospherics Incorporated; Application Number 9313883; license initially issued in 1970, renewed 1971-1979 and each subsequent year since 1989; application is for renewal for State Fiscal Year 1994; applicant has conducted rainfall-augmentation operations in areas of western Texas from the Caprock to the Concho Valley.

Colorado River Municipal Water District; Application Number 9313566; license initially issued in 1971 and renewed each subsequent year since 1971; application is for renewal for State Fiscal Year 1994; applicant has conducted rainfall-augmentation operations in a 3,500 square-mile area of west Texas centered on Big Spring.

North American Weather Consultants, Application Number 9317574; license initially issued in 1985 and renewed each subsequent year since 1985; application is for renewal for State Fiscal Year 1994, applicant has conducted rainfall-augmentation operations in various areas of Texas such as the Texas Hill Country, the Coastal Bend Area, and in the Concho Valley.

Strategic Weather Services; Application Number 9316458; license initially issued in 1971 under name of I. P. Krick Incorporated of Texas and renewed each subsequent year since 1971; applicant has conducted rainfall-augmentation operations in various areas of Texas such as the northern Texas Panhandle (Project OC-4), the region west of the

Pecos (T-18), and along the upper Red River (OC-9 and OC-16) during the 1970's and 1980's.

Issued in Austin, Texas, on December 2, 1993.

TRD-9332966  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1993

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**Enforcement Orders**

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding CDC Coatings Company (Permit Number 02650) on November 17, 1993, assessing \$12,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Vic Ramirez, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8090.

An agreed enforcement order was entered regarding Manor Quick Stop, Inc. (TNRCC Facility Identification Number 35781) on November 16, 1993, assessing \$1,620 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2053.

An agreed enforcement order was entered regarding Luis Molina (TNRCC Facility Identification Number 17741) on November 16, 1993, assessing \$740 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2053.

An agreed enforcement order was entered regarding Reinhardt's Grocery (TNRCC Facility Identification Number 25031) on November 16, 1993, assessing \$540 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2053.

An agreed enforcement order was entered regarding San Antonio Castle MGPC, Inc. (TNRCC Facility Identification Number 47384) on November 19, 1993, assessing \$3,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Vic Ramirez, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8090.

An agreed enforcement order was entered regarding TMT, Inc. (TNRCC Facility Identification Number 36107) on November 16, 1993, assessing \$7,740 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2053.

Issued in Austin, Texas, on November 24, 1993.

TRD-9332965  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 2, 1993

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**Notice of Application for Authorization  
to Proceed in Federal Bankruptcy**

The Texas Natural Resource Conservation Commission has received an application by Greens Parkway Municipal Utility District for Authorization to Proceed in Federal Bankruptcy, under Chapter 9 of the Federal Bankruptcy Code, 11 United States Code, §901-941, as amended. The District is proposing to seek Bankruptcy Court approval of a plan of adjustment of the District's debts. The Commission shall investigate the financial condition of the District, including assets, liabilities and sources of revenues. If the Commission determines that the District cannot through the full exercise of its rights and powers under the laws of this state, reasonably expect to meet its debt and other obligations as they mature, the Commission may authorize the District to proceed in bankruptcy.

No Public Hearing will be held on this application unless an affected person has requested a public hearing. Any person wishing to protest the application of the District is requested to file the protest in written form within 30 days of the issuance of the notice. The protest should contain the name, mailing address, and phone number of the person making the request; and a brief statement of the person's interest in the application and the reasons for the protest. If the Commission determines that the protest shows reason that the District is able to meet its debt and other obligations, or that an evidentiary public hearing would serve the public interest, the Commission may direct the Office of Hearing Examiners to conduct an evidentiary public hearing, after issuance of proper and timely notice of the hearing. Protests should be submitted to the Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, Attention: Susan Walton. A copy of the protest must also be furnished to the District.

Information concerning this application may be obtained by writing the Texas Natural Resource Conservation Commission at the above-mentioned address or by calling (512) 908-6170.

Issued in Austin, Texas, on December 2, 1993.

TRD-9333072  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 3, 1993

## Notices of Application for Permits to Appropriate Public Waters of the State of Texas

Attached are notices of application for permits to appropriate Public Waters of the State of Texas, which were issued during the period of November 1-December 3, 1993.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the application number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application which would satisfy your concerns and cause you to withdraw your request for hearing.

If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice, or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing or questions concerning procedures should be submitted in writing to Bill Ehret, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Charles T. Trefny; Application Number 14-5432A to amend Certificate of Adjudication Number 14-5432: Colorado River Basin; approximately 9.5 miles northwest of Columbus, in Colorado County.

H. E. Butt Foundation; Application Number 21-3148B to amend Certificate of Adjudication Number 21-3148; Nueces River Basin; located in Real County approximately ten miles northeast of Leakey.

B. N. Huddleston; Application Number 12-3575B to amend Certificate of Adjudication Number 12-3575; Brazos River Basin; Comanche County.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333087      Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: December 6, 1993



## Public Hearing Notice (Regulation IV)

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code, §382.017 (Vernon's 1992); Texas Government Code, Subchapter B, Chapter 2001 (Vernon's 1993); 30 Texas Administrative Code, §103.11(4) (West Publishing Company 1992) (Types of hearings); and 40 Code of Federal Regulations, §51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIPs), the Texas Natural Resource Conservation Commission (TNRCC) will conduct a public hearing to receive testimony concerning a revision to its rules and the SIP.

