

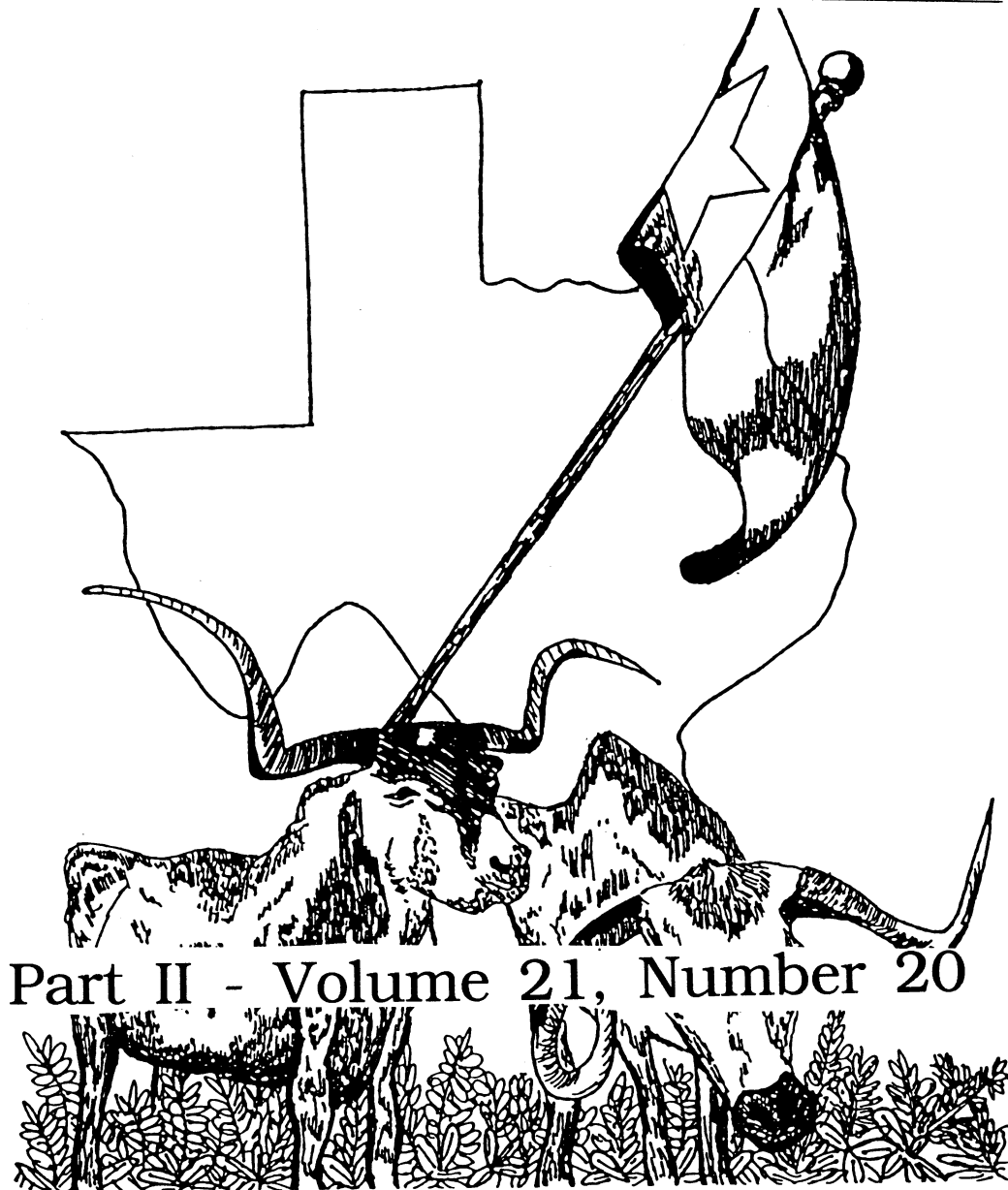
---

# TEXAS REGISTER

Volume 21, Number 20 March 19, 1996

Page 2225-2332

---



Part II - Volume 21, Number 20

***This month's front cover artwork:***

***Artist: Lakeisha R. Hines***

*11th grade*

*Sulphur Springs High School, Sulphur Springs ISD*

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

Starting with the February 27, 1996 issue, we will display artwork on the cover of each *Texas Register*. The artwork featured on the front cover is chosen at random.

The artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*. The artwork does not add additional pages to each issue and does not increase the cost of the *Texas Register*.

For more information about the student art project, please call (800) 226-7199.

*Texas Register*, ISSN 0362-4781, is published twice weekly 100 times a year except February 23, March 15, November 8, December 3, and December 31, 1996. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: printed, one year \$95, six month \$75. Costs for diskette and online versions vary by number of users (see back cover for rates). Single copies of most issues for the current year are available at \$7 per copy in printed or electronic format.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* Director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Second class postage is paid at Austin, Texas.

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



a section of the  
Office of the Secretary of State  
P.O. Box 13824  
Austin, TX 78711-3824  
(800) 226-7199  
(512) 463-5561  
FAX (512) 463-5569

Secretary of State - Antonio O. Garza, Jr.

Director - Dan Procter  
Assistant Director - Dee Wright

Circulation/Marketing  
Tamara Joiner  
Jill S. Ledbetter

Texas Administrative Code  
Dana Blanton  
Daneane Jarzombek

Documents  
Roberta Knight  
Jamie McCornack  
Patty Webster

Production  
Carla Carter  
Ann Franklin  
Mimi Sanchez

Receptionist  
Roy Felps

**Adopted Sections  
Office of the Attorney General**

Child Support Enforcement  
1 TAC §55.215.....2225

**General Services Commission**

Central Purchasing Division  
1 TAC §113.87, §113.88.....2225

**State Securities Board**

Exemptions by Rule or Order  
7 TAC §139.17.....2226

**Texas Cosmetology Commission**

General Rules and Regulations  
22 TAC §89.31.....2226

**Texas State Board of Pharmacy**

Pharmacies  
22 TAC §§291.31-291.34, 291.36.....2227  
22 TAC §§291.72-291.74.....2242

Generic Substitution  
22 TAC §309.2, §309.3.....2245

**Texas Department of Health**

Early and Periodic Screening, Diagnosis and Treatment  
25 TAC §33.140.....2246

**Texas Department of Insurance**

Property and Casualty Insurance  
28 TAC §§5.1301-5.1307.....2247  
28 TAC §5.9101.....2247

Corporate and Financial Regulation  
28 TAC §7.28.....2248

Health Maintenance Organizations  
28 TAC §11.2.....2257  
28 TAC §11.207.....2257  
28 TAC §11.301.....2258  
28 TAC §11.806.....2259  
28 TAC §11.1604.....2260  
28 TAC §§11.1702-11.1704.....2261

**Comptroller of Public Accounts**

Tax Administration  
34 TAC §3.163.....2262  
34 TAC §3.164.....2263  
34 TAC §3.166.....2263

**Texas Department of Public Safety**

Traffic Law Enforcement  
37 TAC §3.59, §3.62.....2264

**Texas Youth Commission**

Special Management Programs  
37 TAC §88.1.....2265

General Provisions  
37 TAC §93.1.....2266  
37 TAC §93.31.....2266

**Texas Department of Human Services**

Nursing Facility Requirements for Licensure and Medicaid Certification  
40 TAC §19.2322.....2267

**Texas Workforce Commission**

Local Workforce Development Boards  
40 TAC §801.2.....2268  
40 TAC §801.3.....2272

**Tables and Graphics Sections**

Tables and Graphics.....2275

**Open Meetings Sections**

State Office of Administrative Hearings.....2283  
Texas Department of Agriculture.....2283  
Texas Commission on Alcohol and Drug Abuse....2284  
Texas Appraiser Licensing and Certification Board....2284  
The State Bar of Texas.....2285  
Texas School for the Blind and Visually Impaired....2285  
Texas Boll Weevil Eradication Foundation.....2286  
Canadian River Compact Commission.....2286  
Texas Catastrophe Property Insurance Association....2286  
Texas Board of Chiropractic Examiners.....2287  
Coastal Coordination Council.....2287  
Community Nutritional Task Force.....2287  
State Council on Competitive Government.....2288  
Correctional Managed Health Care Advisory Commit-

tee.....	2288
Texas Cosmetology Commission.....	2288
Texas Department of Criminal Justice.....	2288
State Board of Dental Examiners.....	2289
Texas Education Agency.....	2289
State Board for Educators Certification.....	2290
State Employee Charitable Campaign.....	2290
Texas Funeral Service Commission.....	2291
General Land Office.....	2291
Office of the Governor.....	2291
Office of the Governor, Criminal Justice Division.....	2291
Texas Department of Health.....	2292
Texas Department of Human Services.....	2292
Texas Department of Insurance.....	2292
Texas Board of Professional Land Surveying.....	2293
Texas State Library and Archives Commission.....	2293
Texas Department of Licensing and Regulation.....	2294
Texas Lottery Commission.....	2294
Texas Mental Health and Mental Retardation Board.....	2294
Texas Natural Resource Conservation Commission.....	2295
Board of Nurse Examiners.....	2297
Board of Pardons and Paroles.....	2297
Pecos River Commission.....	2298
Texas State Board of Pharmacy.....	2298
Texas State Board of Plumbing Examiners.....	2298
Public Utility Commission of Texas.....	2298
Railroad Commission of Texas.....	2299
Texas Residential Property Insurance Market Assistance Program.....	2299
State Securities Board.....	2299
Telecommunications Infrastructure Fund Board.....	2300
Texas Southern University.....	2301
Texas Woman's University.....	2301
University of Houston.....	2302
University Interscholastic League.....	2302
University of Texas at Arlington.....	2302
Texas Water Development Board.....	2302
Texas Workers' Compensation Commission.....	2303
Texas Workforce Commission.....	2303
Regional Meetings.....	2303
<b>In Additions Sections</b>	
<b>Office of the Attorney General</b>	
1996 Tax Charts.....	2307
<b>Comptroller of Public Accounts</b>	
Notice of Consultant Contract Award.....	2312

**Office of Consumer Credit  
Commissioner**

Notice of Rate Ceilings.....	2312
------------------------------	------

**Office of the Governor-Criminal  
Justice Division**

Request for Funding of the Texas Narcotics Control Program under the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.....	2312
--	------

**Texas Department of Health**

Notice of Emergency Cease and Desist Order.....	2313
Notices of Intent to Revoke Certificates of Registration.....	2313
Notice of Rescission of Order.....	2314
Request for Proposals.....	2314

**Health and Human Services  
Commission**

Public Notice.....	2315
--------------------	------

**Texas Higher Education  
Coordinating Board**

Request for Proposal.....	2316
---------------------------	------

**Texas Department of Housing and  
Community Affairs**

1996 Application Workshops.....	2316
---------------------------------	------

**Texas Department of Human  
Services**

Notice of Intent to Purchase Finger Print Imaging Services.....	2317
---	------

Open Solicitation for Crane County.....	2317
---	------

**Texas Department of Insurance**

Insurance Services.....	2318
-------------------------	------

Notice.....	2318
-------------	------

Notice of Application by HealthSource Texas, Inc., Austin, Texas for Issuance of a Certificate of Authority to Establish and Operate an HMO in the State of Texas.....	2318
--	------

Notices of Public Hearing.....	2319
--------------------------------	------

**Texas Natural Resource  
Conservation Commission**

Consultant Proposal Request.....	2320
----------------------------------	------

Enforcement Orders.....	2320
-------------------------	------

Notice of Application to Appropriate Public Waters of the State of Texas.....	2320
---	------

Notice of Application for Waste Disposal Permits.....	2322
---	------

Notice of Availability and Request for Comments on a Proposed Natural Resource Damages Consent Decree and Restoration Plan.....	2323
---	------

Notice of Commission Action.....	2324
----------------------------------	------

Notice of Opportunity to Comment on Permitting Actions-For the Week Ending March 8, 1996.....	2325
---	------



Notice of Public Meetings.....2325

Notice of Receipt of Application and Declaration of Administrative Completeness for Municipal Solid Waste Management Facility for the Week Ending March 8, 1996.....2325

Notification of Availability of Grants for Construction of Scrap Tire Recycling Facilities.....2326

Notification of Availability of Grants for Retrofitting of Energy Recovery Facilities to Utilize Tire Shreds as Fuels.....2326

Notification of Availability of Grants for Retrofitting of Energy Recovery Facilities to Utilize Whole Used/Scrap Tires as Fuels.....2326

Provisionally-Issued Temporary Permits to Appropriate State Water.....2327

Request for Proposals .....2327

**Texas Department of Protective and Regulatory Services**

Notice of Award-Economic Impact Study.....2328

**Public Utility Commission of Texas**

Notice of Application for Approval of a Special Amortization.....2328

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27.....2329

Public Notice .....2331

**Texas Savings and Loan Department**

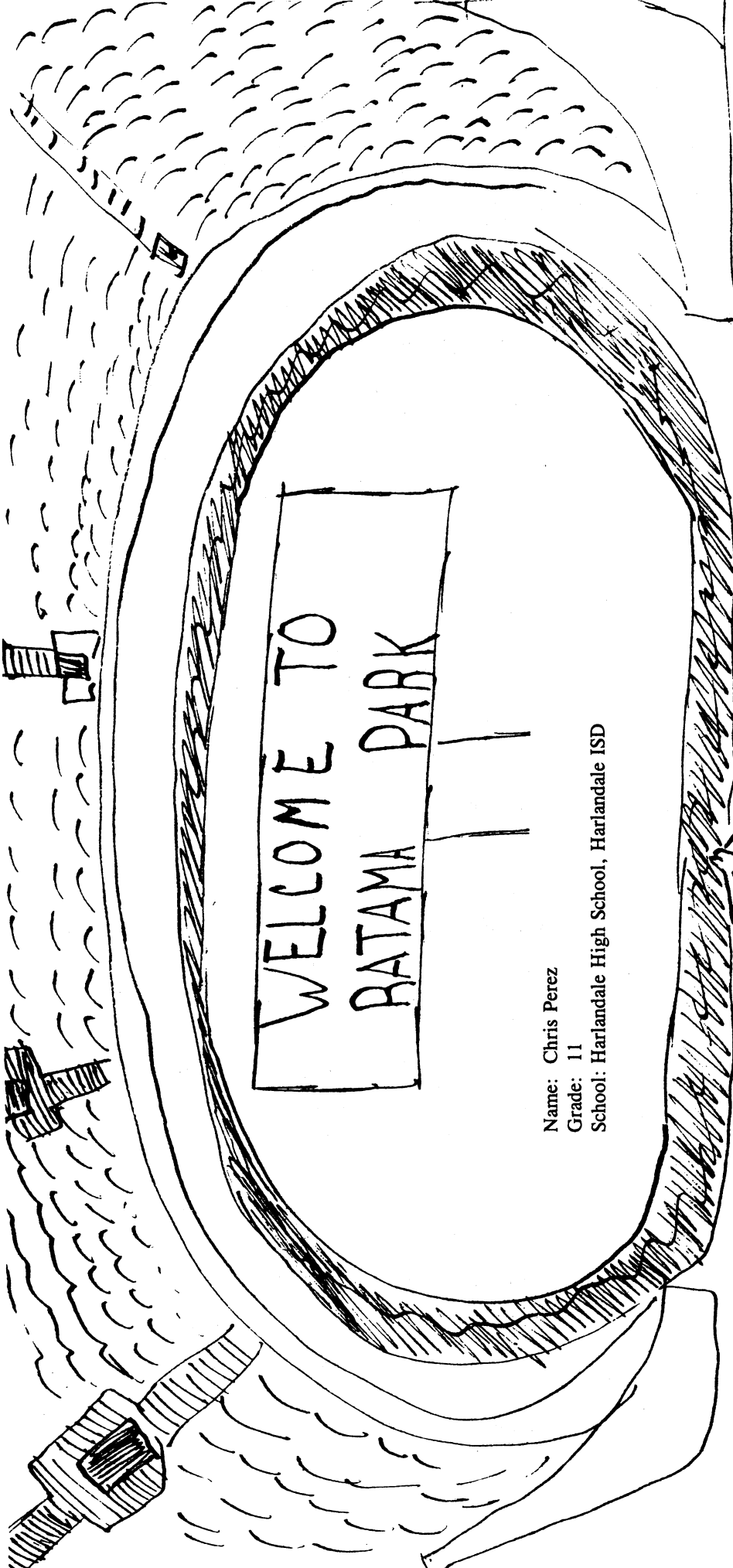
Notice of Application to Establish Remote Service Unit.....2331

**Texas A&M University**

Request for Professional Services .....2331

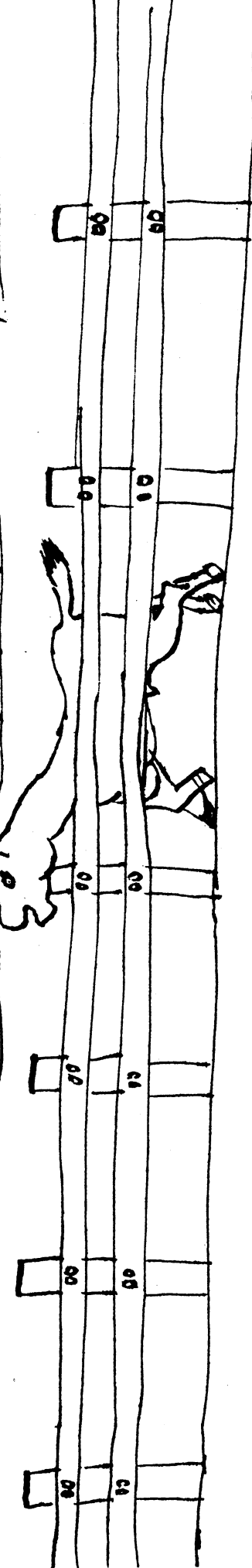
**The University of Texas System**

Consultant Proposal Request.....2332



WELCOME TO  
BATAMA PARK

Name: Chris Perez  
Grade: 11  
School: Harlandale High School, Harlandale ISD



# ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE I. ADMINISTRATION

### Part III. Office of the Attorney General

#### Chapter 55. Child Support Enforcement

##### Subchapter H. License Suspension

###### • 1 TAC §55.215

The Office of the Attorney General adopts new §55.215, providing for additional prerequisites for suspension of licenses relating to state taxes, with changes to the proposed text as published in the February 6, 1996, issue of the *Texas Register* (21 TexReg 821). The following subsections of the rule were changed: §55.215(b) and (c) were eliminated, (d) was denominated (b), and (e) was denominated (c).

This rule prescribes additional prerequisites for the suspension of licenses relating to state taxes for the implementation of Family Code, Chapter 232.

This rule specifies additional prerequisites for petitions seeking to suspend licenses relating to State taxes, and specifies when, where, and how an order suspending a license relating to state taxes should be served on the respective licensing authority. This rule affects the Family Code, Chapter 232.

The following groups or associations submitted comments: Texas Alcoholic Beverage Commission and State Comptroller.

Comments received are summarized as follows:

Subsections (b) and (c) of the proposed rule, while they do not vitiate the rule, are unnecessary. The Act already requires suspension of all license held by an obligor. However, these subsections seem to require the petition to simultaneously seek all licenses and permits held by an obligor, which, though in practice this is advisable, might become a problem if used to invalidate a petition where, through oversight or otherwise, the suspension of another license or permit held by an obligor is omitted. The proper approach would be to proceed against the license or permit seriatim.

A licensing authority should not be responsible for performing a records search for a companion license or permit, for example, a sales tax permit and mixed beverage license, from another licensing authority.

The Office of the Attorney General has made changes as suggested by the comments to the rule. Neither the statute, nor anything in these rules require a licensing agency to perform a records search for a license held by an obligor subject to a suspension order that is not identified in the suspension order. The suspension order must contain sufficient information to identify the license or licenses issued to the obligor by the licensing agency which have been suspended by the order.

The new section is adopted under the Family Code, §232.015, which provides the Office of the Attorney General with the authority to adopt rules regarding state taxes and under the Family Code, §232.106, which provides the Office of the Attorney General with the authority to prescribe forms and procedures for the implementation of Chapter 232.

*§55.215. Prerequisites for Suspension of Licenses Relating to State Taxes.*

(a) Each petition seeking to suspend a license relating to state taxes shall list each license to be suspended by license type and, if applicable, by license number.

(b) An order suspending a license issued pursuant to the Tax Code, §155.041 shall be served on the agency issuing the license. Through August 31, 1996, the agency issuing the license shall notify the Comptroller of Public Accounts of the receipt of the order. After August 31, 1996, the order shall be issued directly to the Comptroller of Public Accounts.

(c) An order suspending a license relating to state taxes must be served on each licensing authority which issued a license suspended by the order.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603345

Suzanne Formby Marshall  
Special Assistant, Attorney General  
Office of the Attorney General

Effective date: March 29, 1996

Proposal publication date: February 6, 1996

For further information, please call: (512) 305-4291

## Part V. General Services Commission

### Chapter 113. Central Purchasing Division

#### Cooperative Purchasing Program

###### • 1 TAC §113.87, §113.88

The General Services Commission adopts an amendment to §113.87 and new §113.88, relating to Central Purchasing, without changes to the proposed text as published in the February 6, 1996, issue of the *Texas Register* (21 TexReg 821).

The amendment and new section provide participants in the Cooperative purchasing program with an alternative to use an electronic purchasing system in accordance with Texas Local Government Code, §271.083 (Vernon Supplement 1996).

Section 113.87 updates the responsibilities of the Cooperative Purchasing Program participants. The new §113.88 establishes guidelines for electronic purchasing system.

No comments were received regarding adoption of the amendment and new section.

The amendment and new section are adopted under the Government Code, Title 10, Subtitle D, Chapter 2155, which provides the General Services Commission with the authority to promulgate rules consistent with the Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603403 David Ross Brown  
Assistant General Counsel  
General Services Commission

Effective date: March 29, 1996

Proposal publication date: February 6, 1996

For further information, please call: (512) 463-3960

## TITLE 7. BANKING AND SECURITIES

### Part VII. State Securities Board

#### Chapter 139. Exemptions by Rule or Order

##### • 7 TAC §139.17

The State Securities Board adopts new §139.17, concerning offers disseminated through the Internet, with changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10461). In response to a comment received, the phrase "directly or indirectly" was added in subsections (a)(1) and (b)(1). Also, new subsection (c) was added to provide examples of statements meeting the requirement that the offer indicate the securities are not being offered for sale to any person in Texas.

The new section provides guidance to persons using the Internet for securities offerings about whether registration is necessary in Texas.

The new section exempts certain offers of securities disseminated through the Internet from the securities registration requirements and, under certain circumstances, the dealer registration requirements of The Securities Act, so long as the offer indicates that the securities are not being offered for sale to any person in Texas and certain other requirements are met.

One comment letter was received on the rule proposal. That letter, from the Investment Company Institute, supported final adoption of the proposed rule but requested clarification of the requirement in subsections (a)(1) and (b)(1) that the offer indicate the securities are not being offered for sale directly or indirectly to any person in Texas. The Board agrees and the section as adopted incorporates changes to address this concern.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1 and §5.T. Section 28-1 provides the Board with the authority to adopt rules and regulations necessary to carry out and implement the provisions of The Securities Act, including rules and regulations governing registration statements and applications; defining terms; classifying securities, persons, and matters within its jurisdiction; and prescribing different requirements for different classes. Section 5.T provides that the Board may prescribe new exemptions by rule.

##### *§139.17. Offers Disseminated Through the Internet.*

(a) An offer of securities not made from Texas is exempt from the securities and dealer registration requirements of The Securities Act when that offer is disseminated through the Internet and:

(1) the offer indicates, directly or indirectly, that the securities are not being offered for sale to any person in Texas;

(2) an offer is not otherwise specifically directed to any person in Texas by, or on behalf of, the issuer; and

(3) no sales of the issuer's securities are made to any person in Texas as a result of the offer.

(b) An offer of securities made from Texas is exempt from the securities registration requirements of The Securities Act, but not from the dealer registration requirements of The Securities Act, when that offer is disseminated through the Internet and:

(1) the offer indicates, directly or indirectly, that the securities are not being offered for sale to any person in Texas;

(2) an offer is not otherwise specifically directed to any person in Texas by, or on behalf of, the issuer; and

(3) no sales of the issuer's securities are made to any person in Texas as a result of the offer.

(c) Subsections (a)(1) or (b)(1) of this section is met by inclusion of any of the following statements, or a substantially similar one, in an offer disseminated through the Internet.

(1) "These securities are not being offered or sold in Texas."

(2) "These securities are being offered and sold in (fill in names of states other than Texas)."

(3) "This is neither a solicitation to buy nor an offer to sell to persons in Texas."

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603176 Denise Voight Crawford  
Securities Commissioner  
State Securities Board

Effective date: March 27, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 305-8300

## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 89. General Rules and Regulations

##### • 22 TAC §89.31

The Texas Cosmetology Commission adopts an amendment to §89.31, concerning giving exams and translators, without changes to the proposed text as published in the November 17, 1995, issue of the *Texas Register* (20 TexReg 9527).

The reason for and purpose of the rule is for administrative convenience and monetary savings to the Texas Cosmetology Commission. By conducting examinations in English and Spanish, the commission will be able to change or adjust examination questions and materials with significant reduction in costs. The ability to frequently change examination questions and materials is important to ensure the integrity and validity of the examination. Commission experience showed that when students taking examinations in a language other than English or Spanish brought a translator, there was no reliable way to determine what was being communicated between translator and examinee. The commission believes that since many other activities in Texas are conducted in English and Spanish (such as voting), that conducting the examination in English and Spanish is reasonable and also necessary.

Comments were received from Mims Classic Beauty College in favor of the proposed rule change; and comments from Dr. Tinh Van Tran as president of the Vietnamese American Community of Houston and several Vietnamese students from Jones Beauty College in Grand Prairie were received against the proposed rule change. All of these comments felt the rule change unfairly discriminated against Vietnamese students and could hinder their efforts to complete licensure requirements and thus become productive, tax-paying citizens and workers. The commission disagrees since experience indicates that there is no discrimination since most patrons and cosmetologists speak English and are taught in English or Spanish. The commission adopted the rule change due to economic savings versus the cost of testing in multiple languages. The commission also adopted the rule to maintain examination integrity and validity. The factual basis for the rule is that the examination will be given in English and Spanish only except as provided by subparagraph (B) to ease administrative burden, save money and maintain examination validity and integrity.

The amendment is adopted under Texas Civil Statutes, Article 8451a, §4(a), which provide the Texas Cosmetology Commission with the authority to issue rules consistent with this Act after a public hearing, including the rule governing the conduct of examinations.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 1, 1996.

TRD-9603166 Dick Strader  
Executive Director  
Texas Cosmetology Commission

Effective date: March 27, 1996

Proposal publication date: November 17, 1995

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

## Part XV. Texas State Board of Pharmacy Chapter 291. Pharmacies

### Community Pharmacy (Class A)

#### • 22 TAC §§291.31-291.34, 291.36

The Texas State Board of Pharmacy adopts amendments to §§291.31-291.34 and §291.36, concerning Definitions, Personnel, Operational Standards, and Records in a Community Pharmacy (Class A) and Class A Pharmacies Compounding Sterile Pharmaceuticals, with changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8153).

The amendments implement most of the recommendations of the Board appointed Task Force on Pharmacy Technicians, by specifying the minimum qualifications and training requirements for supportive personnel in Class A Pharmacies. In addition, the amendments to these sections prohibit an animal from being kept within a pharmacy and from immediately adjacent areas under the control of the pharmacy, remove references to the Class F Pharmacy license which was eliminated by House Bill 1408 passed by the 74th Texas Legislature, clarify the requirements for dispensing a dosage form other than that prescribed by the practitioner, and specify procedures for electronic transmission of prescriptions from practitioners to pharmacies.

A total of 32 comments were received regarding adoption of the amendments. Eighteen of the comments were oral comments received at a public hearing on the rules held on November 14, 1995 and 14 persons submitted written comments regarding the rules.

The changes to the proposed text and reasons for these changes are as follows:

#### Section 291.31 and §291.36(b)-Definitions

**Comment:** Representatives from the Coalition for Nurses in Advanced Practice, Texas Academy of Physician Assistants, Texas Medical Association and Texas Nurses Association suggested that the definitions for "designated agent" and "prescription drug order" be updated to include changes made by Senate Bill 673 passed during the 74th Legislative Session. In addition, these representatives suggested that the definition of "registered nurse" be deleted and the definition of "advanced practice nurse" be added to the section.

**Response:** The Board agrees with these comments and changes have been made to reflect the recommendations. In addition, at the recommendation of staff, the definition of "carrying out a prescription drug order" has been amended to reflect changes made with the passage of Senate Bill 673. Other changes have been made throughout the rules to reflect the provisions of Senate Bill 673. For example, the term "registered nurse" has been replaced with "advanced practice nurse" throughout the rules.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association, and one individual suggested that the words "over telephone lines" be deleted from the definition of an electronic prescription drug order.

**Response:** The Board agrees with this comment and changes have been made in this definition.

**Comment:** Representatives from the Texas Federation of Drug Stores and one individual suggested that the phrase, "or through the use of direct imaging to store the data" be added to subparagraph (B) of the definition of "original prescription drug order" to allow these records to be stored electronically.

**Response:** The Board disagrees with this comment because language to allow electronic storage of these records is already included in the records section of the rules.

#### Section 291.32(b)(2) and §291.36(c)(2)(B) -Personnel-Pharmacists-Duties

**Comment:** Representatives of the Texas Federation of Drug Stores, Texas Society of Health-System Pharmacists, Texas Pharmacy Association, and three individuals questioned the addition of the phrase: "No employer or supervisor may interfere with or impair the proper exercise of a pharmacist professional judgement in designating and delegating duties to supportive personnel."

**Response:** The Board agrees that rather than clarifying, the addition of this phrase appears to be causing confusion. Therefore, the phrase has been eliminated from the final language. However, the Board has added language to emphasize that the pharmacist is responsible for verifying the accuracy of all acts, tasks, or functions performed by technicians.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association, and the Texas Society of Health-System Pharmacists and five individuals were in favor of deleting "affixing the label to the dispensing container" from the list of duties that could only be performed by pharmacists. Four individuals commented against the deletion of this language.

**Response:** The Board vote regarding the deletion of this language was a tie (3-3). Therefore, affixing the label to the prescription container will remain a duty of the pharmacist.

#### Section 291.32(c)(1) and §291.36(c)(3)(A)-Personnel-Supportive personnel/pharmacy technicians-Qualifications

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association and eleven individuals commented against requiring that pharmacy technicians be high school graduates. One individual commented in favor of this requirement.

**Response:** The Board agrees that person's enrolled in high school should be allowed to work as pharmacy technicians. The language has been modified to require that a pharmacy technician has to be currently enrolled in or have a high school degree.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association and five individuals commented against the requirement that the training program be "site-specific" and suggested that the training should be transferable to another pharmacy if the pharmacies were under common management.

**Response:** The Board agrees with these comments and has modified the language to delete the words "site-specific" and "at this pharmacy." In addition, the Board has added language to specify that a person receiving the training may transfer this training to another pharmacy if the pharmacies are under common ownership and have a common training program, and provided the pharmacist-in-charge at each pharmacy certifies that the technician is competent.

**Comment:** A representative from the Texas Federation of Drug Stores expressed concern with the date August 1, 1995 as the date that technicians employed after that time must have a high school degree and suggested a "window" after the effective date of the rules-perhaps June 1, 1996.

**Response:** The Board agrees with this comment and has changed the date to March 1, 1996.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association, Texas Society of Health-System Pharmacists and two individuals either were against requiring all technicians to be certified by January 1, 2001 or questioned the requirement. Two individuals were in favor of this requirement.

**Response:** The Board disagrees with the person's commenting against this requirement and the language remains as proposed. However, the Board agrees to monitor the issue for other possible alternatives.

Section 291.32(c)(3) and §291.36(c)(3)(C)—Personnel—Supportive personnel/pharmacy technicians—Ratio

Comment: The Texas Federation of Drug Stores and seven individuals suggested that the Board should change the ratio of pharmacists to technicians to at least one pharmacist to three technicians (1:3) rather than the current 1:2.

Response: The Board disagrees with these comments and believes that a change in ratio is not appropriate at this time. No changes were made to this paragraph in §291.32. However §291.36(c)(3)(C) was modified to be consistent with the language in §291.32(c)(3).

Section 291.32(c)(4) and §291.36(c)(3)(D)—Personnel—Supportive personnel/pharmacy technicians—Training

In response to previous comments and at staff's recommendation, the Board has added to this section:

(1) clarification that the training may be transferred to another pharmacy if the pharmacies are under common ownership and control and have a common training program;

(2) a requirement that the pharmacist-in-charge must certify the competency of supportive personnel in writing.

Section 291.32(c)(5) and §291.36(c)(3)(E)—Personnel—Supportive personnel/pharmacy technicians—Training Program

Comment: Representatives of the Texas Federation of Drug Stores, Texas Pharmacy Association, and one individual suggested that the training outline in the rules were too detailed and too specific.

Response: The Board agrees with these comments and has eliminated the detail and kept only the major headings in the outline of topics to be covered. In addition, the Board has added a requirement that the training manual include written procedures and guidelines for the use and supervision of supportive personnel.

Section 291.33(b)(1)(G) and §291.36(d)(2)(A)(viii)—Operational Standards—Environment—General Requirements

Comment: The Texas Federation of Drug Stores suggested that the last sentence of this subparagraph be amended to read: This provision does not apply to fish in aquariums, guide dogs, or animals for sale to the general public in a separate area that is inspected by local health jurisdictions"

Response: The Board agrees with this comment and has amended the language.

Section 291.33(c)(4) and §291.36(d)(3)(C)—Operational Standards—Prescription dispensing and delivery—Labeling

The changes made in this section are to update the labeling provisions to reflect language in Senate Bill 673 passed by the 74th Legislature.

Section 291.34(b)(2) and §291.36(e)(2)(B) Records—Prescriptions—Written prescription drug orders

The changes made in this section are to update the prescription requirements to reflect language in Senate Bill 673 passed by the 74th Legislature.

Section 291.34(b)(4) and §291.36(e)(2)(D) Records—Prescriptions—Electronic prescription drug orders

Comment: One individual suggested that the Board consider allowing electronic transmission of controlled substance prescriptions from practitioners located in other states.