The TNRCC proposes a revision to §114.21(e), concerning Employer Trip Reduction (ETR) Program. The first submission deadline for ETR plans is May 15, 1994. Employee Transportation Coordinators (ETCs) are responsible for the effective development and implementation of ETR plans. However, due to delays in the approval of ETC training, the availability of training has been postponed to February or March, 1994. Therefore, the current plan submission deadlines must be adjusted to allow adequate time to prepare approvable plans once ETCs have received the required training.

A public hearing on the proposal will be held on January 6, 1994, at 2:00 p. m. in the Houston-Galveston Area Council Conference Room "A", Second Floor, 3555 Timmons Lane, Houston. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TNRCC staff member will discuss the proposal 30 minutes prior to the hearing and will be available to answer questions informally.

Written comments not presented at the hearing may be submitted to the TNRCC central office in Austin through January 7, 1994. Material received by the TNRCC Regulation Development Section by 4:00 p.m. on January 7, 1994, will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at the TNRCC regional office in Houston at 5555 West Loop, Suite 300, Bellaire. Please mail written comments to Al Giles, Mobile Source Section, Office of Air Quality, P.O. Box 13087, Austin, Texas 78711-3087. For further information, contact Al Giles at (512) 908-1943.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333081      Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: December 6, 1993



## Solicitation of Comments

On June 9, 1993, Act of June 9, 1993, Chapter 485, §8, 1993 Texas Sessions Law Service 1890, 1896 (Vernon) became effective and amended the Texas Health and Safety Code, Chapter 382 (Texas Clean Air Act). Section

8 amended §382.0513 to require the Texas Natural Resource Conservation Commission (TNRCC) to adopt permit conditions of general applicability by rule. In response to this statutory mandate, the TNRCC has developed a proposed rule that will essentially codify what was commonly referred to as the "General Provisions" for former Texas Air Control Board construction permits. These provisions will be added to 30 TAC §116.115.

The purpose of this notice is to solicit comments from the regulated community, environmental groups, and citizens about the proposed General Provisions. These comments are being sought prior to the official rulemaking process in order to better understand the concerns of the various affected groups. The staff intends to seek approval from the TNRCC Commissioners to begin the official rulemaking process at the January 1994 Policy Agenda. Comments received prior to the official rulemaking comment period will be treated as informal comments. Comments received during this informal comment period will be reviewed by the staff; however, the staff will not prepare a formal response to these comments. Persons desiring to have their comments be made part of the official rulemaking record must submit their comments again during the official comment period following the publication in the *Texas Register* of the proposed rule. Any person desiring to comment during the informal comment period on the proposed General Provisions may contact Randall Terrell, TNRCC Legal Services Division, at (512) 908-1090, for a copy of the proposed rules.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333082      Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource Conservation  
Commission

Filed: December 6, 1993

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## Texas Department of Protective and Regulatory Services

### Consultant Contract Award

In accordance with the provisions of Chapter 2252, Subchapter B, of the Texas Government Code, the Texas Department of Protective and Regulatory Services (PRS) announces its intent to award a sole source contract to the American Association for Protecting Children aka American Humane Association, 63 Inverness Drive East, Englewood, CO 80112.

**Description of Services.** The award is to provide knowledge and expertise necessary to meet the objectives of the Child Welfare Decision Enhancement Project with the potential contractor named and selected under federal grant award.

**Credentials.** The potential contractor is referenced as the primary consultant in a federal grant award because of unique expertise and recognition in developing risk assessment and resource optimization outcome modeling materials that are germane and essential to developing and implementing child welfare decision enhancement instruments and further enhancing the resource optimization outcome model for casework decision making.

**Funding.** The amount of award shall not exceed \$33,500.

**Limitations.** Funding is subject to available appropriations. All deliverables under contract will require approval

by designated PRS personnel consistent with the federal grant award.

**Performance Deadlines.** The selected consultant will provide assistance in meeting specified objectives over a three year period.

**Term of Contract.** The effective dates of any contract awarded under this announcement will be January 1, 1994, through December 31, 1996.

**Contact Person.** Please submit requests for information regarding this announcement in written form to the attention of D. Williams, Contract Management, Mail Code E-559, Texas Department of Protective and Regulatory Services, P.O. Box 149030, 701 West 51st Street, Austin, Texas 78714-9030 (78751).

Issued in Austin, Texas, on December 6, 1993.

TRD-9333083      Nancy Murphy  
Section Manager, Policy and Document  
Support  
Texas Department of Protective and  
Regulatory Services

Filed: December 6, 1993

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## Public Utility Commission of Texas

### Additional Questions Concerning Economic Development

The commission requests that interested persons respond to the questions that are set forth below. Comments that are longer than ten pages should include an executive summary. Interested persons should file 15 copies of their comments with the commission's Secretary, John Renfrow, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the publication of this notice in the *Texas Register*. Comments should refer to project number 11434. This notice is not a formal notice of proposed rulemaking, but the comments will assist the commission in the rulemaking project concerning economic development and incentive tariffs (Project Number 11434). The Commission plans on holding a workshop regarding this rulemaking on February 1, 1994

1. What is the appropriate role, if any, for demand-side management (DSM) in an economic development rate (EDR) rule?
2. What is the proper role, if any, of cost benefit tests in determining which, if any, DSM programs should be required as a condition of eligibility for an EDR?
3. Should DSM program pay-back periods be used in the context of an EDR? If so, what is an appropriate payback period or how should the payback period be determined?
4. Should EDRs operate differently in areas that qualify under the Texas Enterprise Zone Act or are otherwise economically distressed?
5. Should load which is shifted from another service territory within Texas, but does not result in additional jobs or load on a State-wide basis be ineligible for an EDR?
6. Does the Staff's proposed rule adequately ensure that utilities may not recover the foregone revenues associated with an EDR from other customers? If not, what additional provisions should be contained in the rule to ensure that the foregone revenues are not recovered from other customers?