Response: The Board disagrees with this comment because the Texas Controlled Substances Act allows Texas pharmacists to dispense controlled substances prescriptions written by practitioners in other states only if the pharmacist receives an original written prescription. Electronic prescription drug orders are considered to be the same as oral prescriptions and therefore electronic prescriptions from practitioners in other states cannot be dispensed under the current law. In addition, the phrase "communicated by telephone" contained at the end of §291.34(b)(4) and §291.36(e)(2)(D) has been deleted to be consistent with the earlier change in the definition of electronic prescription drug order.

Section 291.34(b)(5) and §291.36(e)(2)(E) Records—Prescriptions—Prescription drug order information

The changes made in this section are to update the labeling provisions to reflect language in Senate Bill 673 passed by the 74th Legislature.

Section 291.36(c)(4) Personnel—Special education, training—Supportive personnel

This section is returned to the language prior to proposal of the rules because of the change made earlier in the educational requirements for a technician.

Section 291.36(d)(4)(B)(1) Operational Standards—Library

The change made in this subparagraph is the correction of an error in previous language submitted to the Register. The error caused one reference to be listed twice. This has been corrected and one of the duplicate listings replaced with the correct "Remington's practice of Pharmacy."

Section 291.36(e)(7) Records—Patient Medication Records (PMR)

The change made in this paragraph is only a correction in the catch phrase by adding "Patient Medication Records (PMR).

The amendments are adopted under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542-1), §4, which specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; §16(a), which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; §17(b)(2), which gives the Board the authority to specify minimum standards for professional environment, technical equipment, and security in the prescription dispensing area; §17(b)(3), which gives the Board the authority to specify minimum standards for drug storage, maintenance of prescription drug records and procedures for the delivery, dispensing in a suitable container appropriately labeled, providing of prescription drugs or devices, monitoring of drug therapy, and counseling of patients on proper use of prescription drugs and devices within the practice of pharmacy; §17(b)(4), which specifies that the Board has the responsibility for the adoption of rules regulating a prescription drug or medication order transmitted by electronic means; §17(o), which gives the Board the authority to establish rules for the use of supportive personnel and the duties of those personnel in pharmacies licensed by the Board; §40(d), which allows a pharmacist to dispense a dosage form of a drug product different from that prescribed; House Bill 1408 as passed by the 74th Legislature which eliminates the Class F Pharmacy license; Senate Bill 673 as passed by the 74th Legislature which allows physicians to delegate the signing of prescriptions to advanced practice nurses and physician assistants; and Senate Bill 659 as passed by the 74th Legislature which allows a physician to delegate medication therapy management to a pharmacist.

The statutes affected by these amendments: Texas Civil Statutes, Article 4542a-1.

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

Act—The Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, as amended.

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

Advanced practice nurse—A registered nurse approved by the Texas State Board of Nurse Examiners to practice as an advanced practice nurse on the basis of completion of an advanced education program. The term includes a nurse practitioner, a nurse midwife, a nurse anesthetist, and a clinical nurse specialist.

Board—The Texas State Board of Pharmacy.

Carrying out or signing a prescription drug order—The completion of a prescription drug order presigned by the delegating physician, or the signing of a prescription by an advanced practice nurse or physician assistant after the person has been designated with the Texas State Board of Medical Examiners by the delegating physician as a person delegated to sign a prescription. The following information shall be provided on each prescription:

(A) patient's name and address;

dispensed; (B) name, strength, and quantity of the drug to be

(C) directions for use;

(D) the intended use of the drug, if appropriate;

(E) the name, address, and telephone number of the physician;

(F) the name, address, telephone number, and identification number of the advanced practice nurse or physician assistant completing the prescription drug order;

(G) the date; and

(H) the number of refills permitted.

Component—Any ingredient intended for use in the compounding of a drug product, including those that may not appear in such product.

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

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

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

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

Confidential record—Any health-related record maintained by a pharmacy or pharmacist, such as a patient medication record, prescription drug order, or medication order. Controlled substance A drug, immediate precursor, or other substance listed in Schedules I-V or Penalty Groups 1-4 of the Texas Controlled Substances Act, as amended, or a drug, immediate precursor, or other substance included in Schedules I, II, III, IV, or V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

Dangerous drug—Any drug or device that is not included in Penalty Groups 1-4 of the Controlled Substances Act and that is unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(A) "Caution: federal law prohibits dispensing without prescription"; or

(B) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

Data communication device—An electronic device that receives electronic information from one source and transmits or routes it to another (e.g., bridge, router, switch or gateway).

Deliver or delivery—The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

Designated agent—

(A) a licensed nurse, physician assistant, pharmacist, or other individual designated by a practitioner to communicate prescription drug orders to a pharmacist;

(B) a licensed nurse, physician assistant, or pharmacist employed in a health care facility to whom the practitioner communicates a prescription drug order; or

(C) an advanced practice nurse or physician assistant authorized by a practitioner to carry out or sign a prescription drug order for dangerous drugs under the Medical Practice Act, §3.06(d)(5) or (6) (Texas Civil Statutes, Article 4495b).

Dispense—Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

Distribute—The delivery of a prescription drug or device other than by administering or dispensing.

Downtime—Period of time during which a data processing system is not operable.

Drug regimen review—An evaluation of prescription drug orders and patient medication records for:

(A) known allergies;

(B) rational therapy-contraindications;

(C) reasonable dose and route of administration;

(D) reasonable directions for use;

(E) duplication of therapy;

(F) drug-drug interactions;

(G) drug-food interactions;

(H) drug-disease interactions;

(I) adverse drug reactions; and

(J) proper utilization, including overutilization or underutilization.

Electronic prescription drug order—A prescription drug order which is transmitted by an electronic device to the receiver (pharmacy).

Full-time pharmacist—A pharmacist who works in a pharmacy from 30 to 40 hours per week or, if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

Hard copy—A physical document that is readable without the use of a special device (i.e., cathode ray tube (CRT), microfiche reader, etc.).

Manufacturing—The production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of the container and the promotion and marketing of such drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons but does not include compounding.

Medical Practice Act—The Texas Medical Practice Act, Texas Civil Statutes, Article 4495b, as amended.

Medication order—A written order from a practitioner or a verbal order from a practitioner or his authorized agent for administration of a drug or device.

New prescription drug order—A prescription drug order for a drug not previously self administered by the patient. A new prescription includes a discharge prescription drug order but not a furlough prescription drug order.

Original prescription—The:

(A) original written prescription drug order; or

(B) original verbal or electronic prescription drug order reduced to writing either manually or electronically by the pharmacist.

Part-time pharmacist—A pharmacist who works less than full-time.

Patient counseling—Communication by the pharmacist of information to the patient or patient's agent in order to improve therapy by ensuring proper use of drugs and devices.

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

Pharmacist-in-charge—The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

Physician assistant—A physician assistant recognized by the Texas State Board of Medical Examiners as having the specialized education and training required under the Medical Practice Act, §3.06(d), and issued an identification number by the Texas State Board of Medical Examiners.

Practitioner—

(A) a physician, dentist, podiatrist, veterinarian, or other person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state;

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs;

(D) does not include a person licensed under the Texas Pharmacy Act.

Prepackaging—The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container into a prescription container for dispensing by a pharmacist to the ultimate consumer.

Prescription drug order—

(A) a written order from a practitioner or a verbal order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed; or

(B) a written order or a verbal order pursuant to the Medical Practice Act, §3.06(d)(5) and (6).

Prospective drug use review—A review of the patient's drug therapy and prescription drug order or medication order prior to dispensing or distributing the drug.

Supportive personnel/Pharmacy technician—Those individuals utilized in pharmacies whose responsibility it shall be to provide technical services that do not require professional judgment concerned with the preparation and distribution of drugs under the direct supervision of and responsible to a pharmacist.

Texas Controlled Substances Act—The Texas Controlled Substances Act, Health and Safety Code, Chapter 481, as amended.

Written protocol—A physician's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Texas State Board of Medical Examiners under the Texas Medical Practice Act, (Texas Civil Statutes, Article 4495b).

§291.32. Personnel.

(a) (No change.)

(b) Pharmacists.

(1) General.

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

(C) Pharmacists are solely responsible for the direct supervision of supportive personnel and for designating and delegating duties, other than those listed in paragraph (2) of this subsection, to supportive personnel. Each pharmacist:

(i) shall verify the accuracy of all acts, tasks, or functions performed by supportive personnel; and

(ii) shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(D) (No change.)

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

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

(D) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient to ensure that the prescription has been dispensed accurately as prescribed;

(E) communicating to the patient or patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgement, the pharmacist deems significant, as specified in §291.33(c) of this title (relating to Operational Standards);

(F) communicating to the patient or the patient's agent on his or her request information concerning any prescription drugs dispensed to the patient by the pharmacy;

(G) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(H) interpreting patient medication records and performing drug regimen reviews; and

(I) performing a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act (Texas Civil Statutes, Article 4495b).

(3) (No change.)



(c) Supportive personnel/pharmacy technician.

(1) Qualifications.

(A) All Supportive personnel shall:

(i) have a high school or equivalent degree, e.g., G.E.D., or be currently enrolled in a program which awards such a degree; and

(ii) complete a structured didactic and experiential training program, which provides instruction and experience in the areas listed in paragraph (4) of this subsection.

(B) Supportive personnel employed in a pharmacy before March 1, 1996 are not required to comply with the education requirements listed in subparagraph (A)(i) of this paragraph, but must complete the training program specified in subparagraph (A)(ii) of this paragraph by January 1, 1997 or cease performing the duties of a supportive person.

(C) All supportive personnel employed in a pharmacy on or after March 1, 1996 must meet the education requirements listed in subparagraph (A)(i) of this paragraph and complete the training program specified in subparagraph (A)(ii) of this paragraph by January 1, 1997 or cease performing the duties of a supportive person.

(D) Effective January 1, 2001, all supportive personnel must have taken and passed the National Pharmacy Technician Certification Exam.

(E) For the purpose of this subsection, supportive personnel are those persons who perform nonjudgmental technical duties associated with the dispensing of a prescription drug order.

(2) Duties.

(A) Supportive personnel may not perform any of the duties listed in subsection (b)(2) of this section.

(B) A pharmacist may delegate to supportive personnel any nonjudgmental technical duty associated with the preparation and distribution of prescription drugs provided:

(i) a pharmacist conducts in-process and final checks; and

(ii) supportive personnel are under the direct supervision of and responsible to a pharmacist.

(3) (No change.)

(4) Training.

(A) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge in a training manual, prior to the regular performance of their duties. Such training:

(i) shall include training and experience as outlined in paragraph (5) of this subsection; and

(ii) may not be transferred to another pharmacy unless:

(I) the pharmacies are under common ownership and control and have a common training program; and

(II) the pharmacist-in-charge of each pharmacy in which the supportive person works certifies that the supportive person is competent to perform the duties assigned in that pharmacy.

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

(C) The pharmacist-in-charge shall document the completion of the training program and certify the competency of supportive personnel completing the training. A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(i) name of the person receiving the training;

(ii) date(s) of the training;

(iii) general description of the topics covered;

(iv) a statement or statements that certifies that the supportive person is competent to perform the duties assigned;

(v) name of the person supervising the training;

and

(vi) signature of the supportive person and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training of supportive personnel.

(5) Training program. Supportive personnel training shall be outlined in a training manual. Such training manual shall, at a minimum, contain the following:

(A) written procedures and guidelines for the use and supervision of supportive personnel. Such procedures and guidelines shall:

(i) specify the manner in which the pharmacist responsible for the supervision of supportive personnel will supervise such personnel and verify the accuracy and completeness of all acts, tasks, and functions performed by such personnel; and

(ii) specify duties which may and may not be performed by supportive personnel; and

(B) instruction in the following areas and any additional areas appropriate to the duties of supportive personnel in the pharmacy:

(i) Orientation:

(ii) Job descriptions:

(iii) Communication techniques:

(iv) Laws and rules:

(v) Security and safety:

(vi) Prescription drugs:

(I) Basic pharmaceutical nomenclature;

(II) Dosage forms;

(vii) Prescription drug orders:

(I) Prescribers;

(II) Directions for use;

(III) Commonly-used abbreviations and symbols;

(IV) Number of dosage units;

- (V) Strengths and systems of measurement;
- (VI) Routes of administration;
- (VII) Frequency of administration;
- (VIII) Interpreting directions for use;
- (viii) Prescription drug order preparation:
  - (I) Creating or updating patient medication records;
  - (II) Entering prescription drug order information into the computer or typing the label in a manual system;
  - (III) Selecting the correct stock bottle;
  - (IV) Accurately counting or pouring the appropriate quantity of drug product;
  - (V) Selecting the proper container;
  - (VI) Preparing the finished product for inspection, labeling, and final check by pharmacists;
    - (ix) Other functions;
    - (x) Drug product repackaging;
    - (xi) Compounding of non-sterile pharmaceuticals;
    - (xii) Written policy and guidelines for use of and supervision of supportive personnel.
- (d) (No change.)

§291.33. *Operational Standards.*

- (a) Licensing requirements.
  - (1) A Class. A pharmacy shall register annually with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).
  - (2) A Class. A pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.4 of this title (relating to Change of Ownership).
  - (3) A Class. A pharmacy which changes location and/or name shall notify the board within ten days of the change and file for an amended license as specified in §291.2 of this title (relating to Change of Location and/or Name).
  - (4) A Class. A pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures in §291.3 of this title (relating to Change of Managing Officers).
  - (5) A Class. A pharmacy shall notify the board in writing within ten days of closing, following the procedures in §291.5 of this title (relating to Closed Pharmacies).
  - (6) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(7) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an amended license.

(8) A Class. A pharmacy, licensed under the provisions of the Act, §29(b)(1), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §29(b)(2), concerning Nuclear Pharmacy (Class B), is not required to secure a license for such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §291.51 of this title (relating to Definitions), §291.52 of this title (relating to Personnel), §291.53 of this title (relating to Operational Standards), and §291.54 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such sections are applicable to the operation of the pharmacy.

(9) A Class. A (community) pharmacy engaged in the compounding of sterile pharmaceuticals shall comply with the provisions of §291.36 of this title (relating to Class A Pharmacies Compounding Sterile Pharmaceuticals).

(b) Environment.

(1) General requirements.

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

(G) Animals, including birds and reptiles, shall not be kept within the pharmacy and in immediately adjacent areas under the control of the pharmacy. This provision does not apply to fish in aquariums, guide dogs accompanying disabled persons, or animals for sale to the general public in a separate area that is inspected by local health jurisdictions.

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

(c) Prescription dispensing and delivery.

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

(4) Labeling.

(A) At the time of delivery of the drug, the dispensing container shall bear a label with at least the following information:

(i)-(xi) (No change.)

(xii) the name of the advanced practice nurse or physician assistant, if the prescription is carried out or signed by an advanced practice nurse or physician assistant in compliance with the Medical Practice Act, §3.06(d); and

(xiii) (No change.)

(B) (No change.)

(d)-(i) (No change.)

§291.34. *Records.*

(a) (No change.)

(b) Prescriptions.

(1) (No change.)

(2) Written prescription drug orders.

(A)-(E) (No change.)

(F) Prescription drug orders carried out or signed by an advanced practice nurse or physician assistant.

(i) A pharmacist may dispense a prescription drug order for a dangerous drug which is carried out or signed by an advanced practice nurse or physician assistant provided:

(I) the prescription is for a dangerous drug and not for a controlled substance; and

(II) the advanced practice nurse or physician assistant is practicing in accordance with the Medical Practice Act, §3.06(d).

(ii) Each practitioner shall designate in writing the name of each advanced practice nurse or physician assistant authorized to carry out or sign a prescription drug order pursuant to the Medical Practice Act, §3.06(d). A list of the advanced practice nurses or physician assistants designated by the practitioner must be maintained in the practitioner's usual place of business. On request by a pharmacist, a practitioner shall furnish the pharmacist with a copy of the written authorization for a specific advanced practice nurse or physician assistant.

(G) (No change.)

(3) (No change.)

(4) Electronic prescription drug orders. For the purpose of this subsection, prescription drug orders shall be considered the same as verbal prescription drug orders.

(A) An electronic prescription drug order may be transmitted by a practitioner or a practitioner's designated agent:

(i) directly to a pharmacy; or

(ii) through the use of a data communication device provided:

(I) the prescription information is not altered during transmission; and

(II) confidential patient information is not accessed or maintained by the operator of the data communication device unless the operator is authorized to receive the confidential information as specified in subsection (k) of this section.

(B) A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(C) A pharmacist may not dispense an electronic prescription drug order for a:

(i) Schedule II controlled substance;

(ii) Schedule III, IV, or V controlled substance issued by a practitioner licensed in another state unless the practitioner is also registered under the Texas Controlled Substances Act; or

(iii) dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(D) The practitioner or practitioner's agent shall note any substitution instructions on the electronic prescription drug order. Such electronic prescription drug order may follow the two-

line format indicated in paragraph (2)(B) of this subsection, or any other format that clearly indicates the subsection, or any other format that clearly indicates the substitution instructions.

(5) Authorization for substitution.

(A) Generic substitution.

(i) A pharmacist may dispense a generically equivalent drug product if:

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

(IV) the practitioner or practitioner's agent does not clearly indicate that the verbal or electronic prescription drug order shall be dispensed as ordered.

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

(B) Substitution of dosage form.

(i) A pharmacist may dispense a dosage form of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid instead of tablets, provided;

(I) the patient consents to the dosage form substitution;

(II) the pharmacist notifies the practitioner of the dosage form substitution; and

(III) the dosage form so dispensed:

(-a-) contains the identical amount of the active ingredients as the dosage prescribed for the patient;

(-b-) is not an enteric-coated or time release product;

(-c-) does not alter desired clinical outcomes;

(ii) Substitution of dosage form may not include the substitution of a product that has been compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing and obtains permission to dispense the compounded product.

(6) Original prescription drug order records.

(A) Original prescriptions shall be maintained by the pharmacy in numerical order and remain legible for a period of two years from the date of filling or the date of the last refill dispensed.

(B) If an original prescription drug order is changed, such prescription order shall be invalid and of no further force and effect; if additional drugs are to be dispensed, a new prescription drug order with a new and separate number is required.

(C) Original prescriptions shall be maintained in three separate files as follows:

(i) prescriptions for controlled substances listed in Schedule II;

(ii) prescriptions for controlled substances listed in Schedule III-V; and

(iii) prescriptions for dangerous drugs and non-prescription drugs.

(D) Original prescription records other than triplicate prescriptions may be stored on microfilm, microfiche, or other system which is capable of producing a direct image of the original prescription record, e.g., digitalized imaging system. If original prescription records are stored in a direct imaging system, the following is applicable:

(i) the record of refills recorded on the original prescription must also be stored in this system;

(ii) the original prescription records must be maintained in numerical order and separated in three files as specified in subparagraph (C) of this paragraph; and

(iii) the pharmacy must provide immediate access to equipment necessary to render the records easily readable.

(7) Prescription drug order information.

(A) All original prescriptions shall bear:

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

(vi) directions for use;

(vii) intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient; and

(viii) date of issuance.

(B) All original electronic prescription drug orders shall bear:

(i)-(vi) (No change.)

(vii) indications for use, unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(viii) date of issuance;

(ix) a statement which indicates that the prescription has been electronically transmitted, (e.g., Faxed to or electronically transmitted to);

(x) name, address, and electronic access number of the pharmacy to which the prescription was transmitted;

(xi) telephone number of the prescribing practitioner;

(xii) date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and

(xiii) if transmitted by a designated agent, the full name of the designated agent.

(C) All original written prescriptions for dangerous drugs carried out or signed by an advanced practice nurse or physician assistant in accordance with the Medical Practice Act, §3.06(d), shall bear:

(i) name and address of the patient;

(ii) name, address, telephone number, and original signature of the practitioner;

(iii) name, identification number, and original signature of the advanced practice nurse or physician assistant;

(iv) address and telephone number of the clinic at which the prescription drug order was carried out or signed;

(v) name, strength, and quantity of the dangerous drug;

(vi) directions for use;

(vii) indications for use, if appropriate;

(viii) date of issuance; and

(ix) number of refills authorized.

(D) (No change.)

(8) (No change.)

(c)-(j) (No change.)

(k) Confidentiality.

(1) A pharmacist shall provide adequate security of prescription drug orders, and patient medication records to prevent indiscriminate or unauthorized access to confidential health information. If prescription drug orders, requests for refill authorization, or other confidential health information are not transmitted directly between a pharmacy and a physician but are transmitted through a data communication device, confidential health information may not be accessed or maintained by the operator of the data communication device unless specifically authorized to obtain the confidential information by this subsection.

(2) (No change.)

§291.36. *Class A Pharmacies Compounding Sterile Pharmaceuticals.*

(a) (No change.)

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

(1) ACPE—The American Council on Pharmaceutical Education.

(2) Act—The Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1, as amended.

(3) Advanced practice nurse—A registered nurse approved by the Texas State Board of Nurse Examiners to practice as an advanced practice nurse on the basis of completion of an advanced education program. The term includes a nurse practitioner, a nurse midwife, a nurse anesthetist, and a clinical nurse specialist.

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

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

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

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

(5) Ancillary supplies—Supplies necessary for the administration of compounded sterile pharmaceuticals.

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

(7) Automated compounding or drug dispensing system—An automated device that compounds, measures, counts and/or

packages a specified quantity of dosage units for a designated drug product.

(8) **Batch preparation compounding**—Compounding of multiple sterile-product units, in a single discrete process, by the same individual(s), carried out during one limited time period. Batch preparation/compounding does not include the preparation of multiple sterile-product units pursuant to patient specific medication orders.

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

(10) **Board**—The Texas State Board of Pharmacy.

(11) **Carrying out or signing**—A prescription drug order the completion of a prescription drug order presigned by the delegating physician, or the signing of a prescription by an advanced practice nurse or physician assistant after the person has been designated with the Texas State Board of Medical Examiners by the delegating physician as a person delegated to sign a prescription. The following information shall be provided on each prescription:

- (A) patient's name and address;
- (B) name, strength, and quantity of the drug to be dispensed;
- (C) directions for use;
- (D) the intended use of the drug, if appropriate;
- (E) the name, address, and telephone number of the physician;
- (F) the name, address, telephone number, and identification number of the advanced practice nurse or physician assistant completing the prescription drug order;
- (G) the date; and
- (H) the number of refills permitted.

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

(13) **Clean zone**—A defined space in which the concentration of airborne particles is controlled to meet a specified airborne particulate cleanliness class.

(14) **Compounding**—The preparation, mixing, assembling, packaging, or labeling of a drug or device:

- (A) as the result of a practitioner's prescription drug or medication order or initiative based on the practitioner-patient pharmacist relationship in the course of professional practice;
- (B) in anticipation of prescription drug or medication orders based on routine, regularly observed prescribing patterns; or
- (C) for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale or dispensing.

(15) **Confidential record**—Any health related record maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication drug order.

(16) **Controlled area**—A controlled area is the area designated for preparing sterile pharmaceuticals.

(17) **Controlled substance**—A drug, immediate precursor, or other substance listed in Schedules I-V or Penalty Groups 1-4 of the Texas Controlled Substances Act, as amended, or a drug, immediate precursor, or other substance included in Schedule I, II, III, IV, or V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

(18) **Critical areas**—Any area in the controlled area where products or containers are exposed to the environment.

(19) **Cytotoxic**—A pharmaceutical that has the capability of killing living cells.

(20) **Dangerous drug**—Any drug or device that is not included in Penalty Groups 1-4 of the Controlled Substances Act and that is unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(A) "Caution: federal law prohibits dispensing without prescription;" or

(B) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

(21) **Data communication device**—An electronic device that receives electronic information from one source and transmits or routes it to another (e.g., bridge, router, switch or gateway).

(22) **Deliver or delivery**—The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

(23) **Designated agent**—

(A) a licensed nurse, physician assistant, pharmacist, or other individual designated by a practitioner, and for whom the practitioner assumes legal responsibility, who communicates prescription drug orders to a pharmacist;

(B) a licensed nurse, physician assistant, or pharmacist employed in a health care facility to whom the practitioner communicates a prescription drug order; or

(C) an advanced practice nurse or physician assistant authorized by a practitioner to carry out or sign a prescription drug order for dangerous drugs under Medical Practice Act, Article 4495b, §3.06(d)(5) or (6).

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

(25) **Dispense**—Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(26) **Distribute**—The delivery of a prescription drug or device other than by administering or dispensing.

(27) **Downtime**—Period of time during which a data processing system is not operable.

(28) **Drug regimen review**—An evaluation of prescription drug or medication orders and patient medication records for:

- (A) known allergies;

- (B) rational therapy—contraindications;
- (C) reasonable dose and route of administration;
- (D) reasonable directions for use;
- (E) duplication of therapy;
- (F) drug-drug interactions;
- (G) drug-food interactions;
- (H) drug-disease interactions;
- (I) adverse drug reactions; and
- (J) proper utilization, including overutilization or underutilization.

(29) Electronic prescription drug order—A prescription drug order which is transmitted by an electronic device to the receiver (pharmacy).

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

(31) Full-time pharmacist—A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(32) Hard copy—A physical document that is readable without the use of a special device (i.e., cathode ray tube (CRT), microfiche reader, etc).

(33) Medical Practice Act—The Texas Medical Practice Act, Texas Civil Statutes, Article 4495b, as amended.

(34) New prescription drug order—A prescription drug order for a drug not previously self-administered by the patient. A new prescription includes a discharge prescription drug order but not a furlough prescription drug order.

(35) Original prescription—The:

- (A) original written prescription drug orders; or
- (B) original verbal or electronic prescription drug orders reduced to writing either manually or electronically by the pharmacist.

(36) Part-time pharmacist—A pharmacist who works less than full-time.

(37) Patient counseling—Communication by the pharmacist of information to the patient or patient's agent, in order to improve therapy by ensuring proper use of drugs and devices.

(38) Pharmacist-in-charge—The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

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

(40) Physician assistant—A physician assistant recognized by the Texas State Board of Medical Examiners as having the

specialized education and training required under the Medical Practice Act, §3.06(d), and issued an identification number by the Texas State Board of Medical Examiners.

(41) Practitioner—

(A) a physician, dentist, podiatrist, veterinarian, or other person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state;

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs;

(D) does not include a person licensed under the Texas Pharmacy Act.

(42) Repackaging—The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container into a prescription container for dispensing by a pharmacist to the ultimate consumer.

(43) Prescription drug—

(A) a substance for which federal or state law requires a prescription before it may be legally dispensed to the public;

(B) a drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(i) "Caution: federal law prohibits dispensing without prescription"; or

(ii) "Caution: federal law restricts this drug to use by or on order of a licensed veterinarian"; or

(C) a drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by a practitioner only.

(44) Prescription drug order—

(A) an order from a practitioner or a practitioner's designated agent to a pharmacist for a drug or device to be dispensed; or

(B) an order pursuant to the Medical Practice Act, §3.06(d)(5) or (6).

(45) Process validation—Documented evidence providing a high degree of assurance that a specific process will consistently produce a product meeting its predetermined specifications and quality attributes.

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

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

(48) Sample—A prescription drug which is not intended to be sold and is intended to promote the sale of the drug.

(49) Sterile pharmaceutical—A dosage form free from living micro-organisms.

(50) Supportive personnel/Pharmacy technician—Those individuals utilized in pharmacies whose responsibility it shall be to provide technical services that do not require professional judgment concerned with the preparation and distribution of drugs under the direct supervision of and responsible to a pharmacist.

(51) Texas Controlled Substances Act—The Texas Controlled Substances Act, Health and Safety Code, Chapter 481, as amended.

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

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

(54) Written protocol—A physician's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Texas State Board of Medical Examiners under the Texas Medical Practice Act, (Texas Civil Statutes, Article 4495b).

(c) Personnel.

(1) (No change.)

(2) Pharmacists.

(A) General.

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

(iii) Pharmacists are solely responsible for the direct supervision of supportive personnel and for designating and delegating duties, other than those listed in subparagraph (B) of this paragraph, to supportive personnel. Each pharmacist:

(I) shall verify the accuracy of all acts, tasks, or functions performed by supportive personnel; and

(II) shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(iv)-(v) (No change.)

(B) Duties. Duties which may only be performed by a pharmacist are as follows:

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

(iv) interpreting patient medication records and performing drug regimen reviews;

(v) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient to ensure that the prescription has been dispensed accurately as prescribed;

(vi) (No change.)

(vii) communicating to the patient or the patient's agent on his or her request, information concerning any prescription drugs dispensed to the patient by the pharmacy;

(viii) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records; and

(ix) performing a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act (Texas Civil Statutes, Article 4495b).

(3) Supportive personnel/pharmacy technicians.

(A) Qualifications.

(i) All Supportive personnel shall:

(I) have a high school or equivalent degree, e.g., G.E.D., or be currently enrolled in a program which awards such a degree; and

(II) complete a structured didactic and experiential training program, which provides instruction and experience in the areas listed in subparagraph (E) of this subsection.

(ii) Supportive personnel employed in a pharmacy before March 1, 1996 are not required to comply with the education requirements listed in clause (i)(I) of this subparagraph, but must complete the training program specified in clause (i)(II) of this subparagraph by January 1, 1997 or cease performing the duties of a supportive person.

(iii) All supportive personnel employed in a pharmacy on or after March 1, 1996 must meet the education requirements listed in clause (i)(I) of this subparagraph and complete the training program specified in clause (i)(II) of this subparagraph by January 1, 1997 or cease performing the duties of a supportive person.

(iv) Effective January 1, 2001, all supportive personnel must have taken and passed the National Pharmacy Technician Certification Exam.

(v) For the purpose of this section, supportive personnel are those persons who perform nonjudgmental technical duties associated with the dispensing of a prescription drug order.

(B) Duties.

(C) Ratio of pharmacists to supportive personnel. The ratio of pharmacists to supportive personnel shall be no greater than 1:2, provided that only one supportive person may be engaged in the compounding of sterile pharmaceuticals.

(i) Supportive personnel may not perform any of the duties listed in paragraph 2(B) of this section

(ii) A pharmacist may delegate to supportive personnel any nonjudgmental technical duty associated with the preparation and distribution of prescription drugs provided:

(I) a pharmacist conducts in-process and final checks; and

(II) Supportive personnel are under the direct supervision of and responsible to a pharmacist.

(D) Training.

(i) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge in a training manual which includes training and experience as outlined in subparagraph (E) of this paragraph prior to the regular performance of their duties. Such training:

(I) shall include training and experience as outlined in subparagraph (E) of this subsection; and

(II) may not be transferred to another pharmacy unless:

(-a-) the pharmacies are under common ownership and control and have a common training program; and

(-b-) the pharmacist-in-charge of each pharmacy in which the supportive person works certifies that the supportive person is competent to perform the duties assigned in that pharmacy.

(ii) (No change.)

(iii) The pharmacist-in-charge shall document the completion of the training program and certify the competency of supportive personnel completing the training. A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

(I) name of the person receiving the training;

(II) date(s) of the training;

(III) general description of the topics covered;

(IV) a statement or statements that certifies that the supportive person is competent to perform the duties assigned;

(V) name of the person supervising the training; and

(VI) signature of the supportive person and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training of supportive personnel.

(E) Training program. Supportive personnel training shall be outlined in a training manual. Such training manual shall, at a minimum contain the following:

(i) written procedures and guidelines for the use and supervision of supportive personnel. Such procedures and guidelines shall:

(I) specify the manner in which the pharmacist responsible for the supervision of supportive personnel will supervise such personnel and verify the accuracy and completeness of all acts, task and functions performed by such personnel; and

(II) specify duties which may and may not be performed by supportive personnel; and

(ii) instruction in the following areas and any additional areas appropriate to the duties of supportive personnel in the pharmacy:

(I) Orientation:

(II) Job descriptions:

(III) Communication techniques:

(IV) Laws and rules:

(V) Security and safety:

(VI) Prescription drugs:

(-a-) Basic pharmaceutical nomenclature;

(-b-) Dosage forms;

(VII) Prescription drug orders:

(-a-) Prescribers;

(-b-) Directions for use;

(-c-) Commonly-used abbreviations and

symbols;

(-d-) Number of dosage units;

(-e-) Strength and systems of measurement;

(-f-) Route of administration;

(-g-) Frequency of administration;

(-h-) Interpreting directions for use.

(VIII) Prescription drug order preparation:

(-a-) Creating or updating patient medication records;

(-b-) Entering prescription drug order information into the computer or typing the label in a manual system;

(-c-) Selecting the correct stock bottle;

(-d-) Accurately counting or pouring the appropriate quantity of drug product;

(-e-) Selecting the proper container;

(-f-) Preparing the finished product for inspection labeling and final check by pharmacists.

(IX) Other functions:

(X) Drug product prepackaging:

(XI) Compounding of non-sterile pharmaceuticals:

(XII) Written policy and guidelines for use of and supervision of supportive personnel.

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

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

(C) Supportive personnel. In addition to the qualifications and training outlined in paragraph 3 of this subsection, all supportive personnel who compound sterile pharmaceuticals shall:

(i) have a high school or equivalent education;

and



(ii) either:

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

(-a-) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy) which provides 40 hours of instruction and experience in the areas listed in subparagraph (A) of this paragraph; or

(-b-) completion of a course sponsored by an ACPE approved provider which provides 40 hours of instruction and experience in the areas listed in subparagraph (A) of this paragraph; or

(II) complete a training program which is accredited by the American Society of Health-System Pharmacists (formerly the American Society of Hospital Pharmacists).

(D) (No change.)

(5) (No change.)

(d) Operational standards.

(1) Licensing requirements.

(A) A Class A pharmacy compounding sterile pharmaceuticals shall register annually with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(B) A Class A pharmacy compounding sterile pharmaceuticals which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.4 of this title (relating to Change of Ownership).

(C) A Class A pharmacy compounding sterile pharmaceuticals which changes location and/or name shall notify the board within ten days of the change and file for an amended license as specified in §291.2 of this title (relating to Change of Location and/or Name).

(D) A Class A pharmacy compounding sterile pharmaceuticals owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures in §291.3 of this title (relating to Change of Managing Officers).

(E) A Class A pharmacy compounding sterile pharmaceuticals shall notify the board in writing within ten days of closing, following the procedures in §291.5 of this title (relating to Closed Pharmacies).

(F) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(G) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an amended license.