7. What, if any, provisions should be added to the Staff's proposed EDR rule to ensure that utilities propose eligibility requirements that minimize free riders?

8. Do "current variable costs" represent the lowest reasonable price for an EDR? If so, how should "current variable costs" be determined? If not, what is the appropriate methodology for determining the lowest reasonable cost for an EDR?

9. One reason for limiting the duration of an EDR incentive may be the effect on down stream competition with dissimilar production methods. Considering this and other factors should there be a limit on the length of time an EDR customer may receive an incentive? If so, what is an appropriate time limit?

10. Can the offering of a temporary rate discount (such as an EDR) by an electric utility increase the long-run profits of the utility offering such a discount? If so, how? If not, why not?

11. If the offering of a temporary rate discount increases the load served by the utility, how should the increase in revenue requirement, if any, related to the addition to load be recovered? Should the principle of cost causation be used? If so, how?

12. What consequences, if any, are there for how a profit-maximizing utility chooses to establish the scope of and eligibility for the EDR if offers, if the utility is able or unable to recover from non-EDR customers the difference between the EDR rate and the rate otherwise applicable to the EDR customer? Discuss these options in terms of the effect, if any, on the "free rider" problem.

13. Should an EDR promote economic efficiency (i.e., the provision of energy services at the minimum cost to society)? If so, how? If so, under what conditions?

14. Under what conditions, if any, would competition among utilities for an EDR customer promote economic efficiency and "reward" low cost utilities?

15. Discuss the proper choice of price floor for an EDR, in terms of the inclusion or exclusion of "fixed costs" and the measurement of fixed costs as "historically embedded" or "marginal." Compare the answer to this question with the answer to Question Number 8.

16. If a goal of EDR is to promote employment and economic development, should the rate be limited to "labor-intensive" customer firms? Why or why not?

17. To what extent, if any, should the Commission's guidelines for an EDR apply to other rates which are voluntarily discounted by an electric utility? For example, included in this set are rate discounts offered by a utility to customers capable of self-supplying electricity.

Issued in Austin, Texas, on December 2, 1993

TRD-9332952      John M Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 2, 1993

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**Notice of Application To Amend  
Certificate of Convenience and  
Necessity**

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November

23, 1993, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 18(b), 37, 50, 52, and 54. A summary of the application follows.

**Docket and Title Number.** Application of Southwestern Bell Telephone Company to amend certificate of convenience and necessity within Galveston County, Docket Number 12528, before the Public Utility Commission of Texas.

**The Application.** In Docket Number 12528, Southwestern Bell Telephone Company seeks approval to transfer a small area of territory from its Alvin exchange to the Friendswood zone of its Houston Metropolitan exchange in order to correct discrepancies in its tariff maps for the Alvin exchange and base rate area, and the Friendswood zone and base rate area of its Houston Metropolitan exchange.

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 at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before December 29, 1993.

Issued in Austin, Texas, on December 3, 1993.

TRD-9333022      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 3, 1993

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**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 the City of Temple.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for the City of Temple pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12529.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the City of Temple. The geographic service market for this specific service is the Temple area.

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, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf.

Issued in Austin, Texas, on December 1, 1993.

TRD-9332953      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 2, 1993

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 contract for GTE Mobilnet.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of a Customer Specific Contract for GTE Mobilnet Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 12532.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a customer specific contract for GTE Mobilnet. The geographic service market for this customized service is the Houston Metropolitan exchange.

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, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf.

Issued in Austin, Texas, on November 30, 1993.

TRD-9332896      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 1, 1993

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**Notices of Public Meeting**

The Public Utility Commission of Texas has created an advisory committee to receive and review information concerning a pilot project on integrated resource planning that is being conducted by Texas Utilities Electric Company. This advisory committee will hold a meeting at the time and place listed as follows.

The meeting will be held on Friday, December 17, 1993, at 9:00 a.m. in Hearing Room A, at the offices of the Public Utility Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757.

The meeting will be conducted by the advisory committee and will not be an open meeting of the Commission.

For additional information, please contact Assistant General Counsel Jess Totten, at the address listed previously or at (512) 458-0365.

Issued in Austin, Texas, on December 2, 1993.

TRD-9333023      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 3, 1993

◆            ◆            ◆  
The Public Utility Commission of Texas will hold a public meeting for the purpose of discussing with members of the public a Staff proposal for a rule on integrated resource planning for electric utilities.

The meeting will be held on Friday, December 17, 1993, at 10:00 a.m. in Hearing Room A, at the offices of the Public Utility Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757.

All parties who are interested in this proposed rule are invited to attend. The meeting will be conducted by the Commission Staff and will not be an open meeting of the Commission.

For additional information, please contact Assistant General Counsel Jess Totten, at the address listed previously or at (512) 458-0365.

There is a possibility that the meeting may need to be cancelled. Persons planning to attend the meeting are urged to contact Mr. Totten by telephone at the number listed above two or three days before the meeting to obtain more current information about whether the meeting will be held.

Issued in Austin, Texas, on December 2, 1993.

TRD-9333024      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: December 3, 1993

# 1994 Publication Schedule for the *Texas Register*

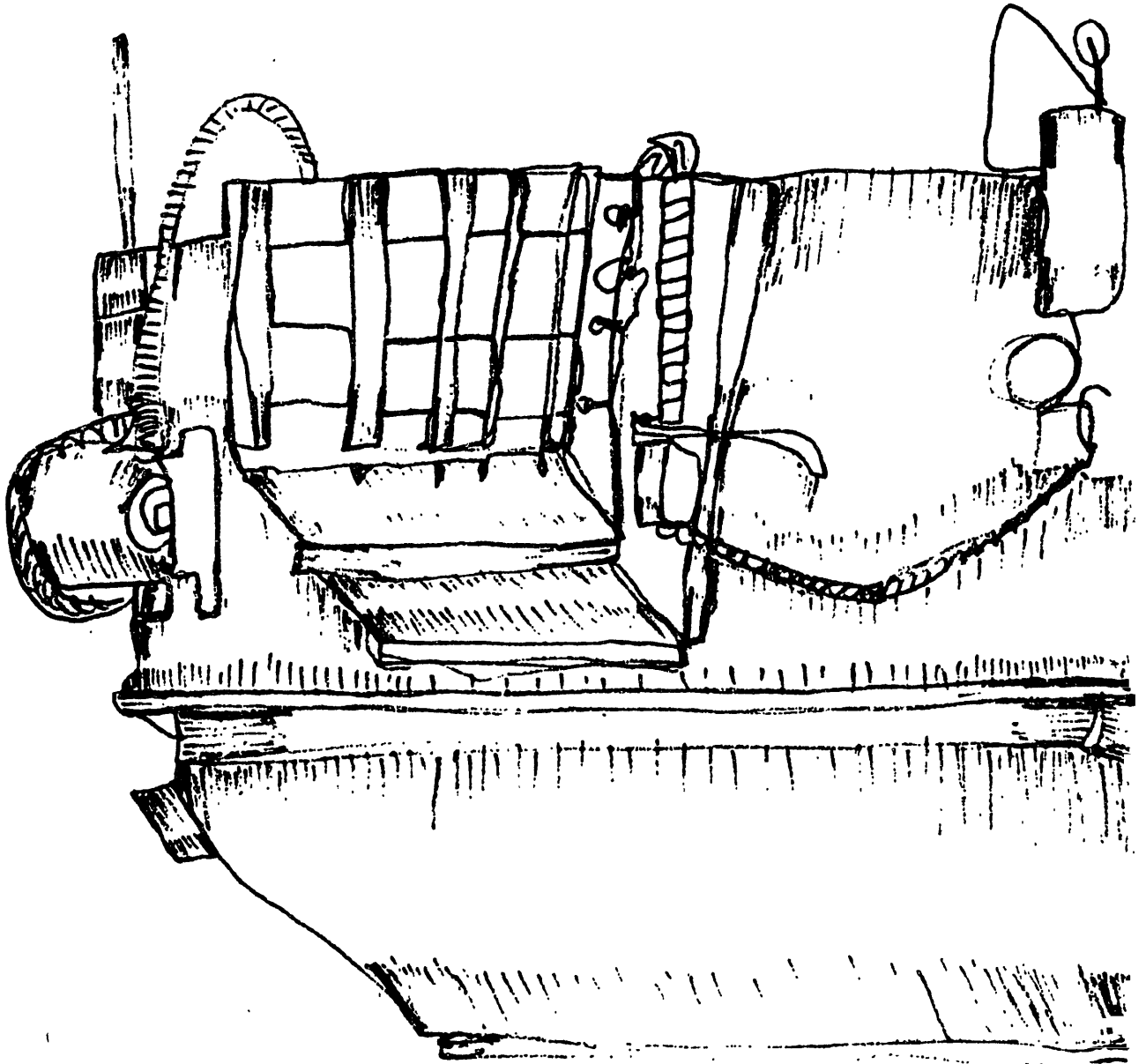
Listed below are the deadline dates for the January-December 1994 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday 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 March 11, July 22, November 11, and November 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Tuesday, January 4	Wednesday, December 29	Thursday, December 30
2 Friday, January 7	Monday, January 3	Tuesday, January 4
3 Tuesday, January 11	Wednesday, January 5	Thursday, January 6
4 Friday, January 14	Monday, January 10	Tuesday, January 11
5 Tuesday, January 18	Wednesday, January 12	Thursday, January 13
Friday, January 21	1993 ANNUAL INDEX	
6 Tuesday, January 25	Wednesday, January 19	Thursday, January 20
7 Friday, January 28	Monday, January 24	Tuesday, January 25
8 Tuesday, February 1	Wednesday, January 26	Thursday, January 27
9 Friday, February 4	Monday, January 31	Tuesday, February 1
10 Tuesday, February 8	Wednesday, February 2	Thursday, February 3
11 Friday, February 11	Monday, February 7	Tuesday, February 8
12 Tuesday, February 15	Wednesday, February 9	Thursday, February 10
13 Friday, February 18	Monday, February 14	Tuesday, February 15
14 Tuesday, February 22	Wednesday, February 16	Thursday, February 17
15 *Friday, February 25	Friday, February 18	Tuesday, February 22
16 Tuesday, March 1	Wednesday, February 23	Thursday, February 24
17 Friday, March 4	Monday, February 28	Tuesday, March 1
18 Tuesday, March 8	Wednesday, March 2	Thursday, March 3
Friday, March 11	NO ISSUE PUBLISHED	
19 Tuesday, March 15	Wednesday, March 9	Thursday, March 10
20 Friday, March 18	Monday, March 14	Tuesday, March 15
21 Tuesday, March 23	Wednesday, March 16	Thursday, March 17
22 Friday, March 25	Monday, March 21	Tuesday, March 22
23 Tuesday, March 29	Wednesday, March 23	Thursday, March 24
24 Friday, April 1	Monday, March 28	Tuesday, March 29
25 Tuesday, April 5	Wednesday, March 30	Thursday, March 31
26 Friday, April 8	Monday, April 4	Tuesday, April 5
27 Tuesday, April 12	Wednesday, April 6	Thursday, April 7
Friday, April 15	FIRST QUARTERLY INDEX	
28 Tuesday, April 19	Wednesday, April 13	Thursday, April 14