(H) A Class A pharmacy compounding sterile pharmaceuticals, licensed under the provisions of the Act, §29(b)(1), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §29(b)(2), concerning nuclear pharmacy (Class B), is not required to secure a license for such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of §291.51 of this title (relating to Definitions), §291.52 of this title (relating to Personnel), §291.53 of this title (relating to Operational Standards), and §291.54 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such rules are applicable to the operation of the pharmacy.

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

(2) Environment.

(A) General requirements.

(i)-(vii) (No change.)

(viii) Animals, including birds, and reptiles, shall not be kept within the pharmacy and in immediately adjacent areas under the control of the pharmacy. This provision does not apply to fish in aquariums, guide dogs accompanying disabled persons, or animals for sale to the general public in a separate area that is inspected by local health jurisdictions.

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

(3) Prescription dispensing and delivery.

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

(C) Labeling.

(i) At the time of delivery of the drug, the dispensing container of a sterile pharmaceutical shall bear a label with at least the following information:

(I)-(XII) (No change.)

(XIII) the name of the advanced practice nurse or physician assistant, if the prescription is carried out by an advanced practice nurse or physician assistant in compliance with the Medical Practice Act, §3.06(d).

(ii) (No change.)

(4) Pharmaceutical care services.

(A) (No change.)

(B) Other pharmaceutical care services which may be provided by pharmacists include, but are not limited to, the following:

(i) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practice Act, §3.061 or §3.06(d);

(ii) managing patient compliance programs;

- and
- (iii) providing preventative health care services;
  - (iv) providing case management of patients who are being treated with high-risk or high-cost drugs, or who are considered "high risk" due to their age, medical condition, family history, or related concern.

(5) (No change.)

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

(A) (No change.)

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

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

(iii) general information:

(I) Facts and Comparisons with current supplements;

(II) United States Pharmacopeia Dispensing Information, Volume I (Drug Information for the Healthcare Provider);

(III) AHFS Drug Information with current supplements;

(IV) Remington's Pharmaceutical Sciences; or

(V) Micromedex;

(iv) (No change.)

(C)-(E) (No change.)

(7)-(9) (No change.)

(e) Records.

(1) (No change.)

(2) Prescriptions.

(A) (No change.)

(B) Written prescription drug orders.

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

(vi) Prescription drug orders carried out or signed by an advanced practice nurse or physician assistant.

(I) A pharmacist may dispense a prescription drug order for a dangerous drug which is carried out or signed by an advanced practice nurse or physician assistant provided:

(-a-) the prescription is for a dangerous drug and not for a controlled substance; and

(-b-) the advanced practice nurse or physician assistant is practicing in accordance with the Medical Practice Act, §3.06(d).

(II) Each practitioner shall designate in writing the name of each advanced practice nurse or physician assistant authorized to carry out or sign a prescription drug order pursuant to the Medical Practice Act, §3.06(d). A list of the advanced practice

nurses or physician assistants designated by the practitioner must be maintained in the practitioner's usual place of business. On request by a pharmacist, a practitioner shall furnish the pharmacist with a copy of the written authorization for a specific advanced practice nurse or physician assistant.

(vii) (No change.)

(C) (No change.)

(D) Electronic prescription drug orders. For the purpose of this subparagraph, electronic prescription drug orders shall be considered the same as verbal prescription drug orders.

(i) An electronic prescription drug order may be transmitted by a practitioner or a practitioner's designated agent:

(I) directly to a pharmacy; or

(II) through the use of a data communication device provided:

(-a-) the prescription information is not altered during transmission; and

(-b-) confidential patient information is not accessed or maintained by the operator of the data communication device unless the operator is authorized to receive the confidential information as specified in subsection (k) of this section.

(ii) A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(iii) A pharmacist may not dispense an electronic prescription drug order for a:

(I) Schedule II controlled substance;

(II) Schedule III, IV, or V controlled substance issued by a practitioner licensed in another state unless the practitioner is also registered under the Texas Controlled Substances Act; or

(III) dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(iv) The practitioner or practitioner's agent shall note any substitution instructions on the electronic prescription drug order. Such electronic prescription drug order may follow the two-line format indicated in subparagraph (B)(ii) of this paragraph or any other format that clearly indicated the substitution instructions.

(E) Authorization for generic substitution.

(i) A pharmacist may dispense a generically equivalent drug product if:

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

(IV) the practitioner or practitioner's agent does not clearly indicate that the verbal or electronic prescription drug order shall be dispensed as ordered.

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

(F) Substitution of dosage form.

(i) A pharmacist may dispense a dosage form of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid instead of tablets, provided:

(I) the patient consents to the dosage form substitution;

(II) the pharmacist notifies the practitioner of the dosage form substitution; and

(III) the dosage form so dispensed:

(-a-) contains the identical amount of the active ingredients as the dosage prescribed for the patient;

(-b-) is not an enteric-coated or time release product; and

(-c-) does not alter desired clinical outcomes.

(ii) Substitution of dosage form may not include the substitution of a product that has been compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing and obtains permission to dispense the compounded product.

(G) Original prescription drug order records.

(i) Original prescriptions shall be maintained by the pharmacy in numerical order and remain legible for a period of two years from the date of filling or the date of the last refill dispensed.

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

(H) Prescription drug order information.

(i) All original prescriptions shall bear:

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

(VI) directions for use;

(VII) intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(VIII) date of issuance; and

(IX) if telephoned to the pharmacist by a designated agent, the full name of the designated agent.

(ii) All original prescriptions for dangerous drugs carried out by an advanced practice nurse or physician assistant in accordance with the Medical Practice Act, §3.06(d), shall bear:

(I) name and address of the patient;

(II) name, address, telephone number, and original signature of the practitioner;

(III) name, address telephone number, identification number, and original signature of the advanced practice nurse or physician assistant;

(IV) name, strength, and quantity of the dangerous drug;

(V) directions for use;

(VI) the intended use of the drug, if appropriate;

(VII) date of issuance; and

(VIII) number of refills authorized.

(iii) All original electronic prescription drug orders shall bear:

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

(VI) intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(VII) date of issuance;

(VIII) a statement which indicates that the prescription has been electronically transmitted, (e.g., Faxed to or electronically transmitted to:);

(IX) name, address, and electronic access number of the pharmacy to which the prescription was transmitted;

(X) telephone number of the prescribing practitioner;

(XI) date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and

(XII) if transmitted by a designated agent, the full name of the designated agent.

(iv) (No change.)

(I) (No change.)

(3)-(6) (No change.)

(7) Patient Medication Record (PMR). A PMR shall be maintained for each patient of the pharmacy. The PMR shall contain at a minimum the following.

(A) Patient information:

(i) -(vii) (No change.)

(B) Prescription drug order information:

(i)-(vi) (No change.)

(C) Nothing in this paragraph shall be construed as requiring a pharmacist to obtain, record, and maintain patient information other than prescription drug order information when a patient or patient's agent refuses to provide the necessary information for such patient medication records.

(8)-(10) (No change.)

(11) Confidentiality.

(A) A pharmacist shall provide adequate security of prescription drug order and patient medication records to prevent indiscriminate or unauthorized access to confidential health information. If prescription drug orders, requests for refill authorization, or other confidential health information are not transmitted directly between a pharmacy and a physician but are transmitted through a data communication device, confidential health information may not be accessed or maintained by the operator of the data communication device unless specifically authorized to obtain the confidential information by this subsection.

(B) (No change.)

(f) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 29, 1996.

TRD-9602867      Fred S. Brinkley, Jr., R.Ph., M.B.A.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Effective date: March 21, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 305-8027

◆      ◆      ◆  
**Institutional Pharmacy (Class C)**

• **22 TAC §§291.72-291.74**

The Texas State Board of Pharmacy adopts amendments to §§291.72-291.74, concerning Definitions, Personnel, and Operational Standards, with changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8164).

The amendments specify the minimum qualifications and training requirements for supportive personnel in Class C Pharmacies and implement most of the recommendations of the Board appointed Task Force on Pharmacy Technicians. The amendments also remove references to the Class F Pharmacy license, which was eliminated by House Bill 1408 passed by the 74th Texas Legislature.

A total of 32 comments were received regarding the adoption of the amendments. Eighteen of the comments were oral comments received at a public hearing on the rules held on November 14, 1995 and 14 persons submitted written comments regarding the rules.

The changes to the proposed text and reasons for these changes are as follows:

**Section 291.72-Definitions**

**Comment:** Representatives from the Coalition for Nurses in Advanced Practice, Texas Academy of Physician Assistants, Texas Medical Association and Texas Nurses Association suggested that the definition for "prescription drug order" be updated to include changes made by Senate Bill 673 passed during the 74th Legislative Session.

**Response:** The Board agrees with this comment and has updated the definition.

**Section 291.73(d)(1) Personnel-Pharmacists-General**

**Comment:** Representatives of the Texas Federation of Drug Stores, Texas Society of Health-System Pharmacists, Texas Pharmacy Association, and three individuals questioned the addition of the phrase: "No employer or supervisor may interfere with or impair the proper exercise of a pharmacist professional judgement in designating and delegating duties to supportive personnel."

**Response:** The Board agrees that, rather than clarifying, the addition of this phrase appears to be causing confusion. Therefore, the proposed

change is not adopted and paragraph (1) remains as it was prior to the proposed change.

**Section 291.73(e)(1)-Personnel-Supportive personnel/pharmacy technicians-Qualifications**

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association and eleven individuals commented against requiring that pharmacy technicians be high school graduates. One individual commented in favor of this requirement.

**Response:** The Board agrees that persons enrolled in high school should be allowed to work as pharmacy technicians. The language has been modified to require that a pharmacy technician has to be currently enrolled in or have a high school degree.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association and five individuals commented against the requirement that the training program be "site-specific" and suggested that the training should be transferable to another pharmacy if the pharmacies were under common management.

**Response:** The Board agrees with these comments and has modified the language to delete the words "site-specific" and "at this pharmacy." In addition, the Board has added language to specify that a person receiving the training may transfer this training to another pharmacy if the pharmacies are under common ownership and have a common training program, and provided the pharmacist-in-charge at each pharmacy certifies that the technician is competent.

**Comment:** A representative from the Texas Federation of Drug Stores expressed concern with the date August 1, 1995 as the date that technicians employed after that time must have a high school degree and suggested a "window" after the effective date of the rules—perhaps June 1, 1996.

**Response:** The Board agrees with this comment and has changed the date to March 1, 1996.

**Comment:** Representatives from the Texas Federation of Drug Stores, Texas Pharmacy Association, Texas Society of Health-System Pharmacists and two individuals either were against requiring all technicians to be certified by January 1, 2001 or questioned the requirement. Two individuals were in favor of this requirement.

**Response:** The Board disagrees with the persons commenting against this requirement and the language remains as proposed. However, the Board agrees to monitor the issue for other possible alternatives.

**Section 291.73(e)(4)-Personnel-Supportive personnel/pharmacy technicians-Training**

In response to previous comments and at staff's recommendation, the Board has added to this section:

(1) clarification that the training may be transferred to another pharmacy if the pharmacies are under common ownership and control and have a common training program;

(2) a requirement that the pharmacist-in-charge must certify the competency of supportive personnel in writing.

**Section 291.73(e)(5)-Personnel-Supportive personnel/pharmacy technicians-Training Program**

**Comment:** Representatives of the Texas Federation of Drug Stores, Texas Pharmacy Association, and one individual suggested that the training outline in the rules were too detailed and too specific.

**Response:** The Board agrees with these comments and has eliminated the detail and kept only the major headings in the outline of topics to be covered. In addition, the Board has added a requirement that the training manual include written procedures and guidelines for the use and supervision of supportive personnel.

**Section 291.73(f)(3)-Special education, training-Supportive personnel**

This section is returned to the language prior to proposal of the rules because of the change made earlier in the educational requirements for a technician.

**Section 291.74(g)(2)(A)-Pharmaceutical Care Services-Other**

The change made in this subparagraph is the addition of a reference to the Medical Practices Act, §3.061 as added by the passage of Senate Bill 659 by the 74th Legislative Session.

The amendments are adopted under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1), §4, which specifies that the purpose of the Act is to protect the public through the effective control and regulation of the practice of pharmacy; §16(a), which gives the Board the authority to adopt rules for the proper administration and enforcement of the Act; §17(b)(3), which gives the Board the authority to specify minimum standards for drug storage, maintenance of prescription drug records and procedures for the delivery, dispensing in a suitable container appropriately labeled, providing of prescription drugs or devices, monitoring of drug therapy, and counseling of patients on proper use of prescription drugs and devices within the practice of pharmacy; §17(o), which gives the Board the authority to establish rules for the use of supportive personnel and the duties of those personnel in pharmacies licensed by the Board; House Bill 1408 as passed by the 74th Legislature which eliminates the Class F Pharmacy license; and Senate Bill 659 as passed by the 74th Legislature which allows a physician to delegate medication therapy management to a pharmacist.

The statutes affected by these amendments: Texas Civil Statutes, Article 4542a-1.

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

Prescription drug order—

(A) a written order from a practitioner or a verbal order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed; or

(B) a written order or a verbal order pursuant to the Medical Practice Act, §3. 06(d)(5) or (6).

Written protocol—A physician's order, standing medical order, standing delegation order, or other order or protocol as defined by rule of the Texas State Board of Medical Examiners under the Texas Medical Practice Act, (Texas Civil Statutes, Article 4495b).

§291.73. *Personnel.*

(a)-(c) (No change.)

(d) Pharmacists.

(1) General.

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

(C) All pharmacists shall be responsible for any delegated act performed by supportive personnel under his or her supervision.

(D) (No change.)

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

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

(D) performing a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act (Texas Civil Statutes, Article 4495b).

(E) accepting the responsibility for:

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

(ii) compounding and labeling of drugs and devices;

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

(iv) maintaining proper records for drugs and devices.

(e) Supportive personnel/Pharmacy technicians.

(1) Qualifications.

(A) All supportive personnel shall:

(i) have a high school or equivalent degree, e.g., G.E.D., or be currently enrolled in a program which awards such a degree; and

(ii) complete a structured didactic and experiential training program, which provides instruction and experience in the areas listed in paragraph (4) of this subsection.

(B) Supportive personnel employed in a pharmacy before March 1, 1996 are not required to comply with the education requirements listed in subparagraph (A)(i) of this paragraph but must complete the training program specified in subparagraph (A)(ii) of this paragraph by January 1, 1997 or cease performing the duties of a supportive person.

(C) All supportive personnel employed in a pharmacy on or after March 1, 1996 must meet the education requirements listed in subparagraph (A)(i) of this paragraph and complete the training program specified in subparagraph (A)(ii) of this paragraph by January 1, 1997 or cease performing the duties of a supportive person.

(D) Effective January 1, 2001, all supportive personnel must have taken and passed the National Pharmacy Technician Certification Exam.

(E) For the purpose of this section, supportive personnel are those persons who perform nonjudgmental technical duties associated with the distribution of a medication drug order.

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

(4) Training.

(A) Supportive personnel shall complete initial training as outlined by the pharmacist-in-charge in a training manual, prior to the regular performance of their duties. Such training:

(i) shall include training and experience as outlined in paragraph (5) of this subsection; and

(ii) may not be transferred to another pharmacy unless:

(I) the pharmacies are under common ownership and control and have a common training program; and

(II) the pharmacist-in-charge of each pharmacy in which the supportive person works certifies that the supportive person is competent to perform the duties assigned in that pharmacy.

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

(C) The pharmacist-in-charge shall document the completion of the training program and certify the competency of supportive personnel completing the training. A written record of initial and in-service training of supportive personnel shall be maintained and contain the following information:

- (i) name of the person receiving the training;
  - (ii) date(s) of the training;
  - (iii) general description of the topics covered;
  - (iv) a statement or statements that certifies that the supportive person is competent to perform the duties assigned;
  - (v) name of the person supervising the training;
- and
- (vi) signature of the supportive person and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training of supportive personnel.

(5) Training program. Supportive personnel training shall be outlined in a training manual. Such training manual shall, at a minimum contain the following:

(A) written procedures and guidelines for the use and supervision of supportive personnel. Such procedures and guidelines shall:

- (i) specify the manner in which the pharmacist responsible for the supervision of supportive personnel will supervise such personnel and verify the accuracy and completeness of all acts, tasks, and functions performed by such personnel; and
- (ii) specify duties which may and may not be performed by supportive personnel; and

(B) instruction in the following areas and any additional areas appropriate to the duties of supportive personnel in the pharmacy;

- (i) Orientation;
- (ii) Job descriptions;
- (iii) Communication techniques;
- (iv) Laws and rules;
- (v) Security and safety;
- (vi) Prescription drugs:

(I) Basic pharmaceutical nomenclature:

(II) Dosage forms:

(vii) Medication drug orders:

(I) Prescribers;

(II) Directions for use;

(III) Commonly-used abbreviations and symbols;

(IV) Number of dosage units;

(V) Strength and systems of measurement;

(VI) Route of administration;

(VII) Frequency of administration;

(VIII) Interpreting directions for use.

(viii) Medication drug order preparation:

(I) Creating or updating patient medication records;

(II) Entering medication drug order information into the computer or typing the label in a manual system;

(III) Selecting the correct stock bottle;

(IV) Accurately counting or pouring the appropriate quantity of drug product;

(V) Selecting the proper container;

(VI) Affixing the prescription label;

(VII) Affixing auxiliary labels, if indicated;

(VIII) Preparing the finished product for inspection and final check by pharmacists.

(ix) Other functions;

(x) Drug product Prepackaging;

(xi) Compounding of Non-sterile pharmaceuticals;

(xii) Written policy and guidelines for use of and supervision of supportive personnel.

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

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

(3) Supportive personnel. In addition to the qualifications and training outlined in subsection (e) of this section, all supportive personnel who compound sterile pharmaceuticals shall:

(A) have a high school or equivalent education; and

(B) either:

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

(I) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy) which provides 40 hours of instruction and experience in the areas listed in paragraph (1) of this subsection; or

(II) completion of a course sponsored by an ACPE approved provider which provides 40 hours of instruction and experience in the areas listed in paragraph (1) of this subsection; or

(ii) complete a training program which is accredited by the American Society of Health-System Pharmacists (formerly American Society of Hospital Pharmacists).

(C) (No change.)

(4) (No change.)

(g) (No change.)

*§291.74. Operational Standards.*

(a) Licensing requirements.

(1)-(10) (No change.)

(b)-(f) (No change.)

(g) Pharmaceutical care services.

(1) (No change.)

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

(A) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practice Act, §3.061 or §3.06(d);

(B) managing patient compliance programs;

(C) providing preventative health care services; and

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

(h)-(i) (No change.)

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 29, 1996.

TRD-9602868 Fred S. Brinkley, Jr., R.Ph., M.B.A.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Effective date: March 21, 1996

Proposal publication date: October 6, 1995

For further information, please call: (512) 305-8027

◆ ◆ ◆  
**Chapter 309. Generic Substitution**

• **22 TAC §309.2, §309.3**

The Texas State Board of Pharmacy adopts amendments to §309.2 and §309.3, concerning Definitions and Prescription Drug Orders, with changes to the proposed text as published in the October 3, 1995, issue of the *Texas Register* (20 TexReg 8059).

The amendments establish procedures for the electronic transmission of prescriptions from practitioner to pharmacy and specify procedures for the substitution of dosage forms by pharmacists.

A total of 32 comments were received regarding the adoption of the amendments. Eighteen of the comments were oral comments received at a public hearing on the proposed rules held on November 14, 1995 and 14 persons submitted written comments regarding the rules.

The change to §309.2 is in the definition of "electronic prescription drug order." This change is as a result of comments from representatives

from the Texas Federation of Drug Stores, Texas Pharmacy Association, and one individual which suggested that the words "over telephone lines" be deleted from the definition. The Board agrees with this comment and changes have been made in this definition.

The change to §309.3 is in paragraph (2)(B) regarding substitution of dosage forms. This change to make this language consistent with language adopted in the Class A Pharmacy rules.

The amendments are adopted under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542-1), §17(b)(4), which specifies that the Board has the responsibility for the adoption of rules regulating a prescription drug or medication order transmitted by electronic means; §40(d), which allows a pharmacist to dispense a dosage form of a drug product different from that prescribed; and §16(a), which specifies that the Board has the authority to adopt rules for the proper administration and enforcement of the Act.

The statute affected by these amendments: Texas Civil Statutes, Article 4542a-1.

*§309.2. Definitions.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any term not defined in this section shall have the definition set out in the Act, §5 and §40.

**Data communication device**—An electronic device that receives electronic information from one source and transmits or routes it to another (e.g., bridge, router, switch, or gateway).

**Electronic prescription drug order**—A prescription drug order which is transmitted by an electronic device to the receiver (pharmacy).

**Original prescription**—The:

(A) original written prescription drug orders; or

(B) original verbal or electronic prescription drug orders reduced to writing either manually or electronically by the pharmacist.

*§309.3. Prescription Drug Orders.*

(a) Written prescription drug orders.

(1) (No change.)

(2) Authorization for substitution.

(A) Generic substitution.

(i) A pharmacist may dispense a generically equivalent drug product if:

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

(IV) the practitioner or practitioner's agent does not clearly indicate that the verbal or electronic prescription drug order shall be dispensed as ordered.

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

(B) Substitution of dosage form.

(i) A pharmacist may dispense a dosage form of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid instead of tablets, provided;

(I) the patient consents to the dosage form substitution;

(II) the pharmacist notifies the practitioner of the dosage form substitution; and

(III) the dosage form so dispensed:

(-a-) contains the identical amount of the active ingredients as the dosage prescribed for the patient;

(-b-) is not an enteric-coated or time release product;

(-c-) does not alter desired clinical outcomes;

(ii) Substitution of dosage form may not include the substitution of a product that has been compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing and obtains permission to dispense the compounded product.

(b) (No change.)

(c) Electronic prescription drug orders.

(1) The practitioner or practitioner's agent shall note any substitution instructions on the electronic prescription drug order. Such electronic prescription drug order may follow the two-line format indicated in subsection (a)(1)(A) of this subsection, or any other format that clearly indicates the substitution instructions.

(2) If the practitioner or practitioner's agent does not clearly indicate on the electronic prescription drug order that the prescription shall be dispensed as ordered, the pharmacist may substitute a generically equivalent drug product.

(d) (No change.)

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 29, 1996.

TRD-9602869 Fred S. Brinkley, Jr., R.Ph., M.B.A.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Effective date: March 21, 1996

Proposal publication date: October 3, 1995

For further information, please call: (512) 305-8027

◆ ◆ ◆  
**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 33. Early and Periodic Screening,**  
**Diagnosis and Treatment**

**Subchapter E. Medical Phase**

**• 25 TAC §33.140**

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits an adopted amendment to §33.140, concerning Early and Periodic Screening, Diagnosis, and Treatment-Comprehensive Care Program (EPSDT-CCP) providers, with changes to the proposed text as published in the October 6, 1995, issue of the *Texas Register* (20 TexReg 8167).

The amendment clarifies that comprehensive outpatient rehabilitation facilities (CORFs) and outpatient rehabilitation facilities (ORFs) are EPSDT-CCP providers, and shall be reimbursed according to Medicare methodology. The amendment as proposed also concerned reimbursement for durable medical equipment (DME) by direct vendor payments. As a result of numerous comments, the department recommends to the State Medicaid Director that the proposed amendment to §33.140(5)(A)(iv) not be adopted as proposed, and will gather additional information to clarify whether an alternative methodology that will distinguish rehabilitation equipment dealers from other types of DME providers is also needed.

All the following comments concerned the proposed amendment to §33.140(5) (A)(iv).

**COMMENT:** Several commenters stated that rehabilitation equipment dealers have different characteristics and different cost structures compared to durable medical equipment dealers who do not sell and service customized wheelchairs.

**RESPONSE:** The department agrees that product and service differentiation may be an important consideration in developing a reimbursement methodology. The department is not adopting the proposed amendment at this time in order to study this issue further.

**COMMENT:** Several commenters stated that the proposed amendment would always result in utilization of the cost-plus approach, and that the add-on was inadequate.

**RESPONSE:** The adequacy of the percentage add-on cannot be evaluated because it is not defined in the rule.

**COMMENT:** Several commenters stated that the rule did not adequately define costs.

**RESPONSE:** The department agrees that the individual components which comprise the definition of costs are not explained completely. The department is not adopting the proposed amendment in order to develop an appropriate definition.

**COMMENT:** Several commenters stated that the proposed amendment would entail extensive cost accounting in order to document how reimbursement was determined.

**RESPONSE:** The department believes that with an appropriate definition of costs, this will not be an issue. The department is not adopting the proposed amendment pending development of an appropriate definition.

**COMMENT:** Several commenters stated that employing a cost-plus methodology would result in higher cost equipment being provided.

**RESPONSE:** The department believes that other policies that have been developed would effectively deter the provision of the highest price equipment. Not only is a vendor required to show medical necessity for a particular piece of equipment, but National Heritage Insurance Company also may request documentation to support provision of a relatively expensive piece of equipment when a less expensive substitute is available. No changes were made as a result of this comment.

**COMMENT:** A commenter asked when the requirement for prior authorization would become effective. The commenter expressed concern that equipment which has already been authorized under the existing methodology could be reimbursed under the proposed amendment, resulting in a reduced level of payment.

**RESPONSE:** Prior authorization is intended to address whether the equipment is medically necessary for the client's condition. The department does not intend to use prior authorization for reimbursement purposes. No changes were made as a result of this comment.

**COMMENT:** Several commenters stated that access to quality rehabilitation services would likely be harmed if the proposed amendment is adopted.

**RESPONSE:** The department is committed to ensure that adequate access to these services is maintained. No changes were made as a result of this comment.

**COMMENT:** Several commenters stated that this amendment would have a negative impact on business and the labor force.

**RESPONSE:** The impact of this change would, in large part, depend upon the percentage of a provider's business derived from Medicaid program as compared to that from other payment sources. Since the department's cost information is primarily based on Medicaid, no changes were made as a result of this comment.

**COMMENT:** A commenter recommended that the department should also reimburse providers for mileage and other travel expenditures.

**RESPONSE:** The department is considering this issue, but no changes were made at this time.

**COMMENT:** A commenter recommended that the department reimburse providers for services provided by seating specialists such as initial evaluations, fitting, and follow-up inspections.



RESPONSE: The department believes that providers of these services are adequately compensated under the current global pricing methodology. Reimbursement for services provided by seating specialists may be an option for future consideration if the department determines that the cost-plus methodology should be used predominantly. No changes were made as a result of this comment.

COMMENT: One commenter recommended that all DME providers should be reimbursed according to the lesser of either the manufacturer's suggested retail price minus 25%, or cost plus 35%.

RESPONSE: Although the suggestion may have merit, no supporting documentation was provided showing how the two alternative percentages were determined. No changes were made as a result of this comment.

Comments were received from several rehabilitation equipment dealers and from representatives of the Texas Association of Medical Equipment Dealers. Although some commenters had questions and offered suggestions, most were against the proposed amendment to §33.140(5)(A)(iv). No comments were received concerning the proposed §33.140(15).

The amendment is adopted under Human Resources Code, §32.021, and Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted to the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the Early and Periodic Screening, Diagnosis and Treatment-Comprehensive Care Program (EPSDT-CCP) and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

§33.140. *Early and Periodic Screening, Diagnosis, Treatment-Comprehensive Care Program Providers (EPSDT-CCP)*. The following are approved EPSDT-CCP provider types and the approved Texas Medical Assistance (Medicaid) Program reimbursement methodology for each provider type.

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

(5) Reimbursement for durable medical equipment.

(A) Direct vendor payments. The department or its designee makes direct vendor payments to providers of durable medical equipment participating in the Medicaid program. Participating providers are reimbursed within the limits of the maximum allowable fee schedule established by the department. The maximum allowable fee schedule for durable medical equipment is based on the lesser of the following:

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

(iv) if no discount is provided, the incurred cost to the dealer plus a percentage to be determined by the department.

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

(6)-(14) (No change.)

(15) Comprehensive outpatient rehabilitation facility/outpatient rehabilitation facility. A comprehensive outpatient rehabilitation facility or outpatient rehabilitation facility must be enrolled and participating in Medicare. The department or its designee will reimburse comprehensive outpatient rehabilitation facilities and outpatient rehabilitation facilities according to Medicare reimbursement methodology.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 27, 1996.

TRD-9603161 Susan K. Steeg  
General Counsel  
Texas Department of Health

Effective date: March 27, 1996

Proposal publication date: October 6, 1995

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

## TITLE 28. Insurance

### Part I. Texas Department of Insurance

#### Chapter 5. Property and Casualty Insurance

##### Subchapter B. Insurance Code, Chapter 5, Subchapter B

###### Rules to Implement the Omnibus Health Care Rescue Act's Reduction In Certain Professional Liability Insurance Premiums

###### • 28 TAC §§5.1301-5.1307

The Texas Department of Insurance adopts amendments to §§5.1301-5.1307, concerning implementation of the Omnibus Health Care Act's reduction in certain professional liability insurance premiums, without changes to the proposed text as published in the January 16, 1996, issue of the *Texas Register* (21 TexReg 422).

The amendments are necessary to conform these sections to the Insurance Code, Article 5.15-4 as amended by House Bill 1362, 74th Legislature, 1995. These amendments ensure that the definition of persons and entities entitled to a reduction in professional liability premium will match the revised requirements now in Article 5.15-4, Insurance Code and §§110.001, 110.002, 110.003, and 110.005, Civil Practice and Remedies Code. The amendments narrow the scope of those persons and entities entitled to a reduction in premium by the deletion of all aspects of the definition of "charity care" except for approved family practice residency training programs, the elimination of Medicaid managed care programs from the definitions of "health care professional" and "eligible health care liability claim", the elimination of the definition of "health center" as defined by 42 U.S.C. §1396d and the elimination of the term "health center" from the definitions of a "health care liability claim" and "patient encounter". The term "health center" was eliminated wherever it appeared in §§5.1301-5.1307. The term "health care professionals" as defined in §110.001(3)(D) of the Civil Practice and Remedies Code was eliminated from subsections (c) and (d) of §5.1304.

The amendments reduce the number of physicians who are eligible for a reduction in premium by narrowing the definition of "charity care" and eliminating health centers, Medicaid managed care programs and certain health care professionals from eligibility under the program.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Insurance Code, Articles 5.15-4 and 1.03A and the Government Code §§2001.004 et seq Article 5.15-4 authorizes the Texas Department of Insurance to adopt necessary rules, forms, endorsements and procedures to carry out the purposes of this article. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute. The Government Code, §§2001.004 et seq (Administrative Procedure Act) authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state agency.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603162 Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: March 27, 1996

Proposal publication date: January 16, 1996

For further information, please call: (512) 463-6327

##### Subchapter K. Commercial Multi-peril Policies

###### • 28 TAC §5.9101

The Texas Department of Insurance adopts an amendment to §5.9101, concerning an exemption for reciprocals from rate filing requirements for commercial multi-peril policies, without changes to the proposed text as published in the January 16, 1996, issue of the *Texas Register* (21 TexReg 429).

The amendment is necessary to conform this section to amendments to the Texas Insurance Code, Article 5.13-2, enacted by House Bill 1988, 74th Texas Legislature, 1995. The amendment provides for the addition of an exemption for reciprocal exchanges from the rate filing requirements of §5.9101 subsections (c), (d) and (e). Article 5.13-2 governs the regulation of insurance rates and provides procedures concerning rate filings for certain coverages, including general liability and commercial property insurance. Under Article 5.81, the Texas Department of Insurance is authorized to prescribe policy forms and rates for multi-peril policies of insurance and the commissioner has the authority to choose the procedure under any of the subchapters of Chapter 5 for the purpose of determining rates and forms. In 1992, the State Board of Insurance selected, through the adoption of §5.9101, the regulatory scheme in Article 5.13-2, applicable to commercial property insurance, to govern the regulation of forms and rates for commercial multi-peril policies. The definition of "insurer" in Article 5.13-2 is a part of §5.9101. When the legislature amended this definition to exempt reciprocal exchanges as well as Lloyds insurer from the rate filing requirements of Article 5.13-2 it required amending the definition of "insurer" in §5.9101 to include reciprocal exchanges. This amendment is necessary to bring §5.9101 in conformity with the exemption granted to reciprocals (previously accorded to Lloyds companies) under the amendment to Article 5.13-2 §3(2).

The amendment conforms this section to amendments to the Insurance Code, Article 5.13-2. Reciprocal insurance exchanges are being accorded the same exemption as Lloyds insurers from the rate filing requirements of subsections (c), (d), and (e) of §5.9101.

Commenters believe it was the intent of the legislature in amending the Insurance Code, Article 5.13-2 §3(2) to place reciprocal insurance exchanges on parity with Lloyds insurers regarding the application of rate filing requirements and that the amendment accomplishes that intent. The amendment ensures a uniform application of the rating scheme under §5.9101.

Agency Response: The agency agrees with this comment.

Farmers Insurance Exchange, Truck Insurance Exchange, and Fire Insurance Exchange were in favor of the adoption of the amendment.

The amendment is adopted pursuant to the Insurance Code, Articles 5.81, 5.98, and 1.03A, and the Government Code, §§2001.004 et seq. Article 5.81 authorizes the Commissioner of Insurance to approve forms for multi-peril policies of insurance and to adopt rules to carry out the purposes and objectives of the article. Article 5.98 authorizes the commissioner to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Texas Insurance Code, which regulates rating and policy forms for property and casualty insurance. Article 1.03A authorizes the commissioner to adopt rules and regulations, for the conduct and execution of the duties and functions of the department only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state agency.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603163 Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: March 27, 1996

Proposal publication date: January 16, 1996

For further information, please call: (512) 463-6327



## Chapter 7. Corporate and Financial Regulation

### Subchapter A. Examination and Corporate Custodian and Tax

#### • 28 TAC §7.28

The Texas Department of Insurance adopts new §7.28, concerning the regulation of accounting for reinsurance agreements by insurers, with changes to the proposed text as published in the November 17, 1995, issue of the *Texas Register* (20 TexReg 9531). A public hearing on the proposed section was held on January 18, 1996.

The new section is necessary to implement House Bill 1243, §2 and §4, 74th Legislature, 1995, which amended Insurance Code, Articles 3.10 and 5.75-1, and to provide effective regulation of the accounting for reinsurance agreements. Some insurers enter into agreements that are represented to be reinsurance when such arrangements, despite their legal form, are in substance and effect financing arrangements, which have the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, but which provide little or no indemnification of insurance risks by the reinsurer. The department recognizes that reinsurance agreements can be entered into for the purpose of producing increased surplus and at the same time provide indemnification of insurance risks, but seeks to identify those agreements which do not by this section.

The new section establishes minimum standards that must be met to support the accounting for reinsurance agreements in an insurer's financial statements. The new section incorporates several of the existing provisions of §7.27 of this title (relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers) which constitutes the present standards for reinsurance contracts. After the effective date of this new section, reinsurance contracts entered into, or materially amended, on or after the effective date will be regulated under this new section. Reinsurance agreements entered into before the effective date of §7.28 will be regulated under §7.27. Subsection (a) of §7.28 states the intent of the commissioner in adopting this section. Subsection (b) specifies the insurers subject to the section, the applicability of the section to reinsurance agreements and amendments to reinsurance agreements and describes certain kinds of reinsurance agreements that are not subject to the section. Subsection (c)(1) enumerates conditions which if included in a reinsurance agreement, can result in the disallowance of credit for reinsurance in a ceding insurer's financial statements. Subsection (c)(2) and (c)(3) provide exceptions for reinsurance agreements that do not comply with subsection (c)(1). Subsection (d) requires a ceding insurer to notify the department when it reinsures existing or in-force business. Proposed subsection (d)(2) is redesignated as subsection (e). It provides for the disclosure in the financial statements of a ceding insurer of any increase in surplus resulting from the reinsurance of existing or in-force business. Proposed subsection (e) is redesignated subsection (f). It describes certain requirements for the execution and amending of reinsurance agreements. The agency amended the section by adding a paragraph (4) to subsection (b) to clarify the application of this section to reinsurance agreements entered into prior to the effective date of this section. The agency also amended §7.28(c) (1)(G) by moving clauses (i)-(vi) to Figure 1: 28 TAC §7.28(c)(1)(G) since they define the risks identified in the figure; deleting unnecessary language in subsection (e)(1) (now subsection (f)(1)), and deleting "null and void" in subsection (e)(3) (now subsection (f)(3)). Changes to the adopted section were also made as a result of written comments received by the agency. The agency's response to the comments, including specific changes to the section and the reasoned justification for the changes are addressed in the paragraphs that follow.

#### COMMENTS TO §7.28(a)

COMMENT: Several commenters stated that the preamble was vague and contained unnecessary conclusions regarding the use of reinsurance agreements.

RESPONSE: The agency responds by deleting the proposed preamble and substituting the preamble in §7.27 of this title (Relating to Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers) with the addition of two sentences to that preamble. One sentence describes the purpose of the section and the

other sentence disclaims any authority in the department under the section to void or cancel any reinsurance agreement.

#### Comments to §7.28(b)

**COMMENT:** Several commenters stated that the application of the section should be narrowed to apply only to those reinsurance agreements that do not transfer the significant risks inherent in the business being transferred.

**RESPONSE:** The agency responds that the section must apply to all reinsurance agreements, with the exception of those exempted by subsection (b) (3), because the section provides minimum requirements for all reinsurance agreements, including but not limited to, those that do not transfer significant risks in the business being reinsured. Most reinsurance agreements will comply with the section and consequently there will be no disallowance of a reserve credit. Furthermore, the agency finds that it would be administratively inefficient to attempt to define the types of reinsurance agreements that do not transfer the risk being reinsured and are in effect, financing agreements.

**COMMENT:** Two commenters stated that §7.28(b)(2) should be changed so that the section only apply to material amendments to reinsurance agreements.

**RESPONSE:** First, the agency notes that House Bill 1243, §2 states that the rules adopted to implement the section shall apply to reinsurance agreements that are amended after the effective date of such rules; however, the agency agrees that a literal application of House Bill 1243 would be inconsistent with its intent. The agency recognizes that reinsurance agreements may be amended from time to time and that such amendments do not in every instance materially affect the substance of the reinsurance agreements. Subsection (b)(2) is amended to provide that the section only applies to amendments to reinsurance agreements that materially affect the nature of an agreement.

**COMMENT:** Concerning §7.28(b)(3), one commenter suggested that reinsurance arrangements which are the functional equivalent of assumption reinsurance agreements should be exempted from the section as are assumption reinsurance agreements.

**RESPONSE:** The agency agrees with the suggestion and amended subsection (b) (3) to exempt these arrangements. The agency also amended (b)(3) to reflect additional examples of nonproportional reinsurance agreements.

#### COMMENTS TO §7.28(c)

**COMMENT:** One commenter questioned the meaning of the word "deprived" in §7.28(c)(1)(C).

**RESPONSE:** The agency responds that "deprived" means the ability of the reinsurer to unilaterally appropriate surplus or assets to the material detriment of a ceding insurer.

**COMMENT:** Concerning §7.28(c)(1)(D), one commenter stated that the provisions relating to involuntary termination gave the commissioner too much discretion.

**RESPONSE:** The agency responds that the requirements of subsection (c)(1)(D) currently apply to reinsurance agreements under §7.27(c)(1)(D) of this title (Relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers). New language was added to this subparagraph when it was proposed to provide an example which clarifies the language used in §7.27(c)(1)(D) of this title (Relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers). The intent of the rule is to ensure that there is risk transferred to the reinsurer and the example provided describes a situation which would allow the reinsurer to reduce its risk under the agreement which is essentially what the rule is trying to regulate. To enhance clarity, subsection (c)(1)(D) is amended to reference subparagraph (F) of subsection (c) (1), which prohibits the payment by the ceding insurer to the reinsurer of amounts other than income from the reinsured policies and the word "excessive" is deleted from the example.

**COMMENT:** One commenter questioned whether §7.28(c)(1)(E) applied to a conversion of coinsurance to modified coinsurance.

**RESPONSE:** The agency responds that subsection (c)(1)(E) does not apply to a conversion of coinsurance to modified coinsurance. The

agency also notes that this provision is currently contained in §7.27(c)(1)(F) of this title (Relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers) and applies to the contractually required termination or recapture of reinsurance ceded.

**COMMENT:** Two commenters stated that the language, "all of the risks," in §7.28(c)(1)(G) is contrary to Insurance Code, Article. 3.10, which authorizes an insurer to transfer part of a risk.

**RESPONSE:** The agency believes subsection (c)(1)(G) is not contrary to Insurance Code, Article. 3.10 since subsection (c)(2)-(3) recognizes the statutory authority of an insurer to reinsure part of a risk. To enhance clarity, the agency amended subparagraph (G) by deleting "all of the," added a sentence to explain when full credit may be reflected in an insurer's financial statement and included a reference to subsection (c)(2)-(3).

**COMMENT:** One commenter stated that §7.28(c)(1)(H) gave the commissioner too much discretion in determining which risks are insignificant.

**RESPONSE:** The agency responds that subsection (c)(1)(H) does not contemplate commissioner's discretion in determining which risks are insignificant. Examples of significant and insignificant risks are identified in Figure 1, which must be read in conjunction with subsection (c)(1)(H).

**COMMENT:** One commenter stated the requirement in subsection (c)(1)(H) for an insurer to segregate assets conflicted with Insurance Code, Article 3.10.

**RESPONSE:** The agency responds by amending subsection (c)(1)(H) to provide that an insurer may comply with subparagraph by specifically identifying the underlying assets, in lieu of segregating the underlying assets.

**COMMENT:** Two commenters stated the formula in §7.28(c)(1)(J) was overly restrictive.

**RESPONSE:** The agency responds that subsection (c)(1)(J) only applies to subsection (c)(1)(I), which is an exception from the general requirements of the rule, and added clarifying language. The agency also notes the formula is an example of an acceptable formula, not the only formula which may be used. Any formula used by an insurer must identify its investment earnings, not some other index, if risks associated with the underlying assets are to be transferred to a reinsurer.

**COMMENT:** One commenter asked if the settlements required §7.28(c)(1)(K) could be made by offsetting debits and credits between the parties, or must it be in cash only.

**RESPONSE:** The agency responds that the purpose of the paragraph is to require periodic settlement of accounts between the parties. Settlements may be made in forms other than cash; however, the agreement should provide that demand for settlement may be in the form of cash. The agency also notes that this provision is currently in §7.27(G) of this title (Relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers).

**COMMENT:** One commenter asked if §7.28(c)(1)(N) meant the adopted section was satisfied if all of the significant risks are transferred.

**RESPONSE:** The agency responds that the entire adopted section must be considered in determining whether an agreement is in compliance.

**COMMENT:** Two commenters stated that the criteria in §7.28(c)(3) gave the commissioner too much discretion to determine when credit for reinsurance is justified and should be more objective.

**RESPONSE:** The agency responds that the nature of reinsurance agreements that do not transfer significant risk are complex, making it difficult and inefficient to comprehensively define objective criteria beyond those in this section.

**COMMENT:** One commenter stated that agreements approved under §7.28(c)(3) could be disapproved in other states.

**RESPONSE:** The agency responds that Insurance Code, Article 3.10 requires subsection (c)(3) in order to recognize the transfer of part of a

risk.

COMMENT: One commenter suggested that §7.28(c)(4) be deleted since it provides no guidance and could be confusing.

RESPONSE: The agency responds that paragraph (4) paraphrases the statutory language in Insurance Code, Article 3.10(f) and expresses the legislative mandate for this section.

COMMENTS TO §7.28(d)

COMMENT: Another commenter asked why §7.28(d) required reinsurance agreements which involve the reinsurance of business issued prior to the effective date of the reinsurance agreement to be filed within 30 days and what was the authority for this requirement.

RESPONSE: The agency responds that the 30-day notification is necessary to provide prompt notice to the department so it may efficiently discharge its regulatory duties. The agency believes the 30-day notification is a reasonable amount of time to notify the agency of execution of such an agreement. The notification is informational so the department derives its authority from the rulemaking authority granted in Insurance Code, Articles 3.10 and 1.32. To lessen the burden on insurers, subsection (d) is amended to require a ceding insurer to provide a written notification of the basic facts of the agreement to the department. The department may then determine what further information, if any, may be necessary. Subsection (d) is also retitled as "Required notice to the department."

COMMENT: Concerning §7.28(d)(2), two commenters stated that the pro forma income tax could be difficult to calculate and would require the keeping of additional accounting records. The accuracy of the example provided was also questioned.

RESPONSE: The agency responds that the pro forma income tax is routinely estimated by insurers in the day to day course of operations. The agency disagrees that the example provided was inaccurate. The agency amended subsection (d)(2) by redesignating it as subsection (e), retitling it as "Financial statement disclosure," and adding clarifying language in the adopted section.

COMMENTS TO §7.28(e)

COMMENT: One commenter stated that requirement of §7.28(e) to complete a written contract within 90 days was overly restrictive and suggested it be deleted.

RESPONSE: The agency responds that this is the current requirement in §7.27(d)(2) of this title (Relating to the Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers) and believes that uniformity between the two sections is desirable on matters such as this. Subsection (e) is redesignated as subsection (f) in the adopted section.

Comments generally in favor of the section, but with recommendations for change were received from the American Council of Life Insurance, National Association of Independent Insurers, Texas Life Insurance Association, the Texas Legal Reserve Officials Association and Transport Life Insurance Company. Comments generally opposed to the section, and with recommendations for change were received from the Insurance Alliance of America, Texas Association of Insurance Officials and Provident Life Insurance Company.

The section is adopted under the Insurance Code, Articles 1.03A, 1.11, 1.32, 3.10 and 5.75-1. The Insurance Code, Article 1.03A, provides the commissioner with the authorization to adopt rules and regulations for the conduct and execution of the duties and functions by the department. Article 1.11 authorizes the commissioner to change the form of the annual statement to elicit a true exhibit of an insurer's financial condition. Article 1.32 relates to the evaluation of the financial condition of insurers. Articles 3.10 and 5.75-1 authorize rules relating to accounting and financial statement requirements and the treatment of reinsurance agreements between insurers.

*§7.28. Regulation of Accounting for Reinsurance Agreements by Insurers.*

(a) Preamble

(1) The Texas Department of Insurance recognizes that licensed insurers routinely enter into reinsurance agreements, con-

tracts, treaties or arrangements (hereinafter referred to as reinsurance agreements) that yield legitimate relief to the ceding insurer from strain to surplus.

(2) The department, however, is aware that some life, accident and health, and annuity insurers, in the capacity of ceding insurer, have at times entered into reinsurance agreements primarily as financing arrangements which have the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, and which provide little or no indemnification of policy benefits by the reinsurer. In addition, the department is concerned with reserve credits taken under reinsurance agreements, which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival. The department adopts this section to require proper accounting in order to assure the integrity of financial statements filed by insurers with the department, to identify any surplus increase which results from entering certain reinsurance agreements and to monitor reinsurance agreements which may be used primarily as financing arrangements. This section does not confer the authority to the department to void or cancel any reinsurance contract or agreement. The terms of such reinsurance agreements may not comply in substance with the requirements of subsection (c) of this section and may violate one or more of the following:

(A) the Insurance Code, Articles 1.32, 3.60, 14.33, 21.21, and 22.12, relating to financial condition of insurers, thus resulting in distorted financial statements which do not properly reflect the financial condition of the ceding insurers;

(B) the Insurance Code, Articles 3.10 and 5.75-1, relating to credit for reinsurance reserve credits, thus resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

(C) the Insurance Code, Articles 1.32 and 21.28-A, relating to creating a situation that may be hazardous to policyholders and the people of this state.

(b) Applicability.

(1) This section shall apply to all insurers licensed in this state and operating under the Insurance Code, Chapters 2, 3, 6, 8, 10, 11, 12, 13, 14, 20, or 22, including property and casualty insurers as respects their direct accident and health business. This section shall also apply to licensed foreign insurers unless such foreign insurers are subject to a substantially similar regulation in their domiciliary state and who are operating in this state under such chapters. To pursue the exception to this section, the foreign ceding insurer shall provide to the commissioner of insurance upon request evidence of similarity in the form of statutes, regulations, and interpretation of the standards utilized by its state of domicile.

(2) This section shall apply to reinsurance agreements entered into on or after the effective date of this section, and to reinsurance agreements that are amended, on or after the effective date of this section, in such manner as to materially change the nature of the agreement, including but not limited to amendments which directly affect one or more of the following:

(A) the profit and loss features of the reinsurance agreement ;

(B) the commission structure of the reinsurance agreement;

(C) the amount of risk or liability transferred pursuant to the reinsurance agreement;

(D) the termination date of the reinsurance agreement is extended by 90 days or more; or

(E) any of the conditions described in subsection (c)(1)(A)-(N) of this section.

(3) This section shall not apply to the types of reinsurance described in subparagraphs (A) and (B) of this paragraph.

(A) Assumption assumption reinsurance agreements, yearly renewable term reinsurance or certain nonproportional reinsurance agreements such as stop loss, or catastrophe, or excess of loss reinsurance agreements.

(B) Sales and acquisitions of blocks of insurance business that utilize 100% coinsurance arrangements or other similar reinsurance arrangements as a result of regulations in many states that require affirmative approval of policyholders/insureds for an assumption reinsurance arrangement. These coinsurance arrangements and other similar reinsurance arrangements typically are used in combination with assumption reinsurance arrangements. Such coinsurance arrangements and other similar reinsurance arrangements will be exempt from the financial statement disclosure required by subsection (e) of this section provided the conditions described in clauses (i)-(iii) of this subparagraph are met. The exemption set forth in this paragraph shall apply only with respect to subsection (e) of this section and shall not apply in respect of any other statutes and regulations which may be applicable to such arrangements.

(i) The arrangement contemplates a transaction that is substantially similar to an assumption reinsurance transaction in terms of its economic nature in that the risk of a block of insurance business is transferred from a ceding insurer to a reinsuring reinsurer with the objective of effecting a sale and purchase of such block of insurance business;

(ii) the arrangement contemplates the complete and final transfer of all insurance risk subject to the arrangement; and

(iii) the agreements contain no provisions which contemplate cancellation or the recapture of the insurance risk transferred by the agreements.

(4) Reinsurance agreements entered into prior to the effective date of this section will continue to be subject to §7.27 of this title (relating to Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers), §7.611 of this title (relating to Indemnity Reinsurance Agreements-Required Provisions) and all other applicable existing statutes and regulations.

(c) Accounting requirements.

(1) No insurer subject to this section shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Texas Department of Insurance if the agreement includes, in substance or effect, any of the conditions addressed in subparagraphs (A)-(N) of this paragraph:

(A) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are insufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on

the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured.

(B) The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding insurer supporting the policy obligations transferred under the contract.

(C) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer; except that termination of the reinsurance agreement by the reinsurer for non-payment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus or assets.

(D) The ceding insurer is required to reimburse the reinsurer for negative experience under the agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels that violate subparagraph (F) of this paragraph forcing the ceding company to prematurely terminate the reinsurance treaty.

(E) The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded.

(F) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company.

(G) The agreement does not transfer all of the significant risks inherent in the business being reinsured. Clause (i) Figure 1 of this subparagraph identifies for a representative sampling of products or type of business, the risks which are considered to be significant. The transfer of all of the significant risks is the only basis on which an insurer may reflect in its financial statements the full credit attributable to a reinsurance agreement. If less than all of the significant risks are transferred, the insurer may reflect partial credit in its financial statements for the transfer of a part of a risk by complying with paragraphs (2) or (3) of this subsection. For products not specifically included, the risks determined to be significant shall be consistent with those identified in Figure 1: 28 TAC §7.28(c)(1)(G).

Figure 1: 28 TAC §7.28(c)(1)(G)

(i) morbidity;

(ii) mortality;

(iii) lapse is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy;

(iv) credit quality is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate;

(v) reinvestment is the risk that interest rates will fall and funds reinvested (coupon payments or moneys received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase;

(vi) disintermediation is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

(H) The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in subparagraph (I) of this paragraph) either transfer the underlying assets to the reinsurer, legally segregate such assets in a trust or escrow account, or otherwise establish a mechanism satisfactory to the commissioner which either legally segregates, or specifically identifies, by contract or contract provision, the underlying assets. Such mechanism must indicate that the assets correspond to the significant risks so as to specify which party shall assume the credit quality, reinvestment or disintermediation risks related thereto.

(I) Notwithstanding the requirements of subparagraph (H) of this paragraph, the assets supporting the reserves for classes of business identified in clauses (i)-(vi) of this subparagraph and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation or other specific identification of such assets.

- (i) Health Insurance-LTC/LTD;
- (ii) Traditional Non-Par Permanent;
- (iii) Traditional Par Permanent;
- (iv) Adjustable Premium Permanent;
- (v) Indeterminate Premium Permanent; and
- (vi) Universal Life Fixed Premium (no dump-in premiums allowed).

(J) For purposes of paragraph (I) only, the associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. (The exhibit, line and column number reflect the appropriate reference in the 1995 Annual Statement for Life and Accident and Health Insurers and the 1995 Annual Statement for Fire and Casualty Insurers as adopted by the commissioner. The same financial information shall be utilized from subsequent annual statements adopted by the commissioner regardless of changes in page, line, or column number.) The following is an acceptable formula:

Figure 2: 28 TAC §7.28(c)(1)(J).

(K) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.

(L) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

(M) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

(N) The reinsurance agreement is entered into with a primary effect for the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

(2) Notwithstanding paragraph (1) of this subsection, an insurer subject to this section may, with the prior approval of the commissioner, take such reserve credit or establish such asset as the commissioner may deem consistent with the Insurance Code, agency rules and regulations, including actuarial interpretations or standards adopted by the department.

(3) Notwithstanding paragraph (1)(G) of this subsection, an insurer subject to this section that enters into an agreement that transfers less than all of the significant risks contemplated the minimum risks required by subsection (c)(1)(G) this subsection may take such reserve credit or establish such asset that relates to that part of the insurer's risks actually transferred under such agreement so long as such reserve credit or asset established under this paragraph does not exceed amounts that are actuarially justifiable using reasonable assumptions acceptable to the commissioner. An insurer that enters into such agreement must file the agreement with the department within 30 days of its execution. The ceding insurer shall include with the agreement the information described in subparagraphs (A)-(C) of this paragraph:

(A) A detailed description of the financial impact of the agreement on the ceding insurer's statutory financial statements, certified by the company's appointed valuation actuary that the financial statements of the ceding insurer accurately reflect the amount of the risk transferred.

(B) A detailed description of the risks to be transferred under the agreement and the actuarial methodologies used to quantify such risks.

(C) A statement, signed and attested to, by the valuation actuary that the proposed method of accounting for the agreement complies in all material respects with the requirements of the Actuarial Standards Board relating to reinsurance including, but not limited to Actuarial Standard of Practice Number 11. If the department finds the reinsurance agreement does not transfer the amounts reflected in the ceding insurer's financial statements, the department shall disallow those amounts.

(4) Any reinsurance agreement subject to this section must be accurately reflected in the financial statements of the ceding insurer, notwithstanding that the agreement complies with this section.

(d) Required notice to department. A ceding insurer shall notify the department in writing when it enters into a reinsurance agreement that involves the reinsurance of business issued prior to the effective date of the reinsurance agreement, or makes an amendment, described in subsection (b)(2) of this section, to a reinsurance agreement, within 30 days of the execution of the reinsurance agreement or amendment, unless the reinsurance agreement or amendment is filed with the department under paragraphs (2) or (3)



of subsection (c) of this section. Such notice shall include the names of the parties to the reinsurance agreement, the effective dates of the reinsurance agreement, the type of reinsurance agreement (such as coinsurance or quota share) and any explanatory comments the ceding insurer considers appropriate. Agreements entered into after the effective date of this regulation which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the commissioner within 30 days from the date of its execution. A ceding insurer shall maintain Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this section regulation and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this section regulation.

(e) Financial statement disclosure. Any increase in surplus net of federal income tax resulting from arrangements described in subsection (d) of this section shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" line, page 4 of the Annual Statement as earnings emerge from the business reinsured. (For example, on the last day of calendar year N, Company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million-\$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. Six million, eight hundred thousand dollars (34% of \$20 million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations. Six million, eight hundred thousand dollars (34% of \$20 million) is reported as a federal income tax expense. At the end of the year N+1 the business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66% of (\$4 million-\$1 million-\$.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.)

(f) Written Agreements.

(1) No agreement or amendment to any such agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the amendment to the agreement or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement, except for facultative certificates duly executed by the reinsurer or its duly appointed agent, no later than the "as of date" of the quarterly or annual financial statement. A letter of intent may consist of a cover note or placement slip signed by the assuming insurer or its designated agent and accepted in writing by the ceding insurer.

(2) In the case of a letter of intent, a contract or an amendment to a contract must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

(3) The reinsurance agreement shall contain provisions which provide that:

(A) the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

(B) any change or modification to the agreement must be null and void unless made by amendment to the agreement and signed by both parties.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603324      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: March 28, 1996

Proposal publication date: November 17, 1995

For further information, please call: (512) 463-6327

◆      ◆      ◆  
Chapter 11. Health Maintenance Organizations

The Commissioner of Insurance adopts amendments to Chapter 11, concerning health maintenance organizations, by amending §§11.2, 11.207, 11.301, and 11.806, and adding new §§11.1604, and 11.1702-11.1704. Sections 11.806, 11.1604, 11.1702 are adopted with changes to the proposed text as published in the December 22, 1995 issue of the *Texas Register* (20 TexReg 10965). Sections 11.2, 11.207, 11.301, 11.1703 and 11.1704 are adopted without changes and will not be republished.

These amendments are necessary, in part, to implement Insurance Code, Article 21.52F (enacted by the 74th Legislature, 1995, in House Bill 3111 relating to certification of certain nonprofit health corporations), and amendments to the Health Maintenance Organization Act, Insurance Code, Articles 20A.02, 20A.06(a)(3), and 20A.26(f) (enacted by the 74th Legislature, 1995, in Senate Bill 1407 relating to contractual arrangements among Health Maintenance Organizations (HMOs), physicians, and other providers). The commissioner adopts the sections necessary to implement Article 21.52F after consideration of recommendations submitted by the Approved Nonprofit Health Corporation Advisory Committee appointed by the commissioner pursuant to the 74th Legislature's directive in Section 2 of House Bill 3111.

Specifically, these amendments are necessary (1) to establish oversight and monitoring requirements for HMOs that contract with approved nonprofit health corporations (ANHCs), in which ANHCs agree to arrange for or provide health care services, other than medical care or services ancillary to the practice of medicine, and with provider HMOs, in which provider HMOs agree to arrange for or provide health care services on a risk-sharing or capitated risk arrangement on behalf of HMOs as part of the HMOs' delivery networks; (2) to provide requirements for issuance of certificates of authority to ANHCs; (3) to provide requirements for agents of ANHCs which hold certificates of authority; (4) to establish that ANHCs which hold certificates of authority are subject to the same statutes and rules as HMOs and considered HMOs for purposes of regulation and regulatory enforcement; (5) to clarify financial reporting requirements related to claim liabilities; (6) to establish and clarify procedures for withdrawal of HMO applications for certificates of authority; (7) to establish procedures and requirements for accepting filings for review by the department; and (8) to provide for a pending status for complete filings upon receiving consent in writing to waive the statutory deemer of approval when HMOs need more time to make corrections necessary to receive the commissioner's approval.

The amendments as adopted differ in some respect from the proposed published amendments based on further study generated by comments received. Section 11.1503 has been withdrawn based upon comments

received. Specific changes and reasoned justification for the amendments and agency responses to comments are addressed in the Summary of Comments.

The amendments to this chapter shall become effective April 1, 1996. Section 11.2(b)(5) adds the definition of approved nonprofit health corporation set forth in Insurance Code, Article 21.52F §1(2) and includes the acronym ANHC as an alternative term. Section 11.2(b)(8) adds a new definition of contract holder because that term is used throughout the text of this chapter. Paragraphs (14), (16), (17) and (22) of §11.2(b) respectively add the definitions of HMO delivery network, person, physician, and provider set forth in recent amendments to Insurance Code, Article 20A.02 (enacted by the 74th Legislature, 1995, in Senate Bill 1407 relating to contractual arrangements among HMOs physicians, and other providers). Section 11.2(b)(19) and (22) adds new definitions of "primary HMO" and "provider HMO" to differentiate between HMOs that contract directly with individuals or groups to provide or arrange to provide a health care plan and HMOs that contract with other HMOs to provide health care services. Section 11.207, as amended, adds language to clarify existing language relating to an HMO applicant's request to withdraw an application for certificate of authority from consideration by the department and adds a provision to clarify that upon receipt of a request to withdraw an application the name reservation for the HMO applicant will be canceled. Section 11.301, as amended, amends paragraph (1) and adds paragraph (7). Amended paragraph (1) clarifies that a filing will not be accepted for review by the department until it is complete. New paragraph (7) establishes procedures for incomplete filings and complete filings, and provides for the department to hold pend a filing in a pending status upon receipt of an HMO's consent to waive the statutory deemer period. Section 11.806(a), as amended, adds a sentence to require each liability incurred by an HMO to be reported on each financial statement filed with the department, including, as applicable, reports filed pursuant to §11.304 (relating to Annual Reports, Other Reports, and Taxes). Section 11.806(c), as amended, deletes existing language and adds a provision that an HMO shall not record a credit on its balance sheet for any capitated risk or other risk-sharing arrangement with a network physician or provider relating to out-of-service area or emergency care provided by any non-network physician or provider. For purposes of amended subsection (c), a non-network physician or provider means a physician or provider who has not directly or indirectly contracted with an HMO or an HMO's network physicians or providers to provide medical or health care services to the HMO's enrollees. Proposed new §11.1503 was deleted based on comments opposing a prohibition on capitating a provider for emergencies, referrals and other out-of-plan care. New §11.1604 establishes requirements for an HMO that enters into a contract with an ANHC in which the ANHC agrees to arrange for or provide health care services other than medical care or services ancillary to the practice of medicine, or with a provider HMO in which the provider HMO agrees to arrange for or provide health care services on a risk-sharing or capitated risk-sharing arrangement on behalf of the primary HMO as part of the primary HMO delivery network. Under these circumstances, §11.1604 requires an HMO to: (1) submit to the department a monitoring plan; (2) file with the department, pursuant to §11.301(5), a copy of the form of the agreement with an ANHC or provider HMO which must meet certain described regulatory requirements; and (3) conduct an on-site audit of the ANHC or provider HMO no less frequently than annually. New §11.1702 implements legislation enacted by the 74th Legislature, 1995, in House Bill 3111 by providing for issuance of a certificate of authority to an ANHC. New §11.1703 establishes that an agent for an ANHC with a certificate of authority or provisional certificate of authority under Insurance Code, article 21.52F is considered an HMO agent subject to the same requirements as an HMO agent. New §11.1704 clarifies that an ANHC with a certificate of authority or provisional certificate of authority is an HMO for purposes of regulation and regulatory enforcement.

General. Most commenters express general support for the proposed rule amendments and offered comments or concerns on specific sections of the proposed amendments. One commenter supports the department's role to assure the solvency of HMOs which give global capitation to ANHCs and believes the recommendations of the ANHC Advisory Committee support the department's efforts. One commenter states that the rules adhere to the general principles of consumer protection set out by members of the ANHC Advisory Committee and improve upon the details. Another commenter states that the rules

build on and strengthen the ANHC Advisory Committee efforts. This commenter adds that the ANHC Advisory Committee's main concerns were: (1) to assure that ANHCs accepting global capitation are essentially regulated just like HMOs because consumers do not perceive ANHCs as being any different from other kinds of HMOs; and (2) to assure that nothing about the subcontracting relationship in any way dilutes the primary HMO's responsibility to comply with all the consumer protection rules at both the department and the Texas Department of Health. This commenter also states that clarifying the authority and responsibilities of primary HMOs in relation to provider HMOs and ANHCs will streamline and reduce costs of enforcement of TDI and TDH.

Agency Response: The agency appreciates the written comments received as well as the oral comments provided at the public hearing. In addition, the agency appreciates the role of the ANHC Advisory Committee as a valuable contribution to this rulemaking process. Adopted sections 11.1604, 11.1702, 11.1703 and 11.1704 incorporate many of the recommendations of the ANHC Advisory Committee. These sections also incorporate changes to address in more detail regulatory and solvency concerns regarding contracts between primary HMOs and ANHCs and primary HMOs and provider HMOs. The agency shares the concerns of the ANHC Advisory Committee as stated by the commenter and believes the adopted sections address these concerns.

§11.2(b)(8)-Definitions-Contract holder. A commenter who commented on the proposed amendments to Chapter 11, concerning health maintenance organizations, published in the December 15, 1995 issue of the *Texas Register* (20 TexReg 10741) suggests adding a definition of "contract holder". Another commenter states that the proposed definition of "contract holder" is appropriate.

Agency Response: The term "contract holder" is used throughout the text of Chapter 11 and is necessary and appropriate to clarify the meaning of the term. The term "contract holder" does not encompass providers, physicians, other HMOs or approved nonprofit health care corporations who contract with an HMO to arrange for or provide medical care or health care services.

§11.2(b)(14)-Definitions-HMO delivery network. A commenter recommends amending §11.2(b)(14) to provide that the HMO delivery network will not require an enrollee to travel more than 25 miles to access services of a primary care physician or primary care provider.

Agency Response: The Texas Department of Health has adopted rules concerning the maximum mileage an enrollee must travel to reach HMO physicians and providers. Title 25 TAC §119.4 (relating to Texas Department of Health, HMO Regulations concerning Geographic Service Area) currently provides that an enrollee shall not be required to travel in excess of 50 miles to reach a source of primary physician health care and acute hospital care, except that other locations may be included in the service area upon providing the Texas Department of Health with documentation which provides support for traveling acceptable longer distances. It would be inappropriate for this department to adopt a rule inconsistent with this section adopted by the Texas Board of Health.

§11.2(b)(17)-Definitions-Provider. A commenter recommends adding "physician assistant" to the definition of "provider" because "physician assistants" are licensed and authorized in the State of Texas to provide a health care service.

Agency Response: The definition of "provider" in the rule is taken from the amendment to the HMO Act, Insurance Code, Article 20A.02(n) (enacted by the 74th Legislature, 1995, in Senate Bill 1407). The definition clearly encompasses a physician assistant who is licensed and authorized in the State of Texas to provide a health care service. The agency does not believe it is necessary to clarify that physician assistants are included within the definition of "provider".

§11.806-Liabilities-Repeal of §11.806(c). One commenter requests modification of proposed new §11.1503 and the repeal of §11.806(c) because the commenter opposes a prohibition on capitating a provider for emergencies, referrals, and other out-of-plan care. One commenter opposes the repeal of §11.806(c) because nothing in enacted Senate Bill 1407 or enacted House Bill 3111, the focus of these proposed rules, would require deletion of this subsection.

Another commenter expresses uncertainty why the department feels it



necessary to remove an HMO's ability to transfer responsibility for certain liabilities to physicians and providers particularly under the new definitions adopted by House Bill 3111 and Senate Bill 1407 and the proposed rules; however, the commenter supports repeal of §11.806(c). This commenter, addressing both proposed §11.1503 and repeal of §11.806(c), questions why the master contract may not include out-of-service area medical and emergency services. This commenter states that: (1) an HMO will have additional, perhaps unknown, liabilities if it is unable to contract and pay for those services through the master contract; (2) the master contractor will be unable to deliver medical services needed by the HMO, which will reduce its ability to negotiate better rates for its doctors and providers; (3) the additional costs for services outside the contract will be borne by employers and employees in their health plans; (4) if the HMO remains financially responsible, the HMO should be able to seek the best price and services for its contract holders, and (5) the only beneficiaries of this change are the physicians and providers who deliver out-of-network services.

Agency Response: The agency has modified the proposals by withdrawing §11.1503 and making additional amendments to §11.806. After close review of the comments and further evaluation of this matter, the agency agrees it is not necessary to strictly prohibit an HMO from paying capitation to physicians, providers, provider HMOs, and ANHCs for emergencies, referrals, and out-of-service area care. The agency can achieve its purpose to address financial solvency concerns through less restrictive means by amending §11.1806 to clarify and establish accounting requirements for HMOs. The agency agrees that nothing enacted in Senate Bill 1407 or House Bill 3111 contemplates this prohibition or requires deletion of §11.1806(c).