29 Friday, April 22	Monday, April 18	Tuesday, April 19
30 Tuesday, April 26	Wednesday, April 20	Thursday, April 21
31 Friday, April 29	Monday, April 25	Tuesday, April 26
32 Tuesday, May 3	Wednesday, April 27	Thursday, April 28
33 Friday, May 6	Monday, May 2	Tuesday, May 3
34 Tuesday, May 10	Wednesday, May 4	Thursday, May 5
35 Friday, May 13	Monday, May 9	Tuesday, May 10
36 Tuesday, May 18	Wednesday, May 11	Thursday, May 12
37 Friday, May 20	Monday, May 16	Tuesday, May 17
38 Tuesday, May 24	Wednesday, May 18	Thursday, May 29
39 Friday, May 27	Monday, May 23	Tuesday, May 24
40 Tuesday, May 31	Wednesday, May 25	Thursday, May 26
41 *Friday, June 3	Friday, May 27	Tuesday, May 31
42 Tuesday, June 7	Wednesday, June 1	Thursday, June 2
43 Friday, June 10	Monday, June 6	Tuesday, June 7
44 Tuesday, June 14	Wednesday, June 8	Thursday, June 9
45 Friday, June 17	Monday, June 13	Tuesday, June 14
46 Tuesday, June 21	Wednesday, June 15	Thursday, June 16
47 Friday, June 24	Monday, June 20	Tuesday, June 21
48 Tuesday, June 28	Wednesday, June 22	Thursday, June 23
49 Friday, July 1	Monday, June 27	Tuesday, June 28
50 Tuesday, July 6	Wednesday, June 29	Thursday, June 30
51 *Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	SECOND QUARTERLY INDEX	
52 Friday, July 15	Monday, July 11	Tuesday, July 12
53 Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	NO ISSUE PUBLISHED	
54 Tuesday, July 26	Wednesday, July 20	Thursday, July 21
55 Friday, July 29	Monday, July 25	Tuesday, July 26
56 Tuesday, August 2	Wednesday, July 27	Thursday, July 28
57 Friday, August 5	Monday, August 1	Tuesday, August 2
58 Tuesday, August 9	Wednesday, August 3	Thursday, August 4
59 Friday, August 12	Monday, August 8	Tuesday, August 9
60 Tuesday, August 16	Wednesday, August 10	Thursday, August 11
61 Friday, August 19	Monday, August 15	Tuesday, August 16
62 Tuesday, August 23	Wednesday, August 17	Thursday, August 18
63 Friday, August 26	Monday, August 22	Tuesday, August 23
64 Tuesday, August 30	Wednesday, August 24	Thursday, August 25
65 Friday, September 2	Monday, August 29	Tuesday, August 30
66 Tuesday, September 6	Wednesday, August 31	Thursday, September 1
67 *Friday, September 9	Friday, September 2	Tuesday, September 6

68 Tuesday, September 13	Wednesday, September 7	Thursday, September 8
69 Friday, September 16	Monday, September 12	Tuesday, September 13
70 Tuesday, September 20	Wednesday, September 14	Thursday, September 15
71 Friday, September 23	Monday, September 19	Tuesday, September 20
72 Tuesday, September 27	Wednesday, September 21	Thursday, September 22
73 Friday, September 30	Monday, September 26	Tuesday, September 27
74 Tuesday, October 4	Wednesday, September 28	Thursday, September 29
75 Friday, October 7	Monday, October 3	Tuesday, October 4
Tuesday, October 11	THIRD QUARTERLY INDEX	
76 Friday, October 14	Monday, October 10	Tuesday, October 11
77 Tuesday, October 18	Wednesday, October 12	Thursday, October 13
78 Friday, October 21	Monday, October 17	Tuesday, October 18
79 Tuesday, October 25	Wednesday, October 19	Thursday, October 20
80 Friday, October 28	Monday, October 24	Tuesday, October 25
81 Tuesday, November 1	Wednesday, October 26	Thursday, October 27
82 Friday, November 4	Monday, October 31	Tuesday, November 1
83 Tuesday, November 8	Wednesday, November 2	Thursday, November 3
Friday, November 11	NO ISSUE PUBLISHED	
84 Tuesday, November 15	Wednesday, November 9	Thursday, November 10
85 Friday, November 18	Monday, November 14	Tuesday, November 15
86 Tuesday, November 22	Wednesday, November 16	Thursday, November 17
87 Friday, November 25	Monday, November 21	Tuesday, November 22
Tuesday, November 29	NO ISSUE PUBLISHED	
88 Friday, December 2	Monday, November 28	Tuesday, November 29
89 Tuesday, December 6	Wednesday, November 30	Thursday, December 1
90 Friday, December 9	Monday, December 5	Tuesday, December 6
91 Tuesday, December 13	Wednesday, December 7	Thursday, December 8
92 Friday, December 16	Monday, December 12	Tuesday, December 13
93 Tuesday, December 20	Wednesday, December 14	Thursday, December 15
94 Friday, December 23	Monday, December 19	Tuesday, December 20
95 Tuesday, December 27	Wednesday, December 21	Thursday, December 22
96 *Friday, December 30	Friday, December 23	Tuesday, December 27