The agency's foremost intent by these proposals was to assure the financial solvency of HMOs. Physicians, providers, and ANHCs are not subject to regular financial monitoring by the department as are licensed HMOs. The agency has concerns that some HMOs may transfer by contract, under capitated or risk-sharing arrangements, liabilities and expenses for emergencies, referrals, or out-of-service area care to physicians, providers or ANHCs who are financially insolvent or unable to assume these potentially catastrophic insurance risks. If the contracting physician, provider or ANHC cannot pay, the HMO which transfers the risk clearly bears complete financial responsibility for payment of all expenses and liabilities transferred by contract. However, the agency, and often the HMO, is unable to adequately monitor the financial solvency of the HMO if these expenses and liabilities are not properly recorded on each HMO financial statement filed with the agency. Therefore, the agency has made changes to the original proposal to assure that each HMO properly records these liabilities and expenses, including recordation of expenses and liabilities for emergency care and authorized referrals and out-of-service area care that have been transferred by contract to physicians, providers, provider HMOs and ANHCs.

The deletion of subsection (c) was intended to eliminate a source of confusion by some HMOs with regard to accounting treatment of out-of-service area and emergency care services provided by non-network physicians and providers in which liabilities have been transferred by contract to physicians and providers through capitation or other risk-sharing-type contracts. Some HMOs have interpreted §11.806(c) to mean that HMOs do not have to record these claim liabilities if, pursuant to §11.806(c), these claim liabilities have been transferred by contract to physicians or providers through capitated risk or other risk-sharing arrangements. Modifications have been made to subsections (a)-(c) of §11.806 to more clearly reflect agency intent by providing: (1) an HMO must disclose on each financial statement filed with the department all liabilities and expenses relating to medical and health care services provided by HMO delivery network and non-network physicians and providers; and (2) an HMO may not record a balance sheet credit for any capitated risk or other risk-sharing arrangement with a network physician or provider relating to out-of-service area or emergency care provided by any non-network physician or provider.

Specifically, amendments to §11.806(a) require that each liability incurred by an HMO must be duly disclosed on its financial statements. Further, §11.806(c) has been changed to prohibit any credit on an HMO's balance sheet for any capitated risk or other risk-sharing arrangements with a network physician or provider relating to out-of-service area or emergency care provided by any non-network physician or provider.

§11.1503-Reinsurance. Most comments on §11.1503 were made in conjunction with §11.1806(c). A few commenters strongly oppose this section and recommend its deletion. A few commenters request clarification of this section.

Agency Response: The agency agrees the section should not be adopted, and §11.1503 has been withdrawn and §11.806(a)-(c) has been changed. The agency's response for this section is included in the response on §11.1806(c) because the issues for both rules are so closely related.

§11.1604-Requirements for Certain Contracts between Primary HMOs and ANHCs and Primary HMOs and Provider HMOs. Several commenters support this section in general. Many commenters requested clarification that §11.1604 does not apply to contracts with ANHCs for medical services only. One commenter requests clarification that an ANHC or provider HMO may contract to provide "health care" services (which includes all services) under capitation without limitation. One commenter recommends deletion of references to primary HMO oversight of provider HMOs where the Texas Department of Insurance (TDI) or the Texas Department of Health (TDH) already has such oversight authority.

Agency Response: The agency has changed the first paragraph of §11.1604 for clarification. Section §11.1604 is not intended to apply to a primary HMO that contracts with an ANHC in which the ANHC: (1) contracts to provide only medical care or arrange to provide only medical care through subcontracts with other physicians; and (2) contracts to provide through other providers any services that are ancillary to the practice of medicine, other than hospital or other institutional or inpatient provider services. ANHCs which provide only these services and do not provide any other health care services, such as hospital or other institutional or inpatient provider services, are "physicians" for purposes of determining primary HMO regulatory contractual requirements.

The requirements of §11.1604 do not apply to contracts between primary HMOs and physicians acting solely as physicians. The same contractual requirements should apply to contracts between primary HMOs and physicians who are not ANHCs as apply to contracts between primary HMOs and physicians who are ANHCs if the primary HMO contracts with these physicians (including ANHCs) to arrange for or provide services described in Insurance Code, Article 20A. 26(6) (relating to physician contractual arrangements).

An HMO may contract with an ANHC or provider HMO to provide "health care" services" (which includes all services) in accordance with the contractual requirements provided in §11.1604. "Health care services" means any services, including medical, hospital, pharmaceutical, chiropractic, dental, etc.

A primary HMO is ultimately responsible for regulatory requirements relating to its particular health care plan. Requirements of §11.1604 are necessary for the primary HMO to adequately manage and control provider HMOs within its network. An HMO acting as an ordinarily prudent business should already be in compliance with these requirements.

Provider HMOs have been deleted from §11.1604(2)(E) and (G)(ii), relating to provider HMO contracts with physicians and providers, and from §11.1604(4), relating to the requirement for a primary HMO to take action to correct non-compliance. After careful consideration, the contracts and subcontracts required under these provisions are available to TDI and TDH through regulation of provider HMOs.

§11.1604(2)-File with TDI copy of form of ANHC or provider HMO agreement.

A commenter suggests the department require an HMO to file the actual written agreement with an ANHC, rather than the form of the agreement. The department must be fully informed about the flow of dollars and liability from an HMO to an ANHC to regulate the financial solvency of the HMO. A commenter assumes information of a proprietary nature, including terms and conditions such as rates and coverage specifications of such agreements, will not be made public.

Agency Response: The agency disagrees. Currently, the department requires HMOs to file the form of any contract between HMOs and physicians or providers. It is not necessary to change this requirement for ANHCs and provider HMOs. Summaries of amounts of dollar and liabilities flowing from an HMO to an ANHC are sufficient for regulatory

purposes. The department will continue to evaluate what information it needs to regulate the financial solvency of the HMO and may consider rulemaking to require more information in the future if necessary. Because only the form of the contract is required to be filed, filing information such as specific amounts paid to physicians and providers is not required. If the actual contract is filed, the information in the contract is clearly open to the public under the HMO Act (Insurance Code, Article 20A.27). Any information filed which is claimed as confidential by law should be clearly identified as such to the department so that appropriate action can be taken as necessary under the law.

§11.1604(2)(A)-90 days notice of termination of ANHC or provider HMO agreement.

A commenter agrees that 90 days is the appropriate time period for notice of termination because the ANHC or provider HMO may be the key provider network walking away and having to be replaced. Another commenter suggests 30 days is a more appropriate time period than 90 days.

Agency Response: The agency agrees that 90 days for notice of termination is an appropriate time period. Ninety days written notice is necessary for an HMO to arrange for continuity of adequate health care for enrollees, especially in cases in which the ANHC is providing global services to a large number of enrollees.

§11.1604(2)(B)-Hold harmless provision.

A few commenters recommend revising §11.1604(2)(B) concerning a required hold harmless provision to clarify that it applies to services covered by the HMO contract only.

Agency Response: The agency agrees and has changed §11.1604(2)(B). §11.1604(2)(D)-Requires the ANHC or provider HMO to provide the primary HMO with data necessary for compliance with TDI and TDH.

One commenter suggests adding the Texas Health Care Information Council to this provision because House Bill 1048 requires an HMO to annually submit health care data to the Texas Health Care Information Council. The Council may request data from an HMO that must be collected from the subcontracting ANHC.

Agency Response: The agency agrees and has changed §11.1604(2)(D) to add the Texas Health Care Information Council.

§11.1604(2)(E)-Requires ANHC and provider HMO to make available to primary HMO the ANHCs' or provider HMOs' contracts with physicians and providers

A commenter suggests a change so as not to require the release of the financial arrangements between the ANHC and the physician which is confidential and proprietary information.

Agency Response: The agency disagrees. Subparagraph (E) does not require that proprietary information be filed with the department. The subparagraph only requires that a copy be filed with the department of the form of the agreement between the primary HMO and the ANHC or provider HMO. §11.1604(2)(F)-Require ANHC to provide the primary HMO with evidence of financial solvency and financial ability to perform.

A commenter requests clarification by defining "financial ability to perform" because it is subject to different interpretations.

Agency Response: The agency disagrees. Subparagraph (F) clearly notes that obtaining a financial statement on the ANHC audited by CPAs is one method of performing due diligence. It is in the primary HMO's own best interest to ensure that its contracting ANHCs have the financial ability to perform the contracted functions. The provision provides flexibility to the primary HMO to perform a level of due diligence which a reasonably prudent business person would require under the circumstances. The primary HMO may impose its own objective guidelines for what it considers to be financial ability to perform.

§11.1604(2)(G)-Requires ANHC or provider HMO to provide on a monthly basis data necessary to comply with TDI and TDH regulations.

One commenter states §11.1604(2)(G)(iv-vii) constitutes "regulatory overkill". One commenter sees no need for §11.1604(2)(G)(vii) since financial solvency and financial ability are required. Another commenter requests clarification concerning whether the change to

§11.1604(2)(G)(ii), which requires the form of the contracts instead of the actual contracts, means the department can at no time look at the actual contract with the ANHC. One commenter strongly supports the requirement that ANHCs report data to the HMO on a monthly basis, but need to clarify data elements for reporting purposes. This commenter suggests technical amendments as follows: (1) adding to §11.1604(2)(G) "Texas Health Care Information Council", an entity that requires reports with respect to services provided by an HMO; (2) adding to §11.1604(2)(G)(i) "or guaranteed service" after "number of primary HMO enrollees served because the term "served" implies only those who actually show up at the doctor or hospital for treatment; (3) deleting from §11.1604(2)(G) "within the primary HMO delivery network" and after "providers" adding "who agree to provide service to enrollees of the primary HMO, and any material changes to these contracts" to clarify that this provision gives the HMO access to all contracts and subcontracts; and (4) adding to §11.1604(2)(G) "documentation of any" before "inquiries and investigation," adding "or any individual subcontracting physician or provider," after "HMO," adding "or enforcement" before agencies, and adding "and documentation of the final resolution of such an investigation" after "regulatory."

Agency Response: The agency disagrees that §11.1604(2)(G)(iv-vii) constitutes "regulatory overkill". It is prudent business practice for HMOs to require all the data in §11.1604(2)(G)(iv)-(vii) to evaluate for its own business purposes and to comply with TDI requirements. To address concerns that HMOs may unfairly use information of a proprietary nature, the agency has changed §11.1604(2)(G)(ii) to require a copy of the "form of the contract" be filed with the primary HMO. Requiring the form of the contract instead of the actual contract does not mean the department cannot obtain access to the actual contracts. Pursuant to Insurance Code, Article 20A.17 (relating to Examinations) every physician and provider, including ANHCs and provider HMOs, with whom an HMO contracts must make available for examination its actual contracts and subcontracts with other physicians and providers. Furthermore, for audits conducted pursuant to the requirements of §11.1604(3), each ANHC and primary HMO with whom an HMO contracts must make available its actual contracts with other physicians and providers. Section §11.1604(2)(G)(iv) and (vii) have been changed to provide for a "summary of amounts paid" so that specific amounts claimed as proprietary information will not have to be provided. Upon considering the comments relating to required data elements, the agency agrees with most of the technical amendments suggested and has made changes or changes similar in substance to the changes requested by the commenter.

§11.1604(3)-Requires an on-site audit of the ANHC or provider HMO no less frequently than semi-annually.

A few commenters strongly support regular on-site audits. One commenter suggests an annual audit would be sufficient to verify compliance with all regulatory requirements of TDI and TDH. Another states that the term "audit" implies closing down systems and getting to some kind of subtotals which would be hard to do on a semi-annual basis.

Agency Response: The agency agrees an annual audit can be sufficient to verify compliance with regulatory requirements of TDI and TDH as long as the primary HMO may conduct more frequent audits as necessary if material compliance issues or financial concerns are indicated. Any associated costs of such audits are a necessary cost of doing business in the manner contemplated by the rule.

§11.1604(4)-Primary HMO must take immediate action to correct any failure by ANHC or provider HMO to comply.

A commenter suggests adding immediate action should be taken "when the primary HMO becomes aware of a failure," and adding at the end of the sentence "delegated by the primary HMO to the provider HMO and that are necessary to ensure the primary HMO's compliance with these regulations." Another commenter is dissatisfied with the word "immediate" because HMOs are unclear how they are to act immediately.

Agency Response: The agency has clarified the rule to provide for the primary HMO to take "prompt" action to correct any failure to comply with regulatory requirements relating to any matters delegated by the primary HMO to the ANHC. The magnitude of the action taken should correspond to the materiality of the non-compliance issue. The types of action a primary HMO would be expected to take will depend upon the

facts of each situation, and may include, but not be limited to, an on-site audit, notifying the ANHC of a breach of contract and demanding action to correct the breach, or termination of the contract between the primary HMO and ANHC. The words "or provider HMO" have been deleted from this provision because the agency has statutory authority to take regulatory and enforcement action relating to provider HMOs.

#### §11.1702. Requirements for Issuance of Certificate of Authority to ANHC.

A few commenters desire clarification whether a certificate of authority is required under §11.1702 when an ANHC contracts for medical services only. Another commenter suggests that the agency change §11.1702 to be consistent with the change to §11.1604 by adding "and services ancillary to the practice of medicine."

**Agency Response:** The agency agrees and has changed the section to be consistent with the Insurance Code, Article 21.52F §2 (relating to certificate of authority requirements and exceptions for ANHCs). Section 11.1702 clarifies that a certificate of authority is not required under §11.1702 when an ANHC contracts "to arrange for or provide only medical care, as defined in Insurance Code, Article 20A.02(k), on a prepaid basis." Article 21.52F §2(b)(3) provides that Article 21.52F does not apply to an activity exempt from regulation under Insurance Code, Article 20A.26(f). Article 20A.26 in paragraph (f)(1)(A) provides that the HMO Act is not applicable to any physician, so long as that physician is only engaged in the delivery of care that is within the definition of medical care. Physician is defined in Insurance Code, Article 20A.02(m) to include an ANHC. Medical care is defined in Insurance Code, Article 20A.02(k) to mean "those services defined as practicing medicine under Section 1.03(8), Medical Practice Act (Texas Civil Statutes, Article 4495b)."

Article 20A.26(f)(2) provides an exception to the exemption in Article 20A.26(f)(1)(A). The agency interprets Article 20A.26(f)(2) to provide that any physician or provider who is not participating in an HMO delivery network, as defined in Insurance Code, Article 20A.02(u), and who employs or enters into a contractual arrangement with a provider or group of providers to furnish basic health care services, as defined in Article 20A.02(a), is subject to the provisions of the HMO Act and is required to obtain a certificate of authority from the commissioner. Paragraphs (3) through (9), Insurance Code, Article 20A.26(f), do not relate to the issue addressed in this response regarding what services arranged for or provided by an ANHC to enrollees on a prepaid basis exempt the ANHC from having to obtain and maintain a certificate of authority issued by the department. Paragraphs (5) through (9), Insurance Code, Article 20A.26(f), relate to contracting and subcontracting arrangements within an HMO delivery network.

For: Center for Public Policy Priorities and Office of Public Insurance Counsel.

For with charges: Harris Methodist Health System, Haynes & Boone, Kaiser Permanente, M.D. Anderson Cancer Center, Scott and White Health Plan, Texas Alliance of Nonprofit Health Care, Texas HMO Association, Texas Osteopathic Medical Association, University of Texas System, University of Texas System Office of General Counsel, and University Physicians Group.

### Subchapter A. General Provisions

#### • 28 TAC §11.2

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b); 20A.05(b),(c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the

HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrangements permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for examination of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603420      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

### Subchapter C. Application for Certificate of Authority

#### • 28 TAC §11.207

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b);

20A.05(b),(c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrangements permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for examination of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603419

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

◆   ◆   ◆

## Subchapter D. Regulatory Requirements for an HMO Subsequent to Issuance of a Certificate of Authority

### • 28 TAC §11.301

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b); 20A.05(b),(c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrangements permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for exami-

nation of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603418      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

## Subchapter I. Financial Requirements

### • 28 TAC §11.806

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b); 20A.05(b), (c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrange-

ments permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for examination of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

### §11.806. Liabilities.

(a) Each HMO must establish and maintain records identifying and supporting each and every liability the HMO incurs. Each liability incurred by an HMO shall be reported on each financial statement filed with the department, including, as applicable, reports filed pursuant to §11.304 of this title. A liability shall be incurred from the date a service was performed, a product was delivered, or the title was transferred, or a contractual obligation entered into for an amount that is specified and unconditionally owed. Each HMO must segregate its liabilities in accordance to whether a liability is classified as "covered" or "uncovered." Agreements to loan money or to make future capital or surplus contributions do not, in themselves, cause liabilities to be covered. Any guarantee of future contributions to surplus which are directed and based on the payment of a debt will allow that debt to be reflected as a covered liability. A liability, for which provision is made other than by the assets of the HMO, may qualify as a covered liability if the amount owed:

- (1) is based on a provider contract with a hold-harmless clause as provided in §11.1102 of this title (relating to Hold-Harmless Clause);
- (2) is subordinated in writing to the uncovered health care liabilities of the HMO; or
- (3) is unconditionally guaranteed by a sponsoring organization which has a tangible net worth of at least \$5 million in excess of all amounts that sponsoring organization has guaranteed.

(b) Liabilities shall include, but are not limited to, the following:

- (1) gross premiums received in payment for all or any part of medical and other health care services to be provided by the HMO subsequent to that financial reporting period (unearned premiums);
- (2) the present amount due under any promissory note or other obligation evidencing amounts owed by the HMO without any adjustment for unrealized gains or losses due to an assumption of a loan or note payable at interest rates different from the prevailing rate at the time of assumption;
- (3) capital leases in an amount equal to the value of the admitted assets hypothecated by the lease or the present value of the total amounts owed under the remaining term of the lease in accordance with generally accepted accounting principles; in determining the present value of the lease payments, the rate of interest should be equivalent to the rate of interest on United States of



America Treasury Notes as of December 31st of the preceding calendar year; and

(4) incurred claim liabilities, including all liabilities and expenses relating to medical and health care services provided by HMO delivery network and non-network physicians and providers.

(c) An HMO shall not record a credit on its balance sheet for any capitated risk or other risk-sharing arrangement with a network physician or provider relating to out-of-service area or emergency care provided by any non-network physician or provider. For purposes of this subsection, non-network physician or provider means a physician or provider who has not directly or indirectly contracted with an HMO or an HMO's network physicians or providers to provide medical or health care services to the HMO's enrollees.

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 March 11, 1996.

TRD-9603417

Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

## Subchapter Q. Other Requirements

### • 28 TAC §11.1604

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b); 20A.05(b), (c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care

services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrangements permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for examination of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

*§11.1604. Requirements for Certain Contracts between Primary HMOs and ANHCs and Primary HMOs and Provider HMOs.* A primary HMO that enters into a contract with an ANHC in which the ANHC agrees to arrange for or provide health care services, other than medical care or services ancillary to the practice of medicine, or a provider HMO in which the provider HMO agrees to arrange for or provide health care services on a risk-sharing or capitated risk arrangement on behalf of the primary HMO as part of the primary HMO delivery network shall:

(1) submit to the Texas Department of Insurance a monitoring plan setting out:

(A) how the primary HMO will ensure that the ANHC or provider HMO has an effective administrative system for providing timely and accurate reimbursement to all physicians and providers under contract with the ANHC or provider HMO; and

(B) how the primary HMO will ensure that all HMO functions which are delegated or assigned under contract with the ANHC or provider HMO are consistent with full compliance by the primary HMO with all regulatory requirements of the Texas Department of Insurance and the Texas Department of Health;

(2) file with the Texas Department of Insurance, pursuant to §11.301(5) of this title (relating to Filings for Information), a copy of the form of the written agreement with an ANHC or provider HMO that:

(A) requires that the agreement cannot be terminated by the ANHC or provider HMO without 90 days written notice;

(B) contains a hold harmless provision providing that the ANHC or provider HMO and its contracted physicians and providers are prohibited from billing or attempting to collect from HMO members (except for authorized co-payments and deductibles) for covered services under any circumstance, including the insolvency of the primary HMO, ANHC or provider HMO;

(C) contains a provision stating that nothing in the primary HMO-ANHC or primary HMO-provider HMO contract shall be construed to in any way limit the HMO's authority or responsibility to comply with all regulatory requirements of the Texas Department of Insurance and the Texas Department of Health;

(D) includes the ANHC's or provider HMO's acknowledgment and agreement that:

(i) the primary HMO is required to establish, operate and maintain a health care delivery system, quality assurance system, provider credentialing system and other systems and programs meeting Texas Department of Insurance, Texas Health Care Council, and Texas Department of Health standards and is directly accountable for compliance with such standards;

(ii) the role of the ANHC or provider HMO in contracting with the primary HMO is limited to implementing certain systems of the primary HMO, utilizing standards approved by the primary HMO and subject to the primary HMO's oversight and monitoring of the ANHC's or provider HMO's performance; and

(iii) the primary HMO may take whatever action is deemed necessary by the primary HMO, Texas Department of Insurance or Texas Department of Health to assure that all HMO systems and functions which are delegated or assigned under the contract with the ANHC or provider HMO are in full compliance with all regulatory requirements of the Texas Department of Insurance and the Texas Department of Health;

(E) requires the ANHC to make available to the primary HMO the ANHC's contracts with physicians and providers so as to ensure compliance with contractual requirements set out in subparagraph (B) and (C) of this paragraph; and

(F) requires the ANHC to provide the primary HMO with evidence of both financial solvency and financial ability to perform, such as a certified financial audit of the ANHC conducted by independent certified public accountants, utilizing generally accepted accounting and auditing principles.

(G) requires the ANHC or provider HMO to provide the primary HMO on at least a monthly basis, in a usable form necessary for audit purposes, the data necessary for the HMO to comply with the Texas Department of Insurance, Texas Health Care Council, and Texas Department of Health reporting requirements with respect to any services provided pursuant to the HMO-ANHC or HMO-provider HMO agreement, including the following data:

(i) number of primary HMO enrollees served or assigned to the ANHC or primary HMO to receive services (including number added and terminated since the last reporting period);

(ii) form of the contracts and subcontracts between the ANHC and physicians and providers who will be providing services to enrollees of the primary HMO and any material changes to the contracts and subcontracts;

(iii) co-payments received by the ANHC or provider HMO;

(iv) summary of the amounts paid by the ANHC or provider HMO to physicians and providers;

(v) methods by which physicians and providers were paid by the ANHC or provider HMO (capitation, fee-for-services, other risk-sharing arrangements);

(vi) utilization data;

(vii) summary of the amounts paid by the ANHC or provider HMO for administrative services relating to the primary HMOs;

(viii) time period that claims and debts related to claims owed by the ANHC or provider HMO have been pending;

(ix) information required for the primary HMO to be able to file claims for reinsurance, coordination of benefits and subrogation;

(x) provider-enrollee satisfaction data;

(xi) complaint data;

(xii) documentation of any inquiries and investigation of the ANHC or provider HMO, or any individual subcontracting physician or provider, made by regulatory agencies, and documentation of the final resolution of such an investigation; and

(xiii) any other data necessary to assure proper monitoring and control of the primary HMO delivery network by the primary HMO;

(3) conduct an on-site audit of the ANHC or provider HMO no less frequently than annually, or more frequently upon indication of material non-compliance, to obtain information necessary to verify compliance with all regulatory requirements of the Texas Department of Insurance and the Texas Department of Health. Written documentation of each audit required by this paragraph shall be made available to the Texas Department of Insurance or Texas Department of Health upon request; and

(4) take prompt action to correct any failure by the ANHC to comply with regulatory requirements of the Texas Department of Insurance or Texas Department of Health relating to any matters delegated by the primary HMO to the ANHC and necessary to ensure the primary HMO's compliance with the regulatory requirements.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603415

Alicia M. Fechtler  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

## Subchapter R. Approved Nonprofit Health Corporations

### • 28 TAC §§11.1702-11.1704

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.04(a)(13) and (b); 20A.05(b), (c) and (d); 20A.06 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 20A.26 (as amended by Senate Bill 1407 enacted by the 74th Legislature, 1995); 21.52F (as amended by House Bill 3111 enacted by the 74th Legislature, 1995); 1.15; 20A.10; 20A.13; 20A.15; 20A.17 and 1.03A; and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the department may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.04(a)(13) provides that in addition to items to be accompanied with each application for an HMO certificate of authority as set forth in Article 20A.04(a)(1)-(12), the commissioner may require other information to make determinations required by the HMO Act. Article 20A.04(b) provides the commissioner may promulgate such reasonable rules and regulations as it deems necessary to the proper administration of the

HMO Act to require an HMO, subsequent to receiving its certificate of authority, to submit the modifications or amendments to the operations or documents submitted upon application for a certificate of authority to the commissioner, either for his approval or for information only, prior to the effectuation of the modification or amendment or to require the HMO to indicate the modifications to both the Texas Board of Health and the Commissioner of Insurance at the time of the next site visit or examination. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(c) provides that the commissioner shall not issue the certificate of authority if the Texas Board of Health or the Commissioner of Insurance, or both, certify that the HMO's proposed plan of operation does not meet the requirements of Article 20A.05, and shall notify the applicant that an application is deficient and in what respects it is deficient. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.06(a)(3) (as amended by the enactment of the 74th Legislature, 1995, in Senate Bill 1407) authorizes HMOs to furnish or arrange for medical care only through other HMOs or physicians or groups of physicians who have independent contracts with the HMOs; and for the delivery of health care services only through other HMOs or providers or groups of providers who are under contract with or employed by the HMO or through other HMOs or physicians or providers who have contracted for health care services with those other HMOs or physicians or providers; except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner. Article 20A.26 (as amended by enactment of the 74th Legislature, 1995, in Senate Bill 1407) provides exceptions to the HMO Act and describes certain contractual arrangements permitted by the HMO Act. Article 21.52F (as amended by enactment of the 74th Legislature, 1995, in House Bill 3111) establishes requirements for the issuance of a certificate of authority or provisional certificate of authority to, and powers and duties of, a nonprofit health corporation certified under the Medical Practice Act, Section 5.01(a); and provides for the commissioner to adopt rules to implement Article 21.52F. Article 1.15 authorizes the department to examine HMOs and other insurers. Article 20A.10 requires an HMO to file a report with the department on an annual basis including information relating to the performance of the HMO as is necessary to enable the commissioner to carry out his duties under the HMO Act. Article 20A.13 provides guidelines and requirements for protection of an HMO against insolvency. Article 20A.15 sets forth requirements for the licensure and regulation of HMO agents. Article 20A.17 provides for examination of the affairs of any HMO by the commissioner. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

*§11.1702. Requirements for Issuance of Certificate of Authority to ANHC.*

(a) Prior to obtaining a certificate of authority under the Insurance Code, Article 21.52F (relating to Certification of Certain Nonprofit Health Corporations), an applicant ANHC must:

(1) comply with each requirement for the issuance of a certificate of authority imposed on an HMO under the Insurance Code, Chapter 20A; this title, Chapter 11; and applicable insurance laws and regulations of this state; and

(2) demonstrate by appropriate documentation that the applicant ANHC has established and maintains accreditation by:

(A) the National Committee on Quality Assurance; or

(B) the Joint Commission on Accreditation of Health Care Organizations - network accreditation program.

(b) The commissioner shall grant a provisional certificate of authority to an applicant ANHC under the Insurance Code, Article 21.52F §4(b), if:

(1) the applicant ANHC complies with each requirement for the issuance of a certificate of authority imposed on an HMO under the Insurance Code, Chapter 20A; this title, Chapter 11; and applicable insurance laws and regulations of this state;

(2) the applicant ANHC demonstrates that it has applied for accreditation;

(3) the applicant ANHC is diligently pursuing accreditation as determined by the commissioner; and

(4) the accrediting organization has not denied the accreditation.

(c) An ANHC with a certificate of authority or a provisional certificate of authority must comply with all the appropriate requirements that an HMO must comply with under the Insurance Code, Chapter 20A; this title, Chapter 11; and applicable insurance laws and regulations of this state in order to maintain a certificate of authority.

(d) This subchapter does not apply to an activity exempt from regulation under Insurance Code, Articles 21.52F(2) and 20A.26(f), including an ANHC that contracts to arrange for or provide only medical care as defined in Insurance Code, Article 20A. 02(k).

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 March 11, 1996.

TRD-9603414      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Effective date: April 1, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 463-6327

◆      ◆      ◆  
**TITLE 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public Accounts**  
**Chapter 3. Tax Administration**

**Subchapter K. Hotel Occupancy Tax**  
**• 34 TAC §3.163**

The Comptroller of Public Accounts adopts an amendment to §3.163, concerning exemptions, with changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10572).

House Bill 2129, 74th Legislature, 1995, eliminated the hotel occupancy tax exemption for the State of Texas, state employees not provided a special exception under the General Appropriation Act and federal employees. The amendment deletes these groups from the hotel tax exemptions and describes the hotel tax exemption photo identification for state employees that retain the tax exemption.

Comments were received from Marriott International, Inc., Hilton San Antonio Airport And Conference Center, and Texas Hotel And Motel Association recommending additional language to subsection (e) to further clarify direct payment to a hotel by the federal government.

The comptroller agreed with the comments and adopts the rule with changes to subsection (e) adding credit cards issued in only the name of the federal government and the VISA I.M.P.A.C. credit card to the examples of direct payment. Nonsubstantive grammatical corrections are made in the rule title and subsection (c).



The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements Tax Code, §156.103.

§3.163. Exemptions.

(a) This rule deals with exemptions from the state hotel occupancy tax. For information on city and county hotel taxes, contact the affected city or county.

(b) The YMCA, YWCA, and private clubs are exempt from the collection of tax for room rental to members.

(c) Religious, charitable, and educational organizations as defined in § 3.161 of this title (relating to Definitions) and their employees, including college and university personnel, traveling on official business of the organization are exempt from payment of hotel occupancy tax.

(d) State officials, judicial officers, heads of state agencies, the Executive Director of the Legislative Council, the Secretary of the Senate, state legislators, legislative employees, members of state boards and commissions, and designated state employees of the State of Texas who present a Hotel Tax Exemption Photo Identification Card when traveling on official state business are exempt from the hotel occupancy tax. State agency, institution, board, or commission employees who have not been issued a Hotel Tax Exemption Photo Identification Card must pay the hotel occupancy tax. The hotel tax paid by the state or reimbursed to a state employee may be refunded as provided in §3.166. For the purpose of claiming an exemption, a Hotel Tax Exemption Photo Identification Card includes:

(1) any photo identification card issued by a state agency that states "EXEMPT FROM HOTEL OCCUPANCY TAX, under Tax Code, §156.103(d)", or similar wording; or

(2) a Hotel Tax Exemption Card that states "when presented with a photo identification card issued by a Texas agency, the holder of this card is exempt from state, municipal, and county hotel occupancy tax, Tax Code, §156.103(d)", or similar wording.

(e) The United States government when paying the hotel directly for the price of a room is exempt from the hotel occupancy tax. An example of the federal government paying the hotel directly would include, but would not be limited to, the use of a United States government check, United States government purchase order, United States government credit card issued to the federal government in only the federal government's name, a VISA I.M.P.A.C. credit card issued to a federal employee, or other method of directly billing the federal government. A federal employee when paying the hotel is not exempt. An example of the federal employee paying the hotel would include, but would not be limited to, the use of cash, personal check, or any credit card, other than a VISA I.M.P.A.C. card, where the credit card is embossed with the employee's name.

(f) Diplomatic personnel of a foreign government who present an appropriate Tax Exemption Card issued by the United States Department of State are exempt from the tax.

(g) Where an exemption applies, the organization or individual claiming it must present an exemption certificate to the hotel.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603249  
Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts

Effective date: March 28, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 463-6327

◆ ◆ ◆  
• 34 TAC §3.164

The Comptroller of Public Accounts adopts an amendment to §3.164, concerning exemption certificate, without changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10573).

The State of Texas, state employees not provided a special exception under the General Appropriations Act and employees of the United States government paying the hotel directly lost the hotel tax exemption as a result of House Bill 2129, 74th Legislature, 1995. The amendment to this section removes these exemptions from the Hotel Occupancy Tax Exemption Certificate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The amendment implements Tax Code, §§156.103, 351.006, and 352.007.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603250  
Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts

Effective date: March 28, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 463-6327

◆ ◆ ◆  
• 34 TAC §3.166

The Comptroller of Public Accounts adopts new §3.166, concerning refund of hotel occupancy tax, with changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10573).

As a result of House Bill 2129, 74th Legislature, 1995, the State of Texas and most state employees are required to pay the hotel occupancy tax to the hotel. The state agency paying the tax or reimbursing an employee for tax paid may request a refund of hotel taxes from the state, city, or county. The comptroller is required to prescribe the form and information required to claim a refund of municipal and county hotel taxes.

Comments were received from Marriott International, Inc., Hilton San Antonio Airport And Conference Center, and Texas Hotel And Motel Association recommending additional language to subsection (b)(2) to further clarify direct payment to a hotel by the federal government.

The comptroller agreed with the comments and adopts the rule with changes to subsection (b)(2) adding credit cards issued in only the name of the federal government and the VISA I.M.P.A.C. credit card to the examples of direct payment. Nonsubstantive grammatical corrections are made in the rule title and subsection (a)(2).

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements Tax Code, §§156.103, 156.154, 351.006, and 352.007.

§3.166. Refund of Hotel Occupancy Tax.

(a) Definitions.

(1) State Agency. An agency, institution, board, or commission of the State of Texas other than an institution of higher education as defined in Education Code, §61.003.

(2) Federal Government. Any department, board, bureau, agency, corporation, or commission created or wholly owned by the United States government.

(b) Refunds.

(1) A state agency may request a refund for each calendar quarter for the state, municipal, and county hotel tax paid directly to a hotel or the amount of state, municipal, and county hotel tax reimbursed to a state employee on a state travel voucher.

(2) A federal government employee paying the hotel occupancy tax from their own funds directly to the hotel and later reimbursed by the United States government is not entitled to a refund. The United States government when paying the hotel directly for the price of a room is exempt from the state, municipal and county hotel occupancy taxes. An example of the federal government paying the hotel directly would include, but would not be limited to, the use of a United States government check, United States government purchase order, United States government credit card issued to the federal government in only the federal government's name, a VISA I.M.P.A.C. credit card issued to a federal employee, or other method of directly billing the federal government.

(c) Time limitation. A state agency may apply for a refund of state hotel tax no later than two years after the end of the fiscal year in which the travel occurred as provided by Sections 1.16 and 8.06, State of Texas Travel Allowance Guide. A state agency may apply for a refund of municipal or county hotel occupancy tax for each calendar quarter according to the local city or county ordinance. In the absence of a local ordinance, the same time limitation that applies to the refund of state hotel tax will apply to municipal and county taxes.

(d) Documentation required.

(1) Documentation must be maintained to substantiate the claim, including a copy of the hotel folio, billing statement, invoice, or other document, that contains the following information:

(A) name of the hotel,

(B) location address of hotel,

(C) name of city hotel is located,

(D) name of county hotel is located,

(E) date(s) of lodging,

(F) amount of state, municipal, and county hotel tax paid separately stated,

(G) method of payment (travel voucher reimbursement, state credit card, state purchase order, direct billing, other), and

(H) name of employee, if tax reimbursed on travel voucher.

(2) A municipality or county may, by local ordinance, require additional documentation or require documentation be submitted with a claim for refund of local tax.

(e) Separate refund claim required. A separate refund claim form must be filed with each municipality or county.

(f) Form. Each claim for refund for state hotel occupancy tax must be filed on a form furnished by the comptroller. The municipal and county hotel occupancy tax refund claim form must be substantially in the form set out as follows.

Figure: 34 TAC 3.166(f)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603251      Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts

Effective date: March 28, 1996

Proposal publication date: December 12, 1995

For further information, please call: (512) 463-6327

◆      ◆      ◆  
**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part I. Texas Department of Public Safety**

**Chapter 3. Traffic Law Enforcement**

**Traffic Supervision**

• 37 TAC §3.59, §3.62

The Texas Department of Public Safety adopts an amendment to §3.59 and new §3.62, concerning traffic supervision, without changes to the proposed text as published in the January 9, 1996, issue of the *Texas Register* (21 TexReg 253).

The justification for the sections will be to promote the safe transportation of hazardous materials and to regulate the operations of commercial motor vehicles in the state through the adoption of the Federal Motor Carrier Safety Regulations for intrastate commerce, the establishment of the Safety Audit Program, the assessment of administrative penalties, the issuance of safety ratings and explanation of the requirements for municipal peace officer training and certification to enforce the regulations.

The amendment and new section are necessary to implement the provisions of Texas Civil Statutes, Article 6675d as adopted in Senate Bill 3, 74th Legislature, 1995, effective September 1, 1995 (Chapter 705, Acts of 74th Legislature, 1995), which provides the director with the authority to adopt by reference Parts 382, 385, 386, 390-393, and 395-397 of Title 49, Code of Federal Regulations (Federal Motor Carrier Safety Regulations).

A summary of the comments received and the department's response to the comments follows. No groups or associations offered comment on the amendment as proposed. A public hearing was held on March 6, 1996, and no comments were submitted at that time. Individual written comment was received. No changes were made as a result of comment.

COMMENT: A comment was received asking whether all intrastate Commercial Driver License holders will be required to meet the medical qualification requirements as outlined in Title 49, Code of Federal Regulations 391, as adopted, and whether those Commercial Driver License holders would be required to obtain a medical certification card. An explanation of who would be authorized to issue the medical card was also requested.

RESPONSE: Drivers of vehicles specified in Subpart (c)(1)(A-D) of Title 49, Code of Federal Regulations 391, are required to meet the medical requirements if they were not commercial motor vehicle drivers on or before August 28, 1989. This requirement is based on the size of vehicle being operated instead of the requirement to have a Commercial Driver License. A driver required to meet the medical standards

would be required to be in possession of a medical card.. A medical card could be issued by any licensed medical examiner. A licensed medical examiner is defined in Title 49, Code of Federal Regulation 390.5 as a person who is licensed, certified, and/or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

COMMENT: A comment was received asking how intrastate Commercial Driver License holders who are not required to obtain a medical certification card are to meet the medical qualification requirements of Title 49, Code of Federal Regulation 391.

RESPONSE: These drivers are exempted ("grand-fathered") from meeting the medical requirements.

COMMENT: A comment was received asking who at the state level and local level will be responsible for policing the drivers' compliance with the medical qualification requirements outlined in Title 49, Code of Federal Regulation 391.

RESPONSE: The Department of Public Safety is the agency primarily responsible for regulating compliance with the medical qualification requirements. This responsibility is accomplished through roadside inspections in which the department's License & Weight troopers inspect driver and vehicle compliance with the regulations and also through compliance audits wherein troopers conduct an audit at a motor carrier's principal place of business to check driver qualification files and other documents to verify compliance with the regulations. The regulations also place responsibility on the motor carrier to ensure that their drivers are in compliance with the regulations.

The amendment and new section are proposed pursuant to Texas Civil Statutes, Article 6675d, Texas Transportation Code, Chapter 522, and Texas Government Code, §411.006(4), which provides the director of the Texas Department of Public Safety with the authority to establish rules for the conduct of the work of the Texas Department of Public Safety, and which authorizes the director to adopt rules regulating the safe operation of commercial motor vehicles.

This agency hereby certifies that the adoptions have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603338      James R. Wilson  
Director  
Texas Department of Public Safety

Effective date: March 29, 1996

Proposal publication date: January 9, 1996

For further information, please call: (512) 424-2890

### Part III. Texas Youth Commission

#### Chapter 88. Special Management Programs

##### • 37 TAC §88.1

The Texas Youth Commission (TYC) adopts the repeal of §88.1, concerning special management and treatment program for assaultive youth, without changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 652).

The justification for the repeal is to replace the repealed section with a new section which encourages more efficient agency operation.

The repeal will allow for the rule to be replaced by a new section to allow for changes in rules of operation which are more consistent with legislative intent and agency mission regarding committed juvenile delinquents.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603061      Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 483-5244

The Texas Youth Commission (TYC) adopts new §88.1, concerning special management and treatment program for assaultive youth, with changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 652). Changes to the proposed text consist of the addition of purpose and applicability clauses, and a central office approval for a second extension in the special management program.

The justification for the new section is more efficient agency operation.

The new rule will provide guidelines for TYC staff to determine when a TYC youth is eligible for the special management and treatment program. p>No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to order confinement under conditions it believes best designed for the child's welfare and the interests of the public.

§88.1. *Special Management and Treatment Program for Assaultive Youth.*

(a) Purpose. This purpose of this rule is to provide:

(1) criteria for removing from the general population, youth who are assaultive or self destructive and are considered high risk for continuing the behavior.

(2) for that youth a highly structured program with a strong counseling component and a system of graduated reintegration into the general population.

(b) Applicability. This rule does not apply to short term admissions to confinement in a security unit. See GOP.67.15, §91.65 of this title (relating to Security Unit).

(c) Program Admission.

(1) Youth considered for the special management and treatment program must meet admission criteria. Youth who instigate or engage in one or more of the following behaviors are eligible for the program.

(A) Assault on TYC staff.

(B) One or more serious assaults on a student resulting in bodily injury.

(C) Willful destruction of property.

(D) Escape with exacerbating circumstances, e.g., aggravated assault, arson, or possession of a weapon.

(E) Serious self-abuse or engage in suicidal behavior.

(2) A fact finding level II hearing shall be held to determine whether a youth meets behavioral criteria. See GOP. 65.03, §91.35 of this title (relating to Level II Hearing Procedure).

(3) A mental health professional must recommend program admission based on a determination that the following criteria has been met.

(A) The youth poses a continuing risk for assaultive behavior, injury to self and/or destruction of property, and

(B) less restrictive intervention is unlikely to manage the risk.

(d) Program completion.

(1) An individualized treatment program must be developed for each youth. The plan will consist of performance objectives which the youth must meet in order to be returned to the general population. The plan will be explained to the youth and he/she signs the plan in acknowledgment.

(2) A youth shall be released when progress reviews indicate that performance objectives for each phase have been met or when a youth has been in the program for 28 days, whichever occurs first unless an extension has been approved.

(3) A youth who has once successfully completed the program shall not be returned unless admission criteria has been met for a different incident.

(e) Program Extension.

(1) An extension may be approved if the following criteria has been met.

(A) progress reviews indicate that the youth has not met specific performance objectives for each phase of the special management and treatment program; and

(B) the treatment plan for the youth has been reviewed by the director of psychology and the determination made that the plan has been implemented as written; and

(C) the treatment plan has been modified as needed.

(2) Approval for a second extension must be obtained from the central office rehabilitation department.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603062 Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 483-5244



## Chapter 93. General Provisions

### Death of a Youth

#### • 37 TAC §93.1

The Texas Youth Commission (TYC) adopts the repeal of §93.1, concerning death of a youth, without changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 652).

The justification for the repeal is to replace the repealed section with a new section which encourages more efficient agency operation.

The repeal will allow for the section to be replaced by a new section to allow for changes in rules of operation which are more consistent with legislative intent and agency mission regarding committed juvenile delinquents.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603063 Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 16, 1996

For further information, please call: (512) 483-5244



The Texas Youth Commission (TYC) adopts new §93.1, concerning death of a youth, without changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 653).

The justification for the new section is more efficient agency operation.

The new rule will provide guidelines for responding to the death of a TYC youth.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603064 Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 16, 1996

For further information, please call: (512) 483-5244



### Transportation of Youth

#### • 37 TAC §93.31

The Texas Youth Commission (TYC) adopts the repeal of §93.31, concerning transportation of youth, without changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 653).

The justification for the repeal of the section is to replace the repealed section with a new section which encourages more efficient agency operation.

The repeal will allow for the section to be replaced by a new section to allow for changes in rules of operation which are more consistent with legislative intent and agency mission regarding committed juvenile delinquents.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603059

Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 483-5244

◆ ◆ ◆

The Texas Youth Commission (TYC) adopts new §93.31, concerning transportation of youth, with changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 654). The changes to the proposed text consist of adding prohibition of chemical agents during transportation and slightly restructuring the text of each sentence.

The justification for the new section is more efficient agency operation.

The new rule will provide specific guidelines for transporting TYC youth among TYC facilities and community corrections programs.

No comments were received regarding adoption of the new rule.

The new rule is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the accomplishment of its functions.

#### §93.31. Transportation of Youth.

(a) The statewide transportation unit, regional transportation unit, and individual program staff may transportation or coordinate the transportation of Texas Youth Commission (TYC) youth among its facilities and community corrections programs is coordinated by

(b) The statewide transportation unit will provide transportation primarily between programs involving an institution. The unit may provide courtesy transportation and may assist in coordinating transportation of youth between TYC programs not involving an institution, including interstate compact movements, and some new commitments.

(c) Counties are responsible for transporting all new commitments to a TYC assessment unit and for providing all transportation necessary to meet requirements of a bench warrant.

(d) Use or possession of chemical agents is prohibited during transportation.

(e) Mechanical restraints will be used when youth are being transported by the transportation unit and by others when transporting youth to a placement of greater restriction than their current program. Mechanical restraints may be used during transportation by others when circumstances create a risk of escape or harm. All use of mechanical restraint during transportation shall be accordance with GOP.67.09, §91.59 relating to Use of Force.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 4, 1996.

TRD-9603060

Steve Robinson  
Executive Director  
Texas Youth Commission

Effective date: March 25, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 483-5244

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 19. Nursing Facility Requirements for Licensure and Medicaid Certification

##### Subchapter X. Requirements for Medicaid-Certified Facilities

###### • 40 TAC §19.2322

The Texas Department of Human Services (DHS) adopts an amendment to §19.2322, with changes to the proposed text as published in the December 19, 1995, issue of the *Texas Register* (20 TexReg 10882).

Justification for the amendment is to implement a rider to the General Appropriations Act, passed in the 74th Texas Legislature, and new state law, Texas Human Resource Code, §32.0245.

The amendment will function by requiring the department to waive restrictions for Medicaid-certified beds for the care and treatment of persons with Alzheimer's disease in facilities associated with state-operated medical schools and by giving the commissioner the authority to grant waivers to the existing moratorium rules. The new waivers would allow additional Medicaid-certified beds to serve persons under the supervision of the Department of Criminal Justice and to meet the demand in underserved minority communities.

During the public comment period, DHS received a comment from the director of the Alzheimer's Program at the Texas Department of Health.

Comment: There is language in the rule which is contrary to a new state law. Specifically, Texas Human Resources Code, §32.0245 requires DHS to waive for a nursing facility a restriction imposed by state law on the authority to contract under the state Medicaid program for nursing home beds based on the percentage of beds that are occupied in a geographical area if the facility: is affiliated with a medical school operated by the state; is participating in research programs for the care and treatment of persons with Alzheimer's disease; and is designed to separate and treat Alzheimer's disease by stage and functional level.

Response: The department agrees and has made the clarification in §19.2322(d), as required by law. The commissioner, therefore, must grant a waiver under the stated conditions.

In addition, the department has changed §19.2322(c)(8)(D)(ii)(III) to clarify that long term care services in that specific location are unattainable due to the lack of such service availability.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs, and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

#### §19.2322. Additional Participation Requirements.

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

(c) If the provider meets all criteria, DHS may exempt the following facilities from the policy stated in subsection (b) of this section.

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

(8) Facilities that apply for participation under the special DHS commissioner's waiver authority.

(A) The commissioner of DHS has authority to waive the restriction on contracting in subsection (b) of this section and

direct DHS to enter into Medicaid contracts with nursing facilities that satisfy the requirements specified in this subparagraph. In a manner acceptable to DHS, each of these facilities must:

(i) document that there is a crisis and immediate need for additional Medicaid nursing-facility beds in the facility's community;

(ii) document that there are problems with the quality of care available in the facility's community, and show that new Medicaid-contracted beds will remedy these problems;

(iii) demonstrate that Medicaid residents in the facility's community do not have reasonable access to nursing-facility care;

(iv) document strong community support for a new Medicaid nursing facility; and

(v) agree to make a contractual commitment that the individual or company entering into a Medicaid contract under the provisions of this paragraph will directly own and operate the facility for at least three years.

(B) DHS applies the following criteria when granting special DHS commissioner's waivers:

(i) If facilities have not completed construction requirements, and if facilities have not been licensed and certified within 18 months of the date on the DHS letter approving the waiver, the DHS commissioner will rescind the approvals for all such waivers granted.

(ii) DHS may grant one 90-day extension for extenuating circumstances, at the discretion of the DHS commissioner.

(C) Facilities whose commissioner's waiver was rescinded after September 1, 1994, may apply for participation under the previous waiver, and any rescission of that waiver will be nullified, if the following circumstances can be documented in a manner acceptable to DHS:

(i) the previous waiver was rescinded because the facility had not completed construction requirements within the time limits specified in the rule and such failure was due to circumstances beyond the control of the facility;

(ii) a substantial amount of construction was undertaken within the time limit specified in the rules;

(iii) the construction of the facility is being financed by a loan insured by the United States Department of Housing and Urban Development or other governmental entity; and

(iv) construction, licensure, and certification are completed by March 1, 1995.

(D) The commissioner may grant a waiver of these restrictions for a contract if the commissioner determines that beds are necessary for the following circumstances:

(i) to meet the need identified and determined by the Texas Department of Criminal Justice as necessary to serve persons under the supervision of the Department of Criminal Justice who have been released on parole, mandatory supervision, or special needs parole under the Code of Criminal Procedure, Article 42.18; or

(ii) to meet the documented demand in underserved minority communities where beds are not available from existing resources. For purposes of this waiver, the term minority shall mean all persons who are Black, Hispanic, Asian or Pacific islander, American Indian, or Alaskan native. The facility must

(I) be located in a county with a total population of at least 1,000,000, according to the 1990 U.S. census;

(II) serve a zip code whose minority population is greater than 50%, according to the 1990 U.S. census;

(III) document that minority residents in the zip code in which facility is located are unable to attain Medicaid long term care services in that specific location, due to lack of such service availability; and

(IV) be the only waived facility, as defined in subparagraph (A) of this paragraph, in that county.

(d) DHS waives for a nursing facility a restriction imposed by state law on the authority to contract under the state Medicaid program for nursing home beds based on the percentage of beds that are occupied in a geographical area if the facility:

(1) is affiliated with a medical school operated by the state;

(2) is participating in research programs for the care and treatment of persons with Alzheimer's disease; and

(3) is designed to separate and treat Alzheimer's disease by stage and functional level.

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 March 8, 1996.

TRD-9603366

Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services

Effective date: April 1, 1996

Proposal publication date: December 19, 1995

For further information, please call: (512) 438-3765

◆ ◆ ◆  
**Part XX. Texas Workforce Commission**  
**Chapter 801. Local Workforce Development**  
**Boards**

•40 TAC §801.2

The Texas Workforce Commission adopts new §801.2, concerning waivers which may be granted regarding service delivery, board staffing and developmental services, with changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 654).

The Workforce and Economic Competitiveness Act, as amended by Chapter 655, Acts of the 74th Legislature, 1995, requires the Commission to establish rules for the formation of local workforce development boards to plan and oversee the delivery of all workforce training programs in local workforce development areas. The Act restricts the delivery of workforce training and services developmental services and requires that local workforce development boards have an independent staff. The rule will permit boards to request waivers on one or more of the three statutory prohibitions if the board can show that a waiver is necessary for the delivery of workforce training programs in the local workforce development area. The Commission held a public hearing on the proposed rule on February 14, 1996. Oral comments received at that hearing were replicated in substance within the 48 written comments received.

The Legislature, in providing for a new integrated workforce development system, has imposed certain prohibitions on local workforce

development boards, but required a system for obtaining waivers. These rules establish the system for obtaining these waivers from the Texas Workforce Commission. Only under exceptional circumstances will such waivers be allowed.

The Commission acknowledges that private industry councils (PICs) under the federal Job Training Partnership Act (JTPA) have fewer restrictions on their activities with regard to intake and eligibility determination, and also with regard to the provision of workforce training and services, than do workforce development boards under state law. However, workforce development boards, which serve as private industry councils, must abide by the state imposed restrictions. Private industry councils that wish to retain their flexibility under federal regulations and that choose not to become local development boards may not exercise any of the additional power and authority granted to a local workforce development board under state law.

The following parties submitted written and/or oral comments prior to or following publication of the proposed rule: John D. Baker, Texas Workforce Development Network; Don A. Balcer, Regional Administrator, U.S. Department of Labor; Jimmie Bender, People for Progress, Inc.; Bruce P. Bower, Houston Welfare Rights Organization; Rodney Bradshaw, Houston-Galveston Area Council; Michael Carr, Executive Vice President, Deaf Smith County Chamber of Commerce; Preston Combest, County Judge, Camp County; Vernon Cook, County Judge, Roberts County, and Chairman, Board of Directors, Panhandle Regional Planning Commission; Walter G. Diggles, Texas Association of Regional Councils; Susan Duecy; Paul Edwards, Middle Rio Grande Development Council; Ricky Fritz, County Judge, Scurry County; Rey Garcia, Texas Association of Community Colleges; John Garth, Central Texas CEO Consortium Board; Gladys Gerst, City Council Member, City of Sweetwater; Edward Hamilton, President Amarillo Mastercraft Industries, and Chair, Panhandle Private Industry Council; Dane Harris, President, Texas Association of Business & Chambers of Commerce; Ron Harris, County Judge, Collin County; Gilberto Hinojosa, Cameron County Judge; Tommy Honeycutt, County Judge, Lampasas County; Lee F. Jackson, County Judge, Dallas County; Kim Kerchoff, Texas Association of Regional Councils; Glynn Knight, East Texas Council of Governments; Laurie Boullion Larrea, Private Industry Council of Dallas, Inc.; Joe McComb, County Commissioner, Nueces County; Bob McPherson, Center for the Study of Human Resources, The University of Texas at Austin; Alan Miller, Austin/Travis County Private Industry Council; Frances Monk, President-elect, South East Texas Regional Planning Commission and Mayor-Pro Tem, City of Port Neches; David P. Mooney, Chairman, East Texas Private Industry Council; Cynthia Mugerauer, Acting Executive Director of the Texas Council on Workforce and Economic Competitiveness; Representative Reno Oliveira, Chairman, House Economic Development Committee; Tom Patterson, Amarillo Chamber of Commerce; David N. Perdue, County Judge, Knox County and President, Texas Association of Counties; Larry Phillips, President, Angelina College; Sandra Pickett, City of Liberty; Burton Raiford, Texas Department of Human Services; Willis Smith, County Judge, Lipscomb County and Chair, Board of Directors Panhandle Job Training Consortium; Jack Steele, Houston-Galveston Area Council; Marcia Strieber, Workforce Development Board of Central Texas; Mike Temple, President, Texas Workforce Association; Texas Legal Services Center; Carl K. Thibodeaux, County Judge, Orange County; Carol Thomas, Permian Basin Private Industry Council; Tom Vandergriff, County Judge, Tarrant County; Joe Frank Wheeler, Executive Vice President, Borger Chamber of Commerce; George Wilkins, Secretary-Treasurer, East Texas Council of Governments; Lee E. Williams, County Judge, Wood County; and Linda Williamson, Texas Department of Commerce.

Several commenters urged that the proposed language with regard to independent staffing, "the board's staff may not be employed by, or provide services to, any other person in conflict with the board's duties and function under the Act," was in contravention of the legislative intent of House Bill 1863 to give control of workforce programs to locals. The Commission did not intend to tie the hands of local workforce development boards as to the employment of staff by the phraseology used in the proposed rule. The language was intended to ensure that the board's staff was accountable only to the board. Therefore, the proposed language was struck and replaced by language closely resembling language suggested by one commenter that more clearly states the agency's position.

Several commenters argued that the proposed language, "the board's

staff may not be employed by, or provide services to, any other person in conflict with the board's duties and functions under the Act," is vague and ambiguous. The Commission replaced the objectionable language with a sentence that more clearly states the agency's position.

Several commenters argued that the same language regarding independent staffing would lead to the creation of new administrative entities and would thereby lead to administrative inefficiency. The Commission replaced the offending language with other language that better states the agency's position.

One commenter noted that the legislation limits its explanation of the independent staffing requirement even though it is clear that if the statutory independent staffing requirement was only intended to ensure separate service provision, then the separate service provision waiver would be sufficient. Therefore, the commenter suggests that the independent staffing provision should clarify that staff would not be independent if the staff reports to an entity other than the board, regardless of whether that other entity provided services. The Commission agrees that the statutory intent of the independent staffing provision is to have the board's staff be accountable to the board, and not another entity.

Another commenter urged that the Legislature's intent with the independent staffing provision was to ensure that the board's staff would be protected from undue influence by another entity. The Commission agrees and has attempted to ensure that a board's staff will remain accountable to the board.

One commenter suggested that when the staff of a private industry council is provided by a separate administrative entity it prohibits the staff from acting autonomously. The commenter suggested that the rules should ensure that a board have an autonomous staff. The Commission agrees and has addressed this concern by requiring that boards ensure the accountability of their staff through employment policies or contractual provisions.

One commenter noted that the issue of independent staffing could be addressed in the CEO-Partnership agreements to assure independent staffing and not the establishment of a separate local entity in a constrained funding environment. The Commission agrees in principle that the accountability of a board's staff may be addressed in an appropriate document; thus, the Commission modified the language with regard to the independent staffing provision so that boards may ensure accountability through contractual provisions or employment policies.

One commenter maintained that, in the real world, staff must serve both the board and the chief elected officials, and some provision in the rules for "equal" staff support to both significant partners should be included. The Commission believes that it has addressed the concerns of the Legislature that boards' staff be independent of any other entity by requiring that boards ensure accountability of their staff through employment policies and contractual provisions.

One commenter argued that independent staffing was an important safeguard of the new system which would ensure independence and avoid split loyalties. The Commission agrees and has tried to address this concern in the waiver rules with regard to independent staffing.

Several commenters noted that state rules restrict the staff of a local board from providing intake eligibility and assessment, but that the federal Job Training Partnership Act (JTPA) does not restrict private industry councils from providing those services. The Commission acknowledges that private industry councils have fewer restrictions on their activities with regard to intake and eligibility determination, and also with the provision of workforce training and services. However, workforce development boards, which serve as private industry councils under the JTPA, must abide by the state imposed restrictions. Private industry councils that wish to retain their flexibility under federal regulations and that do not become local workforce development boards may not exercise any of the powers granted to a local workforce development board under the Act. The Commission believes the legislature provided for local areas to have the option to form a board and comply with the state requirements or continue as a private industry council under JTPA.

One commenter suggested that the definition of "one-stop" services would put current one-stop centers, operating under a pilot program by the Department of Labor, out of compliance with the rule. The Commission believes that the definition of "one-stop" services, which substan-



tively includes the services required of a Career Development Center under House Bill 1863 and Senate Bill 642, will have no effect on the DOL "one-stop" pilot centers. Although some areas may form boards and subsequently modify the services at a pilot center to comply with the statutory requirements of a Career Development Center, the waiver rules do not apply to centers that are not operated as Career Development Centers by a workforce development board.

One commenter suggested that the definition of "one-stop" services could be interpreted as an exclusive list, as opposed to an inclusive list. The Commission has clarified that the definition of "one-stop" services available at a Career Development Center is an open-ended list by using the phrase "including, but not limited to".

One commenter remarked that the definition of "one-stop" services as proposed suggested that the Career Development Center must provide support services, loans and the like, under subsection (b)(3)(D). The commenter suggested that the definition should include "access to, or information about support services . . ." The Commission believes that the definition of "one-stop" services in the proposed rule substantively tracks the language used in the statute to determine those services which must be provided at a Career Development Center.

One commenter urged that the Commission not define the term "one-stop" services but rather use the term Career Development Center. The Commission agrees that the term "one-stop" has come to mean many things to many people; however, the statute prohibits a person who provides "one-stop" services at a Career Development Center from also providing developmental services. Further, there is no statutory definition of "one-stop" services. Accordingly, the Commission believes that it is necessary to define the term "one-stop" services in order to more clearly define the services that must be kept separate.

One commenter noted that a definition of developmental services was needed. The Commission agrees and added such a definition.

Several commenters suggested that time limits on the submission and consideration of a waiver request should be included in the rule. The Commission believes that each set of circumstances with regard to a waiver request will be unique and must be given due consideration, without the constraints of a rigid timetable.

One commenter asserted that the term "proposals" should be used instead of the term "bid" in the list of information to be submitted with a waiver request. The Commission agrees that use of the word proposal is better, so the word "bid" has been replaced with "proposal."

One commenter noted that the law does not prohibit a state agency from submitting a response to a request for proposal, and that the rewording of subsection (f)(2)(A) to read "documentation of the process used to notify the public, state agencies, and other interested parties of the solicitation..." would make clear that state agencies may submit proposal without suggesting that the TWC could override a waiver request by becoming a service provider. The Commission agrees that the statute does not expressly prohibit a state agency from responding to a request for proposal; however, the Commission has determined that the issue of the agency's provision of services is best dealt with elsewhere. Accordingly, the request for information regarding the TWC's ability to provide services was struck from the rule.

Several commenters objected to requiring a request for waiver to address whether the Texas Workforce Commission (TWC) is able to provide the needed services in the area. It is argued that this sets up a conflict of interest, that it would preclude the granting of any waivers, that TWC should have to compete in the proposal process, that TWC has no demonstrated performance in the new style system, and that ambiguous lines of authority would be created. The proposed request was for information regarding the ability of the TWC to provide needed services in areas in which no satisfactory service providers responded to the board's request for proposal. However, the Commission has determined that the issue is more properly addressed elsewhere rather than by including it in the list of information to be submitted with a waiver request. Accordingly, the item was deleted from the proposed rule.

One commenter opined that whether TWC is able or willing to provide particular services in a given area should be an agency-based decision and recommended that the information regarding TWC's ability to provide services be struck from the requested information submitted with a waiver request. The Commission has determined that informa-

tion regarding the TWC's ability to provide services for a board is better addressed elsewhere. Accordingly, the request for information was struck from the list.

One commenter remarked that the rules need to provide general guidance concerning which items would be of primary interest in the review of a waiver request. The Commission anticipates that all factors will be considered equally and that each area's unique set of circumstances will be viewed in totality to determine the need for a waiver. Therefore, no one factor, nor any prioritized list of factors, will be determinative of a waiver request.

One commenter was concerned as to what constitutes a "material change in circumstances" that the Commission might reconsider a waiver. A material change in circumstances is generally held to be the acquisition of new or different information that a reasonable person would have considered material in the outcome of his decision-making process. The Commission believes that it should retain jurisdiction over the grant of a waiver, in the event that a material change of circumstances would make the waiver unnecessary. However, the Commission recognizes that new information would not necessarily warrant the withdrawal of a waiver in the middle of a program year.

One commenter raised several questions about potential conflicts between federal law and the proposed rules, or underlying state law. He urged that extra state law requirements not necessarily affect the status of a private industry council (PIC) that meets federal law requirements. He also urged that rules address training requirements to avoid conflicts. The Commission agrees that private industry councils have options which are not available to boards that assume the functions of private industry councils under the JTPA. However, areas that wish to retain the options available to a private industry council may choose not to form a local workforce development board. The issue of board training is being addressed through administrative channels within the TWC.

Two commenters expressed support for the proposed rule as written.

One commenter requested that the Commission assure that service deliverers make services available to all segments of the population including those most needy. The commenter urged the Commission to establish measures to ensure the delivery of effective education, training and job placement services and further urged the Commission to hold service providers strictly accountable to those measures. The Commission agrees that service deliverers must be held accountable for the appropriate delivery of services to all segments of the population. However, the waiver rules address a different aspect of the board's functions. Performance measures will be addressed elsewhere.

Several commenters noted that local areas need planning money to begin the process of developing local workforce boards and also that there needs to be a transition period available for the smooth transfer of programs from the current system to the new locally driven system. The Commission agrees and will address the planning money issue in another forum. In addition, the Commission recognizes that waivers may be necessary in some instances to allow areas to transition to other service providers.

One commenter suggested that waivers of separate service provision for workforce training and services and for developmental services be considered illegal unless the local community college in the service area cannot provide service delivery in the most cost-effective manner. The Commission believes that the statute provides for the grant of a waiver from any of the stated prohibitions in an appropriate circumstance, to be determined by the Commission.

One commenter recommended that no waivers be granted except in extreme circumstances and further that the Commission may recommend a "one-time waiver not to exceed one year." The Commission agrees that waivers should be the exception, not the rule; however, the statute clearly permits the granting of a waiver if circumstances warrant. Accordingly the Commission believes that the waiver rule addresses the concern that waivers require exceptional circumstances and that waiver must be limited in duration.

One commenter objected that the "workforce training and services" was defined too broadly, and does not track the statutory definition. The commenter argues that intake, eligibility and assessment functions are operational functions and should not be considered part of the



"training and services programs" in the statutory definition of "workforce training and services." The Commission changed the proposed definition of "workforce training and services" so that it now reads like the statutory definition. However, the Commission created a definition for operational functions to clarify that some services that the board cannot provide without a waiver are operational functions and not "workforce training and services."

One commenter requested that the Commission adopt a provision in the waiver rule requiring that a local board that receives a waiver be required to provide public notice of the waiver, including an expiration date. The commenter argued that notice would provide information to interested parties who may wish to develop additional capacity in a local area. The Commission believes that the rule as written requires that a local board submit information regarding the public process used to determine whether a qualified alternative provider exists in the local workforce area. The Commission feels that this process will provide notice in the region that the board is seeking a waiver of one of the statutory prohibitions. Further, the Commission has restricted waivers to no greater than the term of one plan which will require that a local board again conduct a public request for proposal for the next planning cycle.

One commenter suggested that the rule require that waiver requests be submitted in conjunction with submission of the local plan. The Commission believes that the rule as written better serves the planning process. The rule permits a board to seek a waiver request at any time in its planning process. Therefore, if a board would like to conduct public request for proposal prior to formulating its local plan, it may do so.

One commenter suggested that in some instances a board may need to submit a waiver request after a plan is in place; therefore, the Commission should delete the portion of that rule stating "in the board's planning process." The Commission believes that such a change from the approved plan will be dealt with as a modification or amendment to the plan.

One commenter suggested that the Commission use the definition of "workforce services" as previously used by the Texas Council on Workforce and Economic Competitiveness. The Commission has chosen to use the definition of "workforce training and services" as it is defined in the Act, because it works best within the framework of the proposed waiver rule.

One commenter noted there was no reference to an appeal process should a waiver be denied, and suggested that if there is no opportunity to appeal the Commission decision, that a statement be included in the rule that the Commission decision is final. The Commission agreed with this comment and added the provision that the Commission's decision on a waiver request shall be final.

The new section is adopted under Texas Civil Statutes, Labor Code, §302.063, as amended by Chapter 655, Acts of the 74th Legislature, 1995, which direct the Texas Workforce Commission to develop objective criteria for the granting of waivers under Texas Civil Statutes, Government Code, §§2308.264, 2308.267, and 2308.312.

No other statute, article or code will be affected by this rule.

#### §801.2. Waiver Requirements.

(a) Purpose of Rule. The Workforce and Economic Competitiveness Act, §§2308.264, 2308.267, and 2308.312, Government Code, Vernon's Texas Civil Statutes, Annotated, sets forth prohibitions regarding service delivery, board staffing, and developmental services. Only under exceptional circumstances will waivers from such prohibitions be allowed. The Commission's decision on a waiver request shall be final.

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

(1) Board—A local workforce development board as created under the Workforce and Economic Competitiveness Act.

(2) Developmental services—Program services designed to increase a participant's basic education and skill level, including

adult basic education courses, GED preparatory courses, adult literacy programs, and occupational skills training.

(3) One-Stop services—Services provided at a Career Development Center established by a board, including, but not limited to:

(A) access to labor market information in the workforce area;

(B) individual education, training, and employment referral services;

(C) independent assessment of individual needs and the development of an individual service strategy;

(D) centralized and continuous case management and counseling;

(E) support services, including, child care assistance, student loans, and other forms of financial assistance required to participate in and complete training;

(F) uniform eligibility determination of state and federal benefit programs, including Food Stamp Employment and Training and unemployment insurance benefits; and,

(G) other employment services, such as job readiness seminars, life skills programs, and job search seminars.

(4) Operational functions—Intake, eligibility determination, assessment, and referral.

(5) Person—Any individual, sole proprietorship, partnership, corporation or other legal entity.

(6) Workforce development—Includes workforce educational programs and workforce training and services.

(7) Workforce education—Articulated career-path programs and the constituent courses of those programs that lead to initial or continuing licensing or certification or associate degree-level accreditation and that are subject to:

(A) initial and ongoing state approval or regional or specialized accreditation;

(B) a formal state evaluation that provides the basis for program continuation or termination;

(C) state accountability and performance standards; and

(D) a regional or statewide documentation of the market demand for labor according to employers' needs.

(8) Workforce training and services—Training and services programs that are not "workforce education".

(c) Independent Service Delivery. A board is prohibited from directly providing workforce training and services. A board is prohibited from directly providing operational functions.