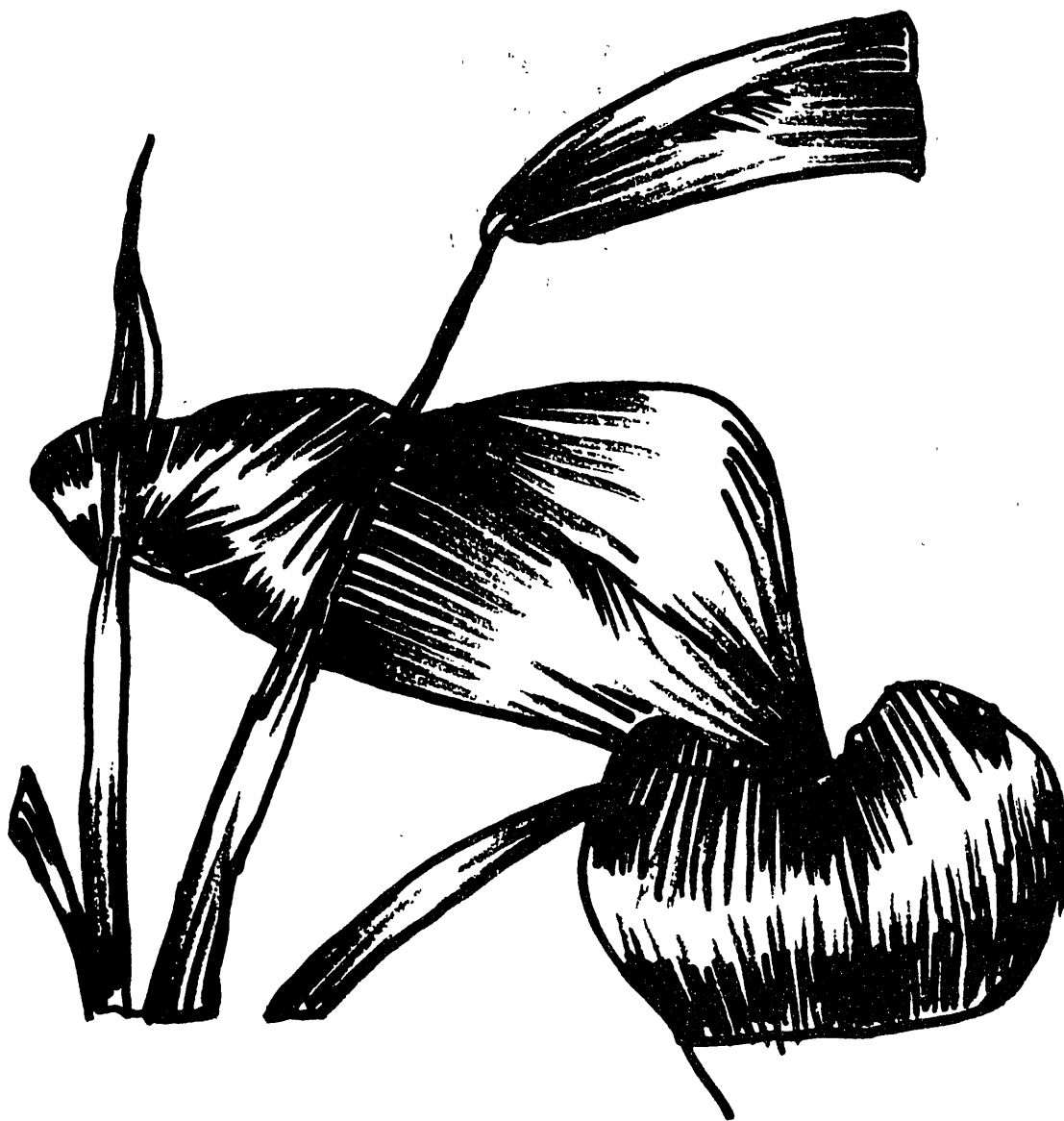
Thursday  
20 October 1993 Contour: Air-Heat Unit & Valve  
Sketches