(d) Separate Staffing. A board may employ professional, technical and support staff to carry out its strategic planning, oversight, and evaluation functions. The staff employed by the board must be employed separately and independently of any person that

provides workforce training and services. The independent nature of the board's staff shall be ensured through employment policies or contractual provisions.

(e) **Developmental Services.** A person who provides "one-stop" services at a Career Development Center may not also provide developmental services. Persons seeking developmental services must be referred to the full range of services available in the region and must not be unduly influenced to participate in any training services made available by a particular provider.

(f) **Requesting a Waiver of the Requirements.**

(1) The board may submit its written request for a waiver under subsection (c), (d), or (e) to the Commission at any time in the board's planning process, including at the time of submission of the strategic plan.

(2) A request for a waiver of any of the requirements under subsection (c), (d), or (e) must contain the following:

(A) A detailed justification for the waiver, including, but not limited to:

- (i) cost-effectiveness;
- (ii) prior experience;
- (iii) geographic and budgetary considerations;
- (iv) availability of qualified applicants; and,

(v) a detailed proposal for the provision of such services should a waiver be granted.

(B) Documentation of the process used to solicit proposals for the provision of necessary services, including, but not limited to:

(i) the process used to notify the public and interested parties of the solicitation of proposals for the provision of necessary services;

(ii) details regarding any proposals or inquiries received as a result of public notice and solicitation for proposals, including responses given to any inquiries received;

(iii) criteria used to evaluate any proposals received; and,

(iv) methodology used to determine the lack of any existing qualified alternative.

(g) **Duration of Waiver.**

(1) A waiver may be granted for a period less than, but not to exceed, the effective term of an approved plan and budget.

(2) A waiver may be conditioned upon the board's completion of measures taken to eliminate the need for a waiver.

(h) **Changed Circumstances.** If the Commission becomes aware of a change in circumstances materially affecting its decision to grant a waiver, the Commission may review its decision and require the board to submit information regarding the continued need for the waiver.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603171

J. Ferris Dujon  
Legal Counsel  
Texas Workforce Commission

Effective date: March 27, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 463-2291

◆ ◆ ◆  
• 40 TAC §801.3

The Texas Workforce Commission adopts new §801.3, concerning submission of plans, plan modification and amendments with changes to the proposed text as published in the January 26, 1996, issue of the *Texas Register* (21 TexReg 656).

The Workforce and Economic Competitiveness Act, as amended by Chapter 655, Acts of the 74th Legislature, 1995, requires the Commission to establish rules for the development and approval of a local plan submitted by a local workforce development board, in order that the board may plan and oversee the delivery of workforce training and services programs in the workforce development area. The Commission held a public hearing on the proposed rules on February 14, 1996. Oral comments received at that hearing were replicated in substance within the five written comments received.

This rule will establish the framework for submission and review of workforce training and services plans and budgets.

The following parties submitted written and/or oral comments following publication of the proposed rule: John Baker, The Texas Workforce Development Network; Rodney Bradshaw, the Houston-Galveston Area Council; Vernon Cook, County Judge, Roberts County, and Chairman, Board of Directors, Panhandle Regional Planning Commission; Horace Groff, County Judge, Grayson County, David N. Perdue, County Judge, Knox County and President of the Texas Association of Counties; and, Jack Steele, Houston Galveston Area Council.

Several commenters asked that the rule recognize that there may be a delegation of authority to act on behalf of the Chief Elected Officials and that the designee with authority to act on behalf of the whole body of CEOs should be allowed to approve the proposed plan modifications and amendments. These comments were well-taken by the Commission and the proposed rule was amended in 801.3(c)(1) to reflect the change.

One commenter commended the Commission on the rule's allowance for considerable flexibility with regard to the submission, modification and amendment of local plans.

No other substantive comments with regard to the plan rules were offered.

The new section is adopted under Texas Civil Statutes, Labor Code, §302.041 and §302.042, as amended by Chapter 655, Acts of the 74th Legislature, 1995, which direct the Texas Workforce Commission to design and implement a state-local planning process for workforce training and services, to review local plans and to make recommendations to the Texas Council on Workforce and Economic Competitiveness regarding plan implementation.

No other statute, article or code will be affected by this rule.

*§801.3. Requirements for Submission of Local Workforce Training and Services Plans, Modifications and Amendments.*

(a) **Purpose of Rule.**

(1) All workforce training and services plans and budgets developed pursuant to state and federal law by a local workforce development board shall be submitted to the Workforce Division of the Texas Workforce Commission for review.

(2) Before a plan and budget will be forwarded by the Commission to the Texas Council on Workforce and Economic Competitiveness (TCWEC) for approval, all requirements of this section must be met.

(b) **Standards for Submission.** A local workforce training and services plan and budget will be reviewed according to criteria established by the Commission. The Commission will provide guidelines for strategic planning and budgeting to local boards.

(c) **Plan Modification or Amendment.** An approved plan and budget may be changed by either modification or amendment. Either

method of change must be submitted to the Commission for review before implementation.

(1) A modification is a substantial revision of a plan and budget. The Commission will provide criteria to local boards that will define what constitutes a substantial revision. Each modification must provide evidence that a majority of the Chief Elected Officials (CEOs) of a local workforce delivery area or their designee or designees with signatory authority have approved the modification.

(2) An amendment is a minor adjustment to a plan and budget. The Commission will provide criteria to local boards that will define what constitutes a minor adjustment. An amendment does not require approval by a majority of the CEOs of a local workforce delivery area.

This agency hereby certifies that the adoption have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on March 6, 1996

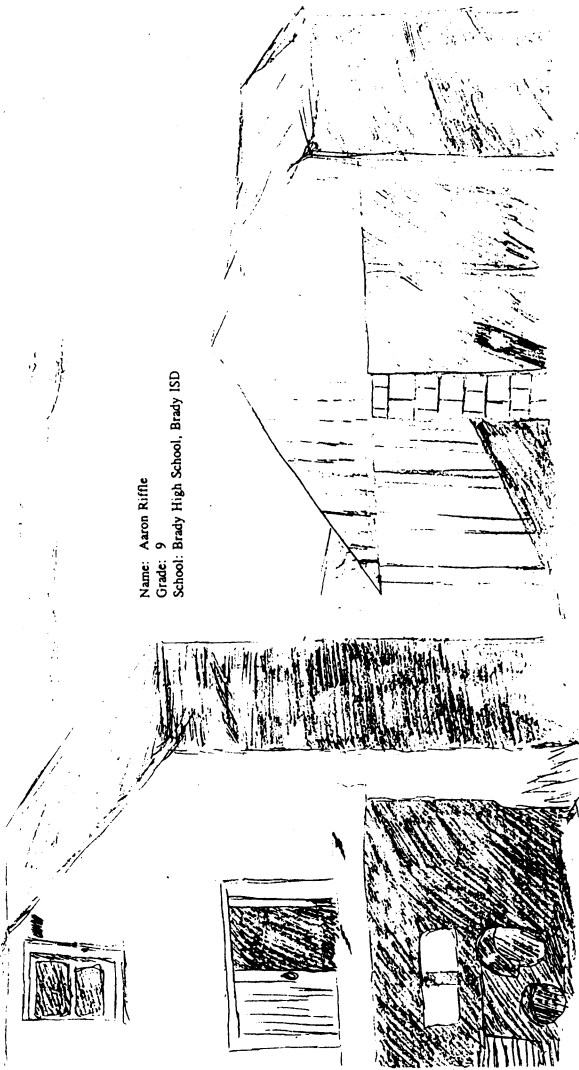
TRD-9603172      J. Ferris Duhon  
                            Legal Counsel  
                            Texas Workforce Commission

Effective date: March 26, 1996

Proposal publication date: January 26, 1996

For further information, please call: (512) 463-2291

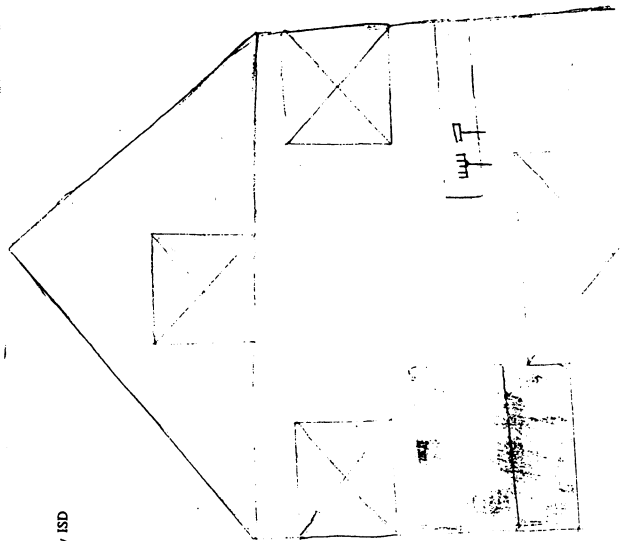
◆           ◆           ◆



Name: Aaron Riffe  
Grade: 9  
School: Brady High School, Brady ISD

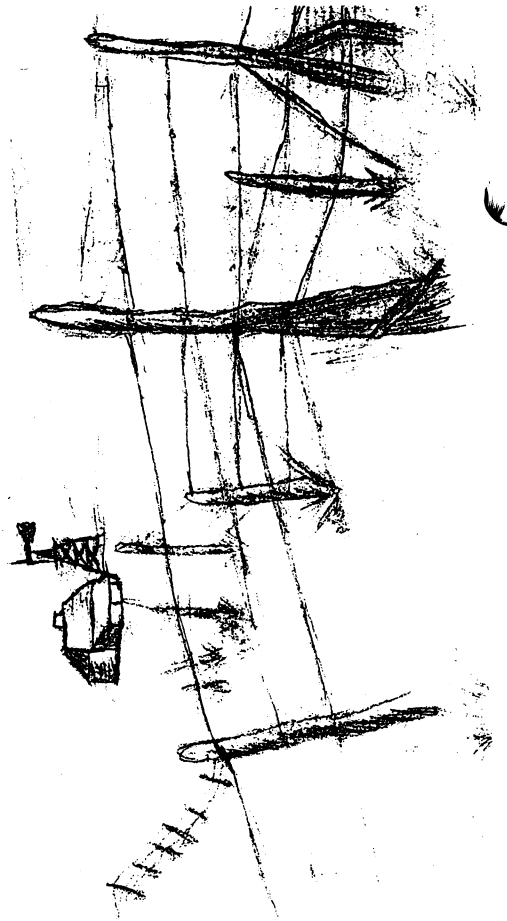


Name: Brent Raybion  
Grade: 9  
School: Brady High School, Brady ISD



Name: Lisa de los Santos  
Grade: 11  
School: Brady High School, Brady ISD

77



Name: Keith Teague  
Grade: 9  
School: Brady High School, Brady ISD

# TABLES AND GRAPHICS

---

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

State Securities Board  
 Figure: 7 TAC §129.7(d)(2)

	ANNUAL PERMITTED EXPENSES	
	ESTIMATED DOLLAR AMOUNT	PERCENTAGE OF FIRST YEAR AVERAGE NET ASSETS
ORIGINATION FEES . . . . .	\$ _____	_____ . _____ %
ACQUISITION EXPENSES . . . . .	\$ _____	_____ . _____ %
SERVICING FEES . . . . .	\$ _____	_____ . _____ %
TRUSTEE FEES . . . . .	\$ _____	_____ . _____ %
PROFESSIONAL FEES . . . . .	\$ _____	_____ . _____ %
OTHER PERMITTED EXPENSES . . . . .	\$ _____	_____ . _____ %
TAXES . . . . .	\$ _____	_____ . _____ %
TOTAL ANNUAL EXPENSES . . . . .	\$ _____	_____ . _____ %

OFFICE USE ONLY:

Assigned To: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_ Log: \_\_\_\_\_

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS  
333 Guadalupe, Suite 2-330, Austin, Texas 78701-3998  
[1946 South IH-35, Suite 306, Austin, Texas 78704]

COMPLAINT FORM

Please fill out this form completely and legibly. Use black [blank] ink or a typewriter. A copy of the complaint may be provided to the Veterinarian involved in your complaint. You may also be called to testify in a deposition or before an Administrative Law Judge. Persons requiring auxiliary aids or services in filing a complaint should contact Judy Smith in the Board office by writing the Board address listed above, or calling Relay Texas 1-800-735-2980-TDD.

Your Name		Name of Veterinarian you are complaining about	
Address		Address	
City		City	
State Zip		State Zip	
Home Phone	Work Phone	Phone	
Names of Veterinary Opinion	Address	Phone	
Name of Veterinary Opinion	Address	Phone	
Animal Name	Species	Age	

THE [ABOVE] STATEMENTS CONTAINED ON THIS FORM AND ANY ATTACHMENTS ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE





**Figure 1. 22 TAC §577.15**

<b>(a) EXAMINATIONS</b>	<b>FEE</b>		
State Board Exam(SBE)	\$100		
Nat'l. Exam(NBE)	\$225		
Clinical Comp. Exam(CCT)	\$205		
SBE & NBE	\$290		
SBE & CCT	\$265		
SBE & NBE & CCT	\$430		
NBE & CCT	\$380		
Special License	\$100		
<b>(b) RENEWALS</b>	<b>BOARD FEE</b>	<b>PROF. FEE</b>	<b>TOTAL FEE</b>
License Renewal(Current)	\$110	\$200	\$310
Delinquent Renewals (90 Days or Less)	\$160	\$200	\$360
Delinquent Renewals (Over 90 Days but Less Than One Year)	\$210	\$200	\$410
Inactive Renewals	\$110	-0-	\$110
Delinquent Inactive Renewals (90 Days or Less)	\$160	-0-	\$160
Delinquent Inactive Renewals (Over 90 Days but Less Than One Year)	\$210	-0-	\$210
Special License	\$110	\$200	\$310
Delinquent Special License Renewals (90 Days or Less)	\$160	\$200	\$360
Delinquent Special License Renewals (Over 90 Days but Less than One Year)	\$210	\$200	\$410
<b>(c) PROVISIONAL LICENSE</b>	<b>\$400</b>	<b>[\$200</b>	<b>\$200]</b>
			<b>\$400</b>

**(d) OPEN RECORDS**

Charges for all open records and other goods/services such as tapes, disks, will be in accordance with General Services Commission rules 111.61 through 111.71 - "Charges for Public Records".

**Figure 1: 28 TAC §7.28(c)(1)(G)**

TYPE OF BUSINESS OR PRODUCT	RISK CATEGORY					
	RISK I	RISK II	RISK III	RISK IV	RISK V	RISK VI
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium (dump-in premiums allowed)	0	+	+	+	+	+

+ = Significant      0 = Insignificant

\*LTC = Long Term Care Insurance

\*LTD = Long Term Disability Insurance

**Figure 2: 28 TAC §7.28(c)(1)(J)**

$$\text{Rate} = 2(I + \text{CG}) \div (X + Y - I - \text{CG})$$

**Where for Life and Accident and Health Insurers:**

**I** is the net investment income (Exhibit 2, Line 16, Column 7)

**CG** is capital gains less capital losses (Exhibit 4, Line 10, Column 4)

**X** is the current year cash and invested assets (Page 2, Line 10A, Column 1) plus investment income due and accrued (Page 2, Line 16, Column 1) less borrowed money (Page 3, Line 22, Column 1)

**Y** is the same as X but for the prior year

**Where for Fire and Casualty Insurers:**

**I** is the net investment income earned (Underwriting and Investment (U and I) Exhibit, Part 1 - Interest, Dividends and Real Estate Income, Line 15, Column 8)

**CG** is capital gains less capital losses (U and I Exhibit, Part 1A, Line 10, Column 7)

**X** is the current year cash and invested assets (Page 2, Line 8a) plus interest, dividends and real estate income due and accrued (Page 2, Line 15) less borrowed money (Page 2, Line 7)

**Y** is the same as X but for the prior year

Figure: 34 TAC 3.166(f)

**TEXAS CLAIM FOR REFUND OF HOTEL OCCUPANCY TAX**

Claimant ID. Number

Agency Name

Street Address

City

State

Zip

Period of Claim (Note: More than one quarter may be claimed on one form.)

1st quarter, 19  
(Jan, Feb, Mar)

2nd quarter, 19  
(Apr, May, Jun)

3rd quarter, 19  
(Jul, Aug, Sep)

4th quarter, 19  
(Oct, Nov, Dec)

Tax Claimed (Note: A separate claim form must be filed with each applicable municipality or county.)

**MUNICIPAL Hotel Occupancy Tax ( Sec. 351, Tax Code)**

Name of municipality

Total price paid for hotel rooms

(excluding taxes, meals, and other services)

\$

Municipal hotel tax rate

%

Amount of municipal hotel tax paid

\$

**COUNTY Hotel Occupancy Tax ( Sec. 352, Tax Code)**

Name of county

Total price paid for hotel rooms

(excluding taxes, meals, and other services)

\$

County hotel tax rate

%

Amount of county hotel tax paid

\$

Name (please print)

(agent, representative or other person authorized to file refund claim for the state or federal agency and answer questions concerning the claim)

Signature

Phone (area code and number)

Date

# OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## State Office of Administrative Hearings

Monday, March 18, 1996, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A joint prehearing conference will be held at the above date and time in SOAH Docket Numbers 473-96-0044 and 473-96-0445-Application of AT&T Communications of the Southwest, Inc. for a service provider certificate of operating authority and application of AT&T Communications of the Southwest, Inc. for a certificate of operating authority (PUC Docket Numbers 15445 and 15444).

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: March 6, 1996, 4:29 p.m.

TRD-9603202

Friday, March 22, 1996, 9:00 a.m. (Rescheduled from March 20, 1996.)

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits will be held at the above date and time in SOAH Docket Number 473-96-0445-Application of AT&T Communications of the Southwest, Inc. for a certificate of operating authority (PUC Docket Number 15444).

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: March 6, 1996, 4:21 p.m.

TRD-9603199

Friday, March 22, 1996, 9:00 a.m. (Rescheduled from March 20, 1996.)

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits will be held at the above date and time in SOAH Docket Number 473-96-0444-Application of AT&T Communications of the Southwest, Inc. for a service provider certificate of operating authority (PUC Docket Number 15445).

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: March 6, 1996, 4:21 p.m.

TRD-9603200

## Texas Department of Agriculture

Thursday-Friday, March 28-29, 1996, 2:00 p.m. and 8:30 a.m., respectively.

Four Points Hotel, 7800 North IH-35

Austin

Texas Peanut Producers Board

AGENDA:

March 28, 1996 2:00 p.m.

Presentation by Thacker Group

Presentation by Gayle Stephenson

Review of research projects

March 29, 1996 8:30 a.m.

Roll call and introduction of guests

Discussion and action: Minutes, fiscal year 1996-1997 budget.

Adjourn for executive session

Executive session: Discussion concerning Texas Peanut Producers Board personnel in accordance with Texas Government Code, §551.074; adjourn executive session.

Reconvene meeting

Take action on executive session, if necessary.

Discussion: Other business

Adjourn

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: March 12, 1996, 11:17 a.m.

TRD-9603467

◆ ◆ ◆  
**Texas Commission on Alcohol and Drug Abuse**

Friday, March 22, 1996, 11:00 a.m.

2626 South Clack, MHMR Building

Abilene

Regional Advisory Consortium (RAC), Region 2

AGENDA:

Call to order; welcome and introduction of members and guests; drawing for member terms; election of officers; review of regional funding; securing new RAC members; "managed care" discussion; discussion period; and adjournment.

Contact: Annette Wieser, 1544 West Mockingbird Lane, Dallas, Texas 75235, (214) 630-1611, ext. 238.

Filed: March 12, 1996, 2:42 p.m.

TRD-9603476

Thursday, March 28, 1996, 1:00 p.m.

1544 West Mockingbird, Regional Field Office

Dallas

Regional Advisory Consortium (RAC), Region 3

AGENDA:

Call to order; welcome and introduction of members and guests; drawing for member terms; election of officers; review of regional funding; securing new RAC members; "managed care" discussion; discussion period; and adjournment.

Contact: Annette Wieser, 1544 West Mockingbird Lane, Dallas, Texas 75235, (214) 630-1611, ext. 238.

Filed: March 12, 1996, 2:42 p.m.

TRD-9603477

Friday, March 29, 1996, 11:00 a.m.

3333 Eastside, Suite 111

Houston

Regional Advisory Commission (RAC), Region 6

AGENDA:

Call to order; review and approval of minutes; discussion of operations of RAC; discuss of needs/resource assessments for region; development of meeting schedule; and adjournment.

Contact: Marilyn Kennerson, 2646 South Lop West, Suite 680, Houston, Texas 77054, (713) 662-2196.

Filed: March 13, 1996, 8:34 a.m.

TRD-9603511

Friday, April 19, 1996, 9:00 a.m.

105 Woodbine, Ben Baines Conference Room, Sabine Valley MHMR Administration Building

Longview

Regional Advisory Committee (RAC), Region 4

AGENDA:

Call to order; introduction of visitors; reading and approval of minutes; TCADA update and comments; old business; new business; needs development; scheduling of committees and next meeting; additional discussion; and adjournment.

Contact: Perry Bridges, 3303 West Gentry Parkway, Tyler, Texas 75702, (512) 533-4259.

Filed: March 12, 1996, 2:42 p.m.

TRD-9603478

Thursday, April 25, 1996, 10:00 a.m.

Highway 69, Woodville Inn

Woodville

Regional Advisory Consortium (RAC), Region 5

AGENDA:

Call to order; introduction of visitors; reading and approval of minutes; TCADA update and comments; old business; new business; membership changes and elections, and other; needs development; scheduling of committees and next meeting; additional discussion; and adjournment.

Contact: Perry Bridges, 3303 West Gentry Parkway, Tyler, Texas 75702, (512) 533-4259.

Filed: March 12, 1996, 2:42 p.m.

TRD-9603479

◆ ◆ ◆  
**Texas Appraiser Licensing and Certification Board**

Monday, March 25, 1996, 10:00 a.m.

Room 123, 1101 Camino La Costa

Austin

Enforcement Committee

AGENDA:

Call to order; discussion and possible action or recommendations to the Texas Appraiser Licensing and Certification Board concerning complaint files number 95-003, 95-008, 95-011, 95-012, 95-005, 95-013, 95-020, 95-021, 95-023, 95-026, 95-027, 96-001, 96-003, 96-004, 96-010, 96-011, 96-012, 96-013, 96-014, 96-015, 96-016, 96-017, 96-018, 96-019, 96-020, 96-021, 96-022, 96-023, 96-024, 96-025, 96-026; 96-027, 96-028, 96-029, 96-030; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: March 7, 1996, 2:57 p.m.

TRD-9603310

## The State Bar of Texas

Friday, March 15, 1996, 8:30 a.m.

The Texas Law Center, 1414 Colorado, Room 206

Austin

Texas Commission for Lawyer Discipline

### AGENDA:

Public session: Call to order/Introductions/Review minutes/Closed session: Discuss authorization of Chief Disciplinary Counsel to make, accept or reject settlement offers or take appropriate action concerning pending disciplinary matters; discuss assignment of disciplinary cases to special counsel; discuss personnel matters/Public session: Discuss and authorize appropriate action with respect to those matters discussed in closed session/Discuss recent disciplinary trials/Discuss attorneys fees assessed in disciplinary matters/Review matters unresolved in prior meetings/review statistical reports/discuss development of compliance monitoring system for disciplinary system/Discuss commission's compliance with provisions of the State Bar Act, Texas Rules of Disciplinary Procedure and orders of the Supreme Court/Discuss budget and operations of the General Counsel's office and the commission/Discuss Grievance Committee issues/Discuss Special Counsel Program/Discuss mediation of disciplinary matters/Presentations by trial staff on individual litigation dockets/Discuss future meetings/Discuss other matters as may appropriately come before the commission/Receive public comments/Adjourn.

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: March 6, 1996, 3:33 p.m.

TRD-9603191

Friday, March 15, 1996, 8:30 a.m.

The Texas Law Center, 1414 Colorado, Room 206

Austin

Revised Agenda

Texas Commission for Lawyer Discipline

### AGENDA:

Amended to add the following cases for consideration under Item Number II(6) and action under Item Number III(11): Wayne Barfield, John Palisin, Mary Hefner, and Chukuemeka Ike.

Contact: Anne McKenna, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: March 7, 1996, 4:20 p.m.

TRD-9603323

## Texas School for the Blind and Visually Impaired

Friday, March 22, 1996, 8:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees, Subcommittee on Finance and Audit

### AGENDA:

Approval of minutes from January 26, 1996 meeting

Fiscal year 1997 operating budget

Purchase of school bus from legacy funds

Avenue A Apartments

Legacy revenue report

Legacy budget report

Operating budget report

Contingency fund report

Financial planning in the event of judgements/settlements

Report from internal auditor

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: March 6, 1996, 4:17 p.m.

TRD-9603198

Friday, March 22, 1996, 9:00 a.m.

1100 West 45th Street, Room 110

Austin

Board of Trustees, Subcommittee on Policies

### AGENDA:

Review and discussion of policies:

CKF, CKFB, DBBA, DCB, FDC, FDD, FF, FF, FFA, FFAB, FFD, FFEA, FL, FL-E, LF-R, FM, FNCF, FNCG, FP, GA, GB, GE, GKA, GNA, GR.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: March 6, 1996, 2:10 p.m.

TRD-9603178

Friday, March 22, 1996, 9:00 a.m.

1100 West 45th Street, Room 151

Austin

Board of Trustees, Subcommittee on Personnel

### AGENDA:

Consideration of personnel policies

Consideration of superintendent's performance appraisal

Consideration of approval of proposed contract renewals and nonrenewals for non-probationary staff

Consideration of employing outreach director by contract

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: March 7, 1996, 8:23 a.m.

TRD-9603233

Friday, March 22, 1996, 10:00 a.m.

1100 West 45th Street, Room 116

Austin

Board of Trustees

### AGENDA:

Approval of minutes of January 26, 1996 board meeting; approval of board policies; consideration of approval of 1996-1997 operating budget; consideration of approval of 1996-1997 school calendar and waiver request; consideration of employing outreach director by contract.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756, (512) 206-9133.

Filed: March 7, 1996, 10:06 a.m.

TRD-9603294

◆ ◆ ◆  
**Texas Boll Weevil Eradication Foundation**

Thursday, March 14, 1996, 7:00 a.m.

3103 Oldham Lane

Abilene

Assessments Committee

AGENDA:

Call to order

Opening remarks and introductions

Discussion and action: Due dates for assessments for each zone; collections policy; report from TBWEF staff; next meeting time and place

Discussion: Other business

Adjourn

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, 1-800-687-1212, (915) 672-2800.

Filed: March 6, 1996, 2:27 p.m.

TRD-9603182

Thursday, March 14, 1996, 10:00 a.m.

3103 Oldham Lane

Abilene

AGENDA:

Call to order

Opening remarks and introduction

Discussion and action: Review minutes from prior meeting; financial report; bank financing; corporate resolutions; disposition of LGRV Program assets; zone worker protection policy; Technical Committee report; referendums.

Adjourn for executive session

Executive session: To consult with attorney in accordance with Texas Government Code, §551.071.

Adjourn executive session

Reconvene board meeting

Discussion and action: Executive session; Assessment Committee report; Insurance Committee report; next meeting time and place.

Discussion: Other business

Adjourn

Contact: Frank Myers, P.O. Box 5089, Abilene, Texas 79608-5089, 1-800-687-1212, (915) 672-2800.

Filed: March 6, 1996, 2:27 p.m.

TRD-9603183

◆ ◆ ◆  
**Canadian River Compact Commission**

Tuesday, April 2, 1996, 12:30 p.m.

3800 North Classen Boulevard

Oklahoma City

AGENDA:

1. Call to order; 2. Approval of agenda; 3. Approval of minutes of meeting held April 18, 1995; 4. Report of the chairman; 5. Report of the secretary; 6. Report of the treasurer; 7. Report of the Engineering Advisory Committee; 8. Report of the Legal Committee; 9. Report of the states; 10. Report of the state and federal agencies; 11. Report on Palo Duro Reservoir; 12. New business, A. Meeting location in 1997, B. Other; 13. Adjournment.

Contact: Herman Settemeyer, Mail Code 157, 12100 Park 35 Circle, Austin, Texas 78711-3087, (512) 239-4707.

Filed: March 6, 1996, 3:30 p.m.

TRD-9603189

◆ ◆ ◆  
**Texas Catastrophe Property Insurance Association**

Tuesday, March 19, 1996, 1:00 p.m.

DoubleTree Guest Suites, 303 West 15th Street

Austin

Board of Directors, Open Forum

AGENDA:

Discussion of percentage of participation formula

Contact: Charles F. McCullough, 2028 East Ben White Boulevard, Suite 200, Austin, Texas 78741, (512) 444-9612.

Filed: March 6, 1996, 2:21 p.m.

TRD-9603179

Wednesday, March 20, 1996, 9:00 a.m.

DoubleTree Guest Suites, 303 West 15th Street

Austin

Board of Directors

AGENDA:

I. Call to order and reading of antitrust statement

II. Approval of the minutes for annual meeting of March 21, 1995

III. Report of the Tellers Committee

IV. Report of the chairman of the board

V. Report of the secretary/treasurer

VI. Report of the general manager

VII. Report of counsel

VIII. Report of Underwriting Committee

IX. Report of Participation Committee

X. Report of Claims Committee

XI. Report of Public Relations and Information Committee

XII. Report of the Nominating Committee

XIII. Election of three members to the Board of Directors

XIV. Any other business that may come before the members

XV. Adjourn

Contact: Charles F. McCullough, 2028 East Ben White Boulevard, Suite 200, Austin, Texas 78741, (512) 444-912.

Filed: March 6, 1996, 2:22 p.m.

TRD-9603180



Wednesday, March 20, 1996, 10:00 a.m.

DoubleTree Guest Suites, 303 West 15th Street

Austin

Board of Directors

AGENDA:

- I. Call to order-Reminder of antitrust statement
- II. Approval of minutes of December 15, 1995 Board of Directors meeting
- III. Resolution to include reports presented at the annual meeting of the members by officers, committee chairmen and staff in the minutes of meeting of the Board of Directors.
- IV. Report of the chairman of the board
- V. Introduction of new Board of Directors
- VI. Election of officers for 1996
- VII. Any other business that may come before the board
- VIII. Adjourn

Contact: Charles F. McCullough, 2028 East Ben White Boulevard, Suite 200, Austin, Texas 78741, (512) 444-9612.

Filed: March 6, 1996, 2:22 p.m.

TRD-9603181

Wednesday, March 20, 1996, 10:00 a.m.

DoubleTree Guest Suites, 303 West 15th Street

Austin

Revised Agenda

Board of Directors

AGENDA:

- I. Call to order-Reminder of antitrust statement
- II. Approval of minutes of December 15, 1995 Board of Directors meeting
- III. Resolution to include reports presented at the annual meeting of the members by officers, committee chairmen and staff in the minutes of meeting of the Board of Directors.
- IV. Report of the chairman of the board
- V. Introduction of new Board of Directors
- VI. Election of officers for 1996
- VII. Any other business that may come before the board
- VIII. Executive session
- IX. Adjourn

Contact: Charles F. McCullough, 2028 East Ben White Boulevard, Suite 200, Austin, Texas 78741, (512) 444-9612.

Filed: March 7, 1996, 1:47 p.m.

TRD-9603305

## Texas Board of Chiropractic Examiners

Thursday, March 21, 1996, 9:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Rules Committee

AGENDA:

The Rules Committee of the Texas Board of Chiropractic Examiners will meet to consider, discuss, take any appropriate action and/or approve: Cases #94-29, 95-200, 95-239, 95-261, 95-296, 95-215, 95-276, 95-319, 95-199, 95-305, 94-29, 95-297, 95-324, 95-66, 95-195, 95-215, 95-179, 95-186 and 96-03 through 96-104.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6700.

Filed: March 12, 1996, 4:16 p.m.

TRD-9603492

## Coastal Coordination Council

Friday, March 15, 1996, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

CCC Executive Committee

AGENDA:

- I. Call to order.
- II. Report on draft environmental impact statement development process.
- III. Rule certification and threshold approval.
  - a. Discussion of effect of certification of agency rules and incorporation into the CMP.
  - b. Discussion of interagency memorandum of agreement among agencies responsible for implementation of the CMP.
  - c. Report on agencies requests for rule certification and threshold approval.
- IV. Discussion of federal CZMA §306/306a grants program.
  - a. State grant application to NOAA.
  - b. Local government subgrants.
  - c. Application of CZARA §6217 Best Management Practices to construction grants.
- V. Report on small business and permitting assistance process.
- VI. Report on workshop on maintenance dredging MOA between the CCC and COE.
- VII. Public comment.
- VIII. Adjourn.

Contact: Janet L. Fatheree, 1700 North Congress Avenue, Room 831, Austin, Texas 78701, (512) 463-5395.

Filed: March 7, 1996, 9:44 a.m.

TRD-9603293

## Community Nutritional Task Force

Wednesday, March 27, 1996, 10:00 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

AGENDA:

- I. Call to order
- II. Discuss and formulate a work plan with a time frame
- III. Agency reports
- IV. Discuss general developments and objectives for projects
- V. Public comment
- VI. Adjourn

Contact: Leda Roselle, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 463-6279.

Filed: March 8, 1996, 9:50 a.m.

TRD-9603343

## State Council on Competitive Government

Tuesday, March 19, 1996, 10:00 a.m.

1100 Congress Avenue, Capitol Extension, Room E2.026

Austin

### AGENDA:

Action items: (1) Approval of minutes from October 25, 1995, meeting; (2) Consideration of authorizing the release of a request for proposals and the award of a contract concerning management and operation of the Texas Central Automotive Parts (TCAP) warehouse located in El Paso; (3) Consideration of authorizing the release of an invitation to negotiate concerning the Health and Human Services Commission's Integrated Enrollment System Project; (4) Consideration of staff's recommendation for a decision on the Capitol Complex telephone system; (5) Consideration of authorizing changes to Council Rule 1 TAC §401.104 dealing with Historically Underutilized Businesses (HUBs) so the rule conforms with Article IX, §111, of House Bill 1, 74th Legislature (1995), the General Appropriations Act; Briefing items: (6) Public comment; (7) Set date and time for next council meeting.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille are requested to contact Cheryl Bryant, program administrator, at (512) 463-2169 two working days prior to the meeting so that appropriate arrangements can be made.