Name: John Jothish  
Grade: 9  
School: Skyline High School, Dallas ISD

Saturday  
October 6, '19

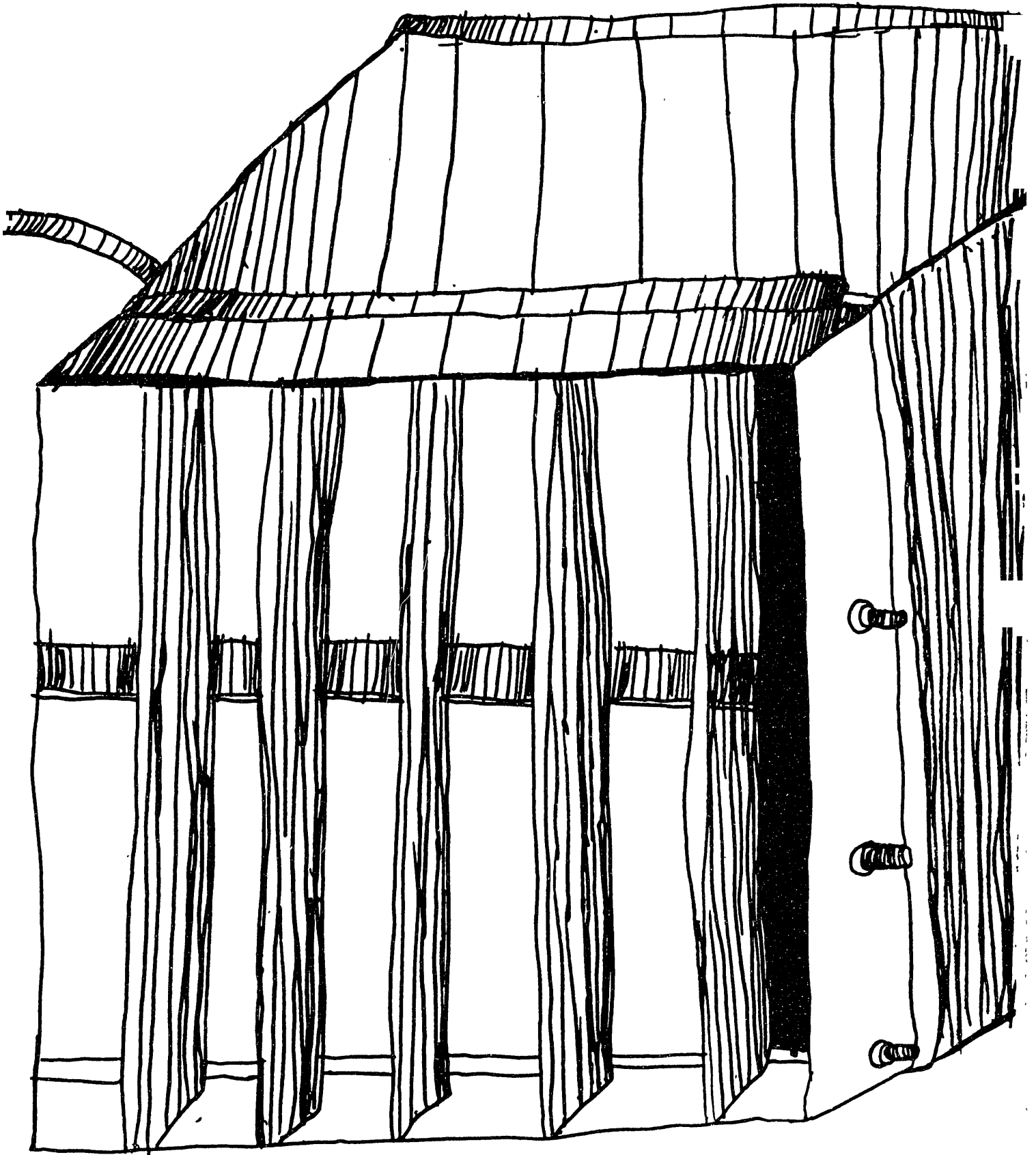
Contour: - Plant - Vase - Hatches  
{ Viewfinder - Small }



Name: John Jothish

Grade: 9

School: Skyline High School, Dallas ISD



Name: Lewis Broderick  
Grade: 9  
School: Skyline High School, Dallas, ISD

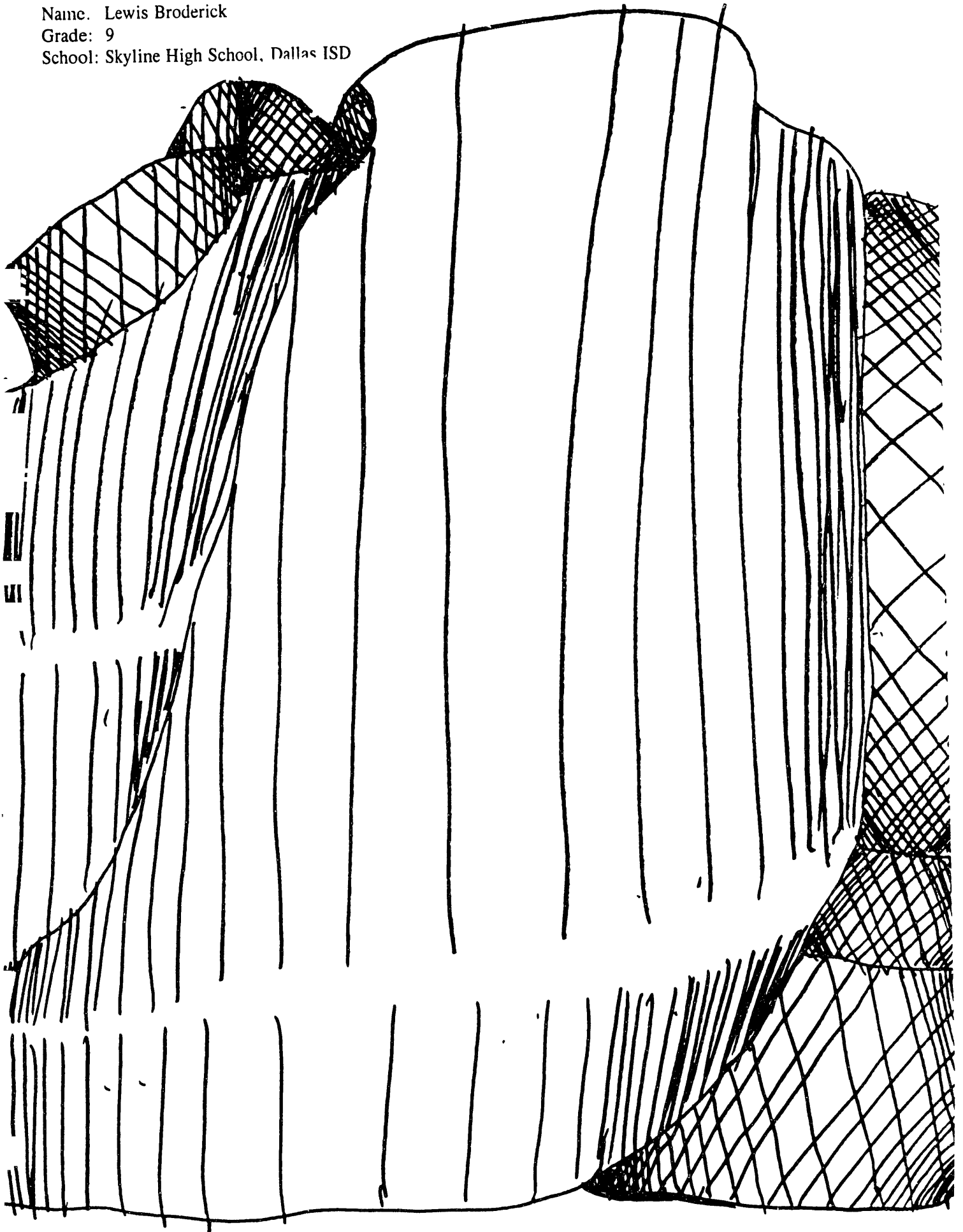


contour drawing 7-28-93

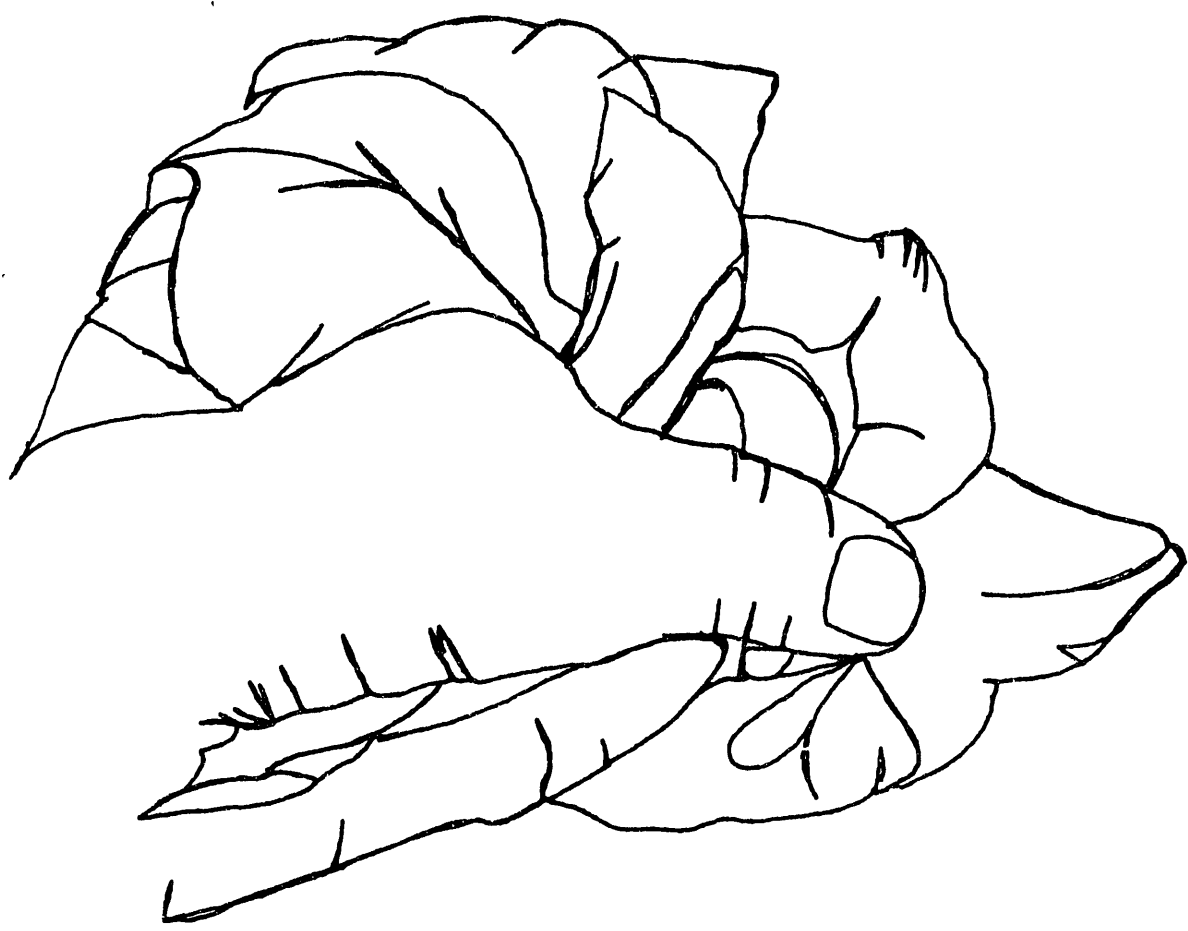
Name: Lewis Broderick

Grade: 9

School: Skyline High School, Dallas ISD



Contour Drawing 8-20-93 Hand & Cloth



Name: Pamela Haught  
Grade: 12  
School: Skyline High School, Dallas ISD

*great*

Abel  
7/2/99  
Contour - stone (value - Shatche)  
Thursday

---



Name: John Jothish  
Grade: 9  
School: Skyline High School, Dallas ISD

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