Contact: Cheryl Bryant, 1711 San Jacinto, Austin, Texas 78711-3047, (512) 463-2169.

Filed: March 8, 1996, 2:29 p.m.

TRD-9603392

## Correctional Managed Health Care Advisory Committee

Monday, March 18, 1996, 10:00 a.m.

Love Field Room, Frontiers of Flight Museum, Love Field Main Terminal

Dallas

### AGENDA:

- A. Call to order
- B. Approval of minutes from December 14, 1995, committee meeting
- C. Executive director report
- D. Medical director report
  1. University of Texas Medical Branch at Galveston
  2. Texas Tech Health Sciences Center
  3. Texas Department of Criminal Justice
- E. Legislative update
- F. Receive report from CMHCAC staff regarding medical facilities construction
- G. Update on semi-annual joint audit meeting
- H. Report on performance measures audit
- I. Overview of psychiatric services audit report
- J. Transition of psychiatric services staff
- K. Report on American Correctional Health Services Association

Conference

L. Discussion of date and location of next committee meeting

Adjournment

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: March 7, 1996, 12:47 p.m.

TRD-9603300

## Texas Cosmetology Commission

Monday, March 25, 1996, 10:00 a.m.

Texas Cosmetology Commission, Hearing Room, 5717 Balcones Drive

Austin

Commission Meeting

### AGENDA:

Call to order; introduction of new commissioners and TCC staff; excuses for absent members; approval of prior commission minutes; staff reports; definition of "school closure"-Carolyn Parker, et al; interpretation of prior commission position on facial enzyme peel; agreed orders; executive session; open session and possible vote; report from the Hair Braiding Committee and possible vote on proposed rule changes; report from the Adult Education Committee and possible vote on proposed rule changes; and adjourn.

Contact: Catherine Nahay, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: March 6, 1996, 10:55 a.m.

TRD-9603167

Monday, March 25, 1996, 10:00 a.m.

Texas Cosmetology Commission, Hearing Room, 8717 Balcones Drive

Austin

Revised Agenda

Commission Meeting

### AGENDA:

El Paso A. R. C. waiver request on disabled students.

Contact: Catherine Nahay, P.O. Box 26700, Austin, Texas 78755-0700, (512) 494-4674.

Filed: March 8, 1996, 10:06 a.m.

TRD-9603348

## Texas Department of Criminal Justice

Friday, March 15, 1996, 9:00 a.m.

Stouffer Renaissance Hotel, Greenway I Ballroom

Houston

Texas Board of Criminal Justice

AGENDA:

III. Regular session:

- A. Recognitions
- B. Consent items
- C. Board liaison and committee reports/division executive summaries
- D. Briefing by Judicial Advisory Council
- E. Adoption of proposed board rules governing eligibility for CJAD discretionary funding (Rule 37 TAC §163.43; 21 TexReg 579)
- F. Adoption of proposed amendments to 37 TAC; 21 TexReg 575)
- G. Adoption of proposed board rule on prohibition on carrying weapons (Rule 37 TAC §151.21; 21 TexReg 578)
- H. Policy on direct purchases for agriculture and industry
- I. Adoption of board policy 10.05, Delegation of Authority for Construction Project Approval
- J. Report from Task Force on Purchasing Procedures
- K. Proposed rule for sale or disposal of surplus agricultural goods and property
- L. Investment policy
- M. Refinancing Bridgeport and Kyle facilities
- N. Refinancing Lockhart facility
- O. Refinancing Cleveland and Venus facilities
- P. Selection of consultant on inmate telephones
- Q. Briefing on State Criminal Alien Assistance Program (SCAAP)
- R. Management information systems

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: March 7, 1996, 4:19 p.m.

TRD-9603320



**State Board of Dental Examiners**

Friday, March 8, 1996, 7:30 a.m.

333 Guadalupe, Tower Two, Second Floor

Austin

Emergency Meeting

Committee Meeting-Examination

AGENDA:

- I. Call to order
- II. Roll call
- III. Review proposed jurisprudence examination questions and recommend acceptable questions to the board for discussion and approval.
- IV. Announcements
- V. Adjourn

Reason for emergency: The next SBDE jurisprudence examination is scheduled for April 12, 1996. A new set of questions has been composed by the Exam Committee members. An emergency meeting is necessary for the Exam Committee to approve questions for submittal to the full board at its March 8, 1996 board meeting for discussion, approval prior to submittal to a psychometrician for validation before April 12 examination.

Contact: Mei Ling Clendennen, 333 Guadalupe, Tower III, Suite 3800, Austin, Texas 78701, (512) 463-6400.

Filed: March 6, 1996, 3:35 p.m.

TRD-9603192

Friday, March 8, 1996, 8:00 a.m.

333 Guadalupe, Tower Two, Second Floor

Austin

Emergency Revised Agenda

Board Meeting

AGENDA:

To add the following agenda item only:

X. Licensing and examination

B. Examination Committee report

1. Discuss, consider and approve proposed jurisprudence examination questions as recommended by the Examination Committee

2. Discuss, consider and approve the submission of jurisprudence examination questions to psychometrician for validation prior to the April 12, 1996 examination.

Reason for emergency: The next SBDE jurisprudence examination is scheduled for April 12, 1996. A new set of questions has been composed by the Examination Committee members. This emergency revision to the agenda is necessary for the full board to discuss, consider and approve prior to questions being submitted to a psychometrician for validation prior to use at the April 12, 1996 exam.

Contact: Douglas A. Beran, 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: March 6, 1996, 3:36 p.m.

TRD-9603193



**Texas Education Agency**

Thursday, March 28, 1996, 2:00 p.m.

Marlin Room, Holiday Inn, 15202 Windward Drive

Corpus Christi

State Board of Education (SBOE)

AGENDA:

The SBOE Committee on Personnel will hold a public hearing to hear testimony on the proposed charter school application from the Seashore Learning Center Charter School. Anyone wishing to make a presentation to the committee will be able to register on-site the day of the hearing. Written comments, sent to the attention of Pat Linares, will also be accepted. Please provide 25 copies of written comments for distribution to board members. In order to accommodate as many speakers as possible and to ensure a balance in testimony, there will be a three-minute time limit for each presentation. Professional organizations are requested to name one representative to speak on behalf of the membership. Questions about the proposed charter should be directed to Pat Linares at (512) 463-9575.

Prior to the hearing, the Committee on Personnel will conduct an on-site visit at the Seashore Learning Center Charter School located at 15733 South Padre Island Drive in Corpus Christi, Texas, beginning at 11:00 a.m.

**Contact:** Pat Linares, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9575.

**Filed:** March 8, 1996, 11:19 a.m.

TRD-9603370

◆ ◆ ◆  
**State Board for Educator Certification**

**Friday, March 22, 1996, 10:00 a.m.**

1701 North Congress Avenue, William B. Travis Building  
Austin

**AGENDA:**

Friday, March 22, 1996 10:00 a.m.-5:30 p.m.

William B. Travis Building, 1701 North Congress Avenue

**I. Quorum call**

Committee meetings-Search Committee-Room 1-109

Discuss the needs, requirements and posting for executive director

Transition Budget Committee-Room 1-106

Discuss the preparation of 1995-1996 budget, presentation of proposed 1996-1997 budget, and discussion of the Legislative Appropriations Request (LAR) report

Transition Rules Committee-Room 6-117

Discuss rules to be developed as a result of legislation, policy issues, effective dates, timelines and conversion of authority.

Lunch break

**II. Room 1-104-Entire board meets**

Quorum call

Presentation of current certification practices and systems

**III. Presentation of current certification hearings and investigative practices and discussion of methods for continued legal representation including a representative from the State Office of Administrative Hearings (SOAH) to discuss hearings options**

Break

**IV. Public testimony**

**Contact:** Sheryl Labar, P.O. Box 12428, Austin, Texas 78711, (512) 475-2637.

**Filed:** March 12, 1996, 4:18 p.m.

TRD-9603493

**Saturday, March 23, 1996, 8:30 a.m.**

William B. Travis Building, Room 1-104

Austin

**AGENDA:**

**I. Call to order/quorum call**

**II. Approval of minutes of the February 20, 1996 meeting-Action**

**III. Election of vice-chairman-Action**

**IV. Approval of bylaws-Action**

**V. Approval of contract/memorandum of understanding between**

State Board for Educator Certification and Texas Education Agency for the provision of professional services, technical services, and resources to the State Board for Educator Certification-Action

**VI. Committee reports**

Search Committee-Action on posting of executive director position and committee report.

Transition Budget Committee-Action setting calendar timeline and committee report.

Transition Rules Committee-Action setting calendar timeline and committee report.

**VII. Set future meetings on calendar and discussion of board member travel-Action.**

**Contact:** Sheryl Labar, P.O. Box 12428, Austin, Texas 78711, (512) 475-2637.

**Filed:** March 12, 1996, 4:18 p.m.

TRD-9603494

◆ ◆ ◆  
**State Employee Charitable Campaign**

**Tuesday, March 26, 1996, 9:00 a.m.**

210 East Ninth Street

Fort Worth

Local Employee Committee-Fort Worth

**AGENDA:**

Discussion/action items:

1. Approval of previous meeting minutes

2. Review 1996 LCM applications

3. Orientation of new LEC members

4. Review eligibility criteria for local federations and affiliated agencies

5. Appoint subcommittee to review local applications and set next meeting date

**Contact:** Sara Marshall, 210 East Ninth Street, Fort Worth, Texas 76102, (817) 878-0043, fax: (817) 878-0005.

**Filed:** March 6, 1996, 11:13 a.m.

TRD-9603168

**Monday, April 15, 1996, 3:00 p.m.**

625 Dallas Drive, Suite 525

Denton

Local Employee Committee-Denton

**AGENDA:**

Discussion/action items:

1. Election of local campaign manager

2. Review of 1995 campaign

3. Plan for 1996 campaign

4. Review applications submitted for approval in 1996 SECC

Local federations/member agencies

Local unaffiliated agencies

**Contact:** Pat Gobble, 625 Dallas Drive, Suite 525, Denton, Texas 76205, (817) 566-5851, fax: (817) 898-8976.

Filed: March 11, 1996, 1:24 p.m.

TRD-9603442

◆ ◆ ◆  
**Texas Funeral Service Commission**

Tuesday, March 12, 1996, 1:30 p.m.

8100 Cameron Road, Suite 600, Room 215

Austin

Emergency Meeting

Commission Meeting

AGENDA:

Meeting called to order

Invocation

Executive session

Discussion of employment and personnel matters relating to the executive director under the Texas Government Code, §551.074

Open session

Possible action on personnel matters discussed in executive session  
Adjourn

Reason for emergency: An urgent public necessity exists which requires immediate action of the commission due to a reasonably unforeseeable situation: arrest of executive director.

Contact: Marc A. Connelly, 8100 Cameron Road #550, Austin, Texas 78754-3896, (512) 834-9992.

Filed: March 8, 1996, 3:23 p.m.

TRD-9603395

◆ ◆ ◆  
**General Land Office**

Friday, March 15, 1996, 3:00 p.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

Veteran's Land Board

AGENDA:

Consideration of a proposed issuance of taxable refunding bonds in an amount not to exceed \$41,175,000 for the Veterans Land Program for the purpose of refunding Veterans Land Refunding Bonds, Series 1985 including giving notice of sale; the adoption of a resolution authorizing certain matters in connection therewith, including filing of a "notice of intention to issue" and an application for Bond Review Board approval, and the submission of appropriate materials to the Attorney General of the State of Texas as may be required in connection with obtaining approval of the Attorney General; and authorizing other matters in connection therewith; consideration of a proposed issuance of taxable refunding bonds in an amount not to exceed \$286, 410,000 for the Veterans Land Program for the purpose of refunding Veterans Land Refunding Bonds, Series 1986, with a structure possibly including a forward swap or put swaption, including giving notice of sale; the adoption of a resolution authorizing certain matters in connection therewith, including filing of a "notice of intention to issue" and an application for Bond Review Board approval, and the submission of appropriate materials to the Attorney General of the State of Texas as may be required in connection with obtaining approval of the Attorney

General; and authorizing other matters in connection therewith; consideration of the selection of underwriter(s) for the Land Program bonds; and consideration and action on resolution to substitute bonds under the confirmation relating to the swap agreement with Goldman Sachs Mitsui Marine Derivative Products, L.P. and the Texas Veterans Land Board.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171.

Filed: March 6, 1996, 3:02 p.m.

TRD-9603187

◆ ◆ ◆  
**Office of the Governor**

Friday, March 22, 1996, 9:00 a.m.

701 West 51st Street, Winters Building, Department of Human Services, Programs-Classroom B, Long-Range Planning-#410-E

Austin

Texas Governor's Committee on People with Disabilities Subcommittees-Programs Subcommittee and Long-Range Planning Subcommittee

AGENDA:

Programs Subcommittee

1. Call to order and approval of minutes
2. Discussion: To develop a plan to promote an increase in the number of qualified interpreters for persons who are deaf and the number of interpreter training programs in Texas
3. Action: To approve and forward to the full committee a plan to promote an increase in the number of qualified interpreters for persons who are deaf and the number of interpreter training programs in Texas
4. Action: To approve the Barbara Jordan Media Award nominations
5. Report: Fiscal year 1995 annual report review
6. Adjournment

Long-Range Planning Subcommittee

1. Call to order and approval of minutes
2. Action: Revise/adopt a process for revision of the Long-Range State Plan for Texans with Disabilities
3. Action: Revise/adopt white paper regarding possible effects of federal changes on Texans with disabilities
4. Adjournment

Contact: Virginia Roberts, 1100 San Jacinto, Austin, Texas 78701, (512) 463-5739.

Filed: March 6, 1996, 11:33 a.m.

TRD-9603169

◆ ◆ ◆  
**Office of the Governor, Criminal Justice Division**

Wednesday, March 20, 1996, 9:00 a.m.

Holiday Inn Hotel, 401 Broad Street, Burkburnett Room

Wichita Falls

Texas Crime Stoppers Advisory Council

AGENDA:

- I. 9:00 a.m. Call meeting to order, chairman
- II. Review of award competition submissions for Texas Crime Stoppers Advisory Council 1995 awards.
- III. Discussion of fiscal year 1996 training conference and site selection for fiscal year 1997 training conference.

IV. Adjourn

Contact: David Cobos, P.O. Box 12428, Austin, Texas 78711-2428, (512) 463-1784.

Filed: March 6, 1996, 3:56 p.m.

TRD-9603194

**Texas Department of Health**

Saturday, March 23, 1996, 10:00 a.m.

Room G-107, Texas Department of Health, 1100 West 49th Street Austin

Children with Special Health Care Needs Advisory Committee (CSHCN)

AGENDA:

The committee will discuss and possibly act on: update on current Texas Department of Health (TDH) activities; response to proposed TDH strategic plan; and open discussion and planning session.

Contact: Paula Russell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700, Ext. 3046. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: March 11, 1996, 8:36 a.m.

TRD-9603407

**Texas Department of Human Services**

Friday, March 15, 1996, 11:00 a.m.

701 West 51st Street, First Floor, East Tower, Public Hearing Room Austin

Texas Board of Human Services

AGENDA:

1. Approval of the minutes of March 1, 1996.
2. Chair's comments and announcements.
3. Proposed rule revisions to implement recommended improvements in the CACFP: Performance bond as a condition of eligibility for nongovernmental day care home sponsors.
4. Proposed rule revisions to implement recommended improvements in the CACFP: Location of sponsoring organization offices in geographic areas defined by DHS regions.
5. Proposed rule changes in the TEFAP.
6. Implementation of fingerprint imaging in the AFDC and FS programs.
7. Amendments to the nursing facility requirements for licensure and Medicaid certification as a result of House Bill 2644 and Senate Bills 1059 and 436.
8. Amendments to the long-term care nursing facility requirements for licensure and Medicaid certification to implement House Bill 867.
9. Proposed rule change regarding residential settings in the CBA waiver program.
10. Amendment to policies and procedures.
11. Budget adjustments.
12. Commissioner's report: a. Advisory Committee appointment. b. Texas Council on Offenders with Mental Impairments. c. Announcements and comments. d. Tracking of board action.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas

78714-9030, (512) 438-3048.

Filed: March 7, 1996, 10:27 a.m.

TRD-9603295

**Texas Department of Insurance**

Monday, March 25, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-96-0236.c

To consider whether disciplinary action should be taken against Bland T. Brown, Jr., Spring, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License, a Group II Insurance Agent's License, a Local Recording Agent's License, and a Variable Contract Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:02 a.m.

TRD-9603421

Tuesday, March 26, 1996, 9:00 a.m.

Capital Extension Building, 1400 Congress Avenue, Room E1.016

Austin

AGENDA:

454-95-0206.E

In the matter of the appeal of Travelers Indemnity Company of Rhode Island from a decision of the Texas Workers' Compensation Insurance Facility previously known as the Workers' Compensation Assigned Risk Pool (continued from February 1, 1996).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:31 a.m.

TRD-9603431

Tuesday, March 26, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-96-0130.c

To consider whether disciplinary action should be taken against Jorge Porras, El Paso, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License and a Variable Contract Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:31 a.m.

TRD-9603432

Thursday, March 28, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

454-96-0237.c

To consider whether disciplinary action should be taken against Anna M. Montiel, Houston, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:02 a.m.

TRD-9603422

Friday, March 29, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

454-96-0238.c

To consider whether disciplinary action should be taken against Omar Santacruz Casanova, San Antonio, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:02 a.m.

TRD-9603423

Friday, March 29, 1996, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

**AGENDA:**

454-96-0313.c

To consider whether disciplinary action should be taken against Stephen Dean Thomas, Dallas, Texas, who holds a Group I, Legal Reserve Life Insurance Agent's License and a Local Recording Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 11, 1996, 10:03 a.m.

TRD-9603424

◆ ◆ ◆  
**Texas Board of Professional Land Surveying**

Monday, March 25, 1996, 8:00 a.m.

7701 North Lamar Boulevard

Austin

Public Hearing

**AGENDA:**

The board will meet to receive comments from interested persons concerning amendments to Board Rule 661.50 concerning part-time experience.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons

who are deaf or hearing impaired, readers, large print or braille, are requested to contact Sandy Smith at (512) 452-9427 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: March 13, 1996, 8:45 a.m.

TRD-9603512

Monday, March 25, 1996, 8:00 a.m.

7701 North Lamar Boulevard, Suite 400

Austin

Board Meeting

**AGENDA:**

The board will meet to conduct a public hearing on proposed amendments to 661.50; to approve the minutes of the previous meeting; to consider and act upon the executive director's report which will include discussion of additional language added to the Strategic Plan and a resolution for the family of Char Rothrock; to consider and act upon inactive and active status change requests and active complaints and show cause actions including action regarding Christen Seglekay's presentation at the last board meeting; to consider and act upon recommendations from committee reports; to discuss adoption of board rules 663.13 exempting, from the minimum standards, surveys that do not delineate, segregate, separate or partition real property and 663.21 regarding descriptions for political subdivisions and consider for adoption at the next board meeting Board Rules 661.45 regarding exam security and 661.50 allowing part-time experience; to consider and act upon correspondence to and from the Board-correspondence from Harry Evans requesting clarification of Board Rule 663.19; to consider items to be added to future agendas and to receive comments from the public. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Sandy Smith at (512) 452-9427 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: March 13, 1996, 8:45 a.m.

TRD-9603513

◆ ◆ ◆  
**Texas State Library and Archives Commission**

Friday, March 22, 1996, 10:00 a.m.

Lorenzo de Zavala State Archives and Library Building, Room 202

Austin

Texas Historical Records Advisory Board

**AGENDA:**

1. Call to order
2. Approval of minutes of meeting-January 25, 1996
3. Report on distribution of statewide assessment report and draft strategic plan
4. Discussion of agenda, format, and speakers for public hearings
5. Report on status of revisions to board appointment process
6. Committee reports
7. Determination of site and date for next meeting

8. Adjournment

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440 or email: raymond\_hitt@tsl.state.tx.us

Filed: March 8, 1996, 8:49 a.m.

TRD-9603336

Friday, March 22, 1996, 10:00 am.

Lorenzo De Zavala State Archives and Library Building, Room 314, 1201 Brazos

Austin

Texas State Library and Archives Commission Records Management Interagency Coordinating Council

AGENDA:

I. Approve minutes of November 30, 1995 meeting

II. Reports:

A. Digital document and publication issues-Clyde Poole, Department of Information Resources

B. Texas Records and Information Locator (TRAIL)-Lisa de Gruyter and Rue Ramirez, State Library and Archives Commission

C. Management of email-Elizabeth Love, State Library and Archives Commission

D. Cost recovery for records storage-William L. Dyess, State Library and Archives Commission

III. Discussion of proposed new Standards for Records Center Storage, 13 TAC §§6.51-6.59-William Dyess, State Library and Archives Commission

IV. Other business

V. Date for next meeting

VI. Adjournment

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440.

Filed: March 12, 1996, 10:31 a.m.

TRD-9603463

Texas Department of Licensing and Regulation

Thursday, March 21, 1996, 9:00 a.m.

920 Colorado, E. O. Thompson Building, Fourth Floor, Room 420 Austin

Enforcement Division, Auctioneering

AGENDA:

According to the complete agenda, the department will hold an administrative hearing to consider the possible revocation of license of the Respondent, Robert Groce Dill, for failure to pay public monies to the State Treasury per times and as prescribed by law, in violation of 16 Texas Administrative Code (TAC) §67.101(3), pursuant to Texas Civil Statutes, Articles 8700 (the Act) and 9100; the Texas Government Code, Chapter 2001 (APA) ; and 16 TAC Chapter 67.

Contact: Paula Hamje, 920 Colorado, E. O. Thompson Building, Austin, Texas 78701, (512) 463-3192.

Filed: March 8, 1996, 2:32 p.m.

TRD-9603393

Texas Lottery Commission

Saturday, March 16, 1996, 8:30 a.m.

6937 North IH-35, American Founders Building, First Floor Auditorium

Austin

AGENDA:

According to the complete agenda, the Texas Lottery Commission will call the meeting to order; consideration and possible action on the criteria of selection, appointment, employment, duties or, interviewing and hiring, of the Internal Auditor; commission may meet in executive session with its attorneys to receive legal advice regarding pending litigation pursuant to §551.071(l) of the Texas Government Code, including but not limited to Scott Wenner v. Texas Lottery Commission; Frances Vaughn v. Texas Lottery Commission; First Approach Financial, Inc. and Western United Life Assurance Company v. Texas Lottery Commission; and in re: LRN v. Nora Linares; to deliberate the criteria of selection, appointment, employment, duties or, interviewing and hiring, of the Internal Auditor pursuant to §551.074 of the Texas Government Code; return to open session for further deliberation and/or possible action; and, adjournment.

For ADA assistance, call Michelle Guerrero at (512) 323-3791 at least two days prior to meeting.

Contact: Michelle Guerrero, 6937 North IH-35, Austin, Texas 78752, (512) 323-3791.

Filed: March 8, 1996, 3:58 p.m.

TRD-9603399

Texas Mental Health and Retardation Board

Wednesday, March 20, 1996, 9:00 a.m.

909 West 45th Street (Auditorium)

Austin

Audit and Finance Oversight Committee

AGENDA:

- 1. Citizens comments
2. Financial status report
3. Audit activity update
4. Update on state auditor's review of management controls at TDMHMR

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: March 12, 1996, 3:16 p.m.

TRD-9603483

Wednesday, March 20, 1996, 9:30 a.m.

909 West 45th Street (Auditorium)

Austin

Medicaid Committee

AGENDA:

- 1. Citizens comments



2. Consideration of approval of 1996 reimbursement rates for services in Institutions for Mental Diseases (IMDs)
3. Presentation of the ICF-MR rate setting methodology options
4. Selection by the board of an option for development of a proposed rule
5. Litigation-Private Providers Association of Texas v. Health and Human Services Commission, et al

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: March 12, 1996, 3:16 p.m.

TRD-9603484

Wednesday, March 20, 1996, 1:30 p.m.

909 West 45th Street (Auditorium)

Austin

Planning and Policy Development Committee

AGENDA:

1. Citizens comments
2. State School closure update
3. Update regarding state facilities governing body activities
4. Legislative update
5. Consideration of approval of amendments to §403.46 and §403.48 of Chapter 403, Subchapter B, concerning Charges for Community-based Services
6. Consideration of approval of an implementation plan for the recommendations contained in the Texas Performance Review report-Special Delivery: New Models of Care
7. Consideration of approval of new §§405.51-405.63 of Chapter 405, Subchapter C, Governing Life-Sustaining Treatment
8. Consideration of approval of an implementation plan for the recommendations contained in the CPAC addendum on Offenders with Mental Retardation in the Criminal Justice System

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: March 12, 1996, 3:17 p.m.

TRD-9603485

Wednesday, March 20, 1996, 3:00 p.m.

909 West 45th Street (Auditorium)

Austin

Business and Asset Management Committee

AGENDA:

1. Citizens comments
2. Consideration of approval of fiscal year 1996 operating budget adjustments
3. Consideration of a resolution to designate a parcel of real property at the Waco Center for Youth as "Surplus" and authorize the solicitation of bids for a lease of the property

4. Consideration of a resolution authorizing the lease of building #524 of the Abilene State School to the City of Abilene Special Populations Program

5. Consideration of items related to the development of "Central Park"

6. Status of major construction projects: El Paso Psychiatric Hospital; Laredo Regional Community Center (Laredo State Center); Rusk State Hospital Geriatric Renovation; Vernon State Hospital-Youth Substance Abuse Facility; Waco Center for Youth-Residence Facility (25 beds)

7. Update on real property transactions previously approved by the board: lease of the Vernon State Hospital South Campus to the Texas Youth Commission; conveyance of 200 acres at Travis State School to Vision Village, Inc.; sale of a one acre parcel at Big Spring State Hospital; release of deed conditions on a 70.67 acre parcel in Big Spring, Texas; conveyance of approximately nine acres at Fort Worth State School to the Texas General Services Commission; sale of former TRIMS building to UT-Houston Health Science Center; lease of the triangle property in Austin, Texas; implementation of the asset management policy.

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: March 12, 1996, 3:16 p.m.

TRD-9603482

Thursday, March 21, 1996, 9:30 a.m.

909 West 45th Street (Auditorium)

Austin

AGENDA:

- I. Call to order; roll call
- II. Citizens comments
- III. Approval of minutes of February 14, 1996 meeting
- IV. Issues to be considered:

1. Chairman's report: Annual Advisory Committee reports-Citizens' Planning Advisory Committee; Medical Advisory Committee; Treatment Methods Advisory Committee

2. Commissioner's report: presentation on Tarrant County MHMR Center Authority activity; Medical Director's report

Additional issues to be considered.

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 206-4506.

Filed: March 12, 1996, 3:17 p.m.

TRD-9603486

◆           ◆           ◆

## Texas Natural Resource Conservation Commission

Friday, March 15, 1996, 2:00 p.m.

12015 North Interstate 35, Building F, Room 2210

Austin

Revised Agenda

AGENDA:

The commission will meet in closed session meeting to receive litigation legal advice and discuss contemplated action litigation: Clifton Garrett, Sr., et al v. Texas Refining and Marketing, Inc.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: March 7, 1996, 3:51 p.m.

TRD-9603312

Monday, March 18, 1996, 10:00 a.m.

Building C-Room 308E, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by the City of McAllen to amend its sewer Certificate of Convenience and Necessity (CCN) Number 20524 to expand the area to which it provides sewer utility service in Hidalgo County, Texas. The proposed utility service area includes all areas presently within the city limits and the extraterritorial jurisdiction of the City of McAllen and areas adjacent to the City that are not included within any other utility's service area. The total area being requested includes approximately 41,450 acres and no current customers. SOAH Docket Number 582-96-0290.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 7, 1996, 8:47 a.m.

TRD-9603267

Wednesday, March 20, 1996, 9:00 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The commission will consider approving the following matters on the agenda: hearing request; weather modification license; district matter; water utility matter; water right matter; Superfund fund contract; air quality enforcement; petroleum storage tank enforcement; public water supply enforcement; CAFO permit; state implementation plan; rules; administrative law judge's proposal for decision; executive session; the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 a.m. agenda starts 8:45 a.m. until 9:25 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: March 8, 1996, 11:13 a.m.

TRD-9603369

Wednesday, March 20, 1996, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

Revised Agenda

AGENDA:

The commission will consider addendums to the agenda, proposal for decision concerning City of Edinburg, proposal for decision concerning City of Crandall. The commission will also consider addendums to executive sessions.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: March 12, 1996, 4:10 p.m.

TRD-9603491

Thursday, March 21, 1996, 10:00 a.m.

Building A-Room 110, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by Glenn R. Dexter doing business as Forest Springs Water Supply Company for a Certificate of Convenience and Necessity (CCN) to provide water utility service in Bexar County, Texas. The applicant also proposes decertification of a portion of CCN Number 10684 issued to the City of Elmendorf to provide water utility service in Bexar County. The proposed utility service area includes a proposed 1273-acre subdivision located approximately 14 miles southeast of downtown San Antonio, Texas and is generally bounded on the north by U.S. Highway 181, on the east by the county line, on the south by the San Antonio River, and on the west by FM 1604. The total area being requested includes approximately ten square miles and no current customers. SOAH Docket Number 582-96-0308.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 7, 1996, 8:47 a.m.

TRD-9603268

Wednesday, April 3, 1996, 9:30 a.m.

Room 201S, Building E, 12118 North Interstate 35, TNRCC Park 35 Office Complex

Austin

AGENDA:

For a commission agenda hearing on a petition for exclusion of property from Harris County Municipal Utility District Number 50 (the "District"), pursuant to §50.504 of the Texas Water Code. The petition seeks exclusion of three tracts of land located wholly within the boundaries of the District. Pursuant to the provisions of Subchapter N of Chapter 50, Texas Water Code, unserved property may be excluded from certain districts that provide water supply services or wastewater services.

Contact: Water Utilities District Administration, MC152, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: March 7, 1996, 2:57 p.m.

TRD-9603309

Monday, April 8, 1996, 10:00 a.m.

Building F-Room 5108, 12015 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by Calabrian Chemical Corporation for an amendment with renewal to Permit Number 01857 in order to add an intermittent, flow variable discharge of cooling

tower blowdown, boiler blowdown, steam condensate, non-contact utility water, washdown water and treated stormwater runoff via Outfall 001. The permit currently authorizes an intermittent, flow variable discharge of treated stormwater, which will remain the same. The applicant operates an inorganic chemical plant. The plant site is at 5500 State Highway 366 in the City of Port Neches, Jefferson County, Texas. The effluent is discharged into Texaco Chemical Company Canal; thence into Star Lake; thence to Star Lake Canal; thence to the Neches River Tidal in Segment Number 0601 of the Neches River Basin. SOAH Docket Number 582-96-0335.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 7, 1996, 8:47 a.m.

TRD-9603269

Friday, April 12, 1996, 10:00 a.m.

Bexar County Courthouse-Commissioner's Court, 100 Dolorosa-Suite 101

San Antonio

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by the U.S. Department of the Air Force for proposed Permit Number 03830 to authorize a discharge of treated groundwater at a volume not to exceed an average flow of 32,000 gallons per day. The applicant proposes to conduct a groundwater treatability study and groundwater remediation at Brooks Air Force Base. The plant site is just inside the southwest corner of the Brooks Air Force Base boundary, east-northeast of the convergence of Old Corpus Christi Road, South Presa Street, and Villamain Road in the City of San Antonio, Bexar County, Texas. The effluent is discharged into an unnamed tributary of the San Antonio River; thence to the San Antonio River in Segment Number 1911 of the San Antonio River Basin. SOAH Docket Number 582-96-0361.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 7, 1996, 8:48 a.m.

TRD-9603270

Monday, April 15, 1996, 10:00 a.m.

City Hall-Council Chambers, 406 North Main

Rusk

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by the City of Rusk for an amendment to Permit Number 10447-01 to authorize an increase in the discharge of treated domestic wastewater effluent. The discharge is to be increased from a volume not to exceed an average flow of 1,200,000 gallons per day to a volume not to exceed an average flow of 1,750,000 gallons per day. More stringent effluent limitations are required in the proposed draft permit that exist in the current permit. The wastewater treatment facilities are approximately 1.5 miles south of mid-town Rusk, at a point approximately 1/4 mile west of Farm-to-Market Road 752, adjacent to One-Eye Creek in Cherokee County, Texas. The effluent is discharged into One-Eye Creek; thence to Boxes Creek; thence to the Neches River below Lake Palestine in Segment Number 0604 of the Neches River Basin. SOAH Docket Number 582-96-0307.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025,

(512) 475-3445.

Filed: March 7, 1996, 8:48 a.m.

TRD-9603271

## Board of Nurse Examiners

Thursday-Friday, March 28-29, 1996, 8:00 a.m.

333 Guadalupe, Tower 2, Suite 225

Austin

AGENDA:

The Board of Nurse Examiners will receive the minutes from the January meeting, December 1995 and January 1996 financial statements; consider practice, education/examination, licensing and compliance matters. An open forum will be held from 1:30-2:00 p.m. on March 28 to provide an opportunity for public comment. The board will receive reports from various committees, take action on eight proposed board orders, eight petitions for declaratory orders and one ALJ proposal or decision. The board will consider adoption of proposed rule amendment 222.2; consider proposed amendments to 219; 221, 217.1 and 217.2 and consider a new rule 223.3. The board will hold a working session on March 29, 1996 from 8:00 a.m.-Noon.

Contact: Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 305-6811.

Filed: March 11, 1996, 1:50 p.m.

TRD-9603443

Friday, April 19, 1996, 9:30 a.m.

333 Guadalupe Street, Suite 2-225

Austin

Advisory Committee on Education

AGENDA:

Call to order

Approval of minutes

Preceptor guidelines

Currency of faculty

TNA Articulation Committee

Annual report form

New business

Adjournment

Contact: Cheryl K. Rosipal, Box 140466, Austin, Texas 78714, (512) 305-6816.

Filed: March 13, 1996, 10:01 a.m.

TRD-9603543

## Board of Pardons and Paroles

Wednesday, March 27, 1996, 8:00 a.m.

Texas Law Center, 1414 Colorado, Room 104

Austin

Full Board

AGENDA:

Call to order

I. Regular session

- A. Recognition of guests
- B. Presentation by TDCJ Chaplaincy Office
- C. Presentation by TDCJ-ID
- D. Presentation by TDCJ-Parole Division
- E. Presentation by TDCJ-Parole Division-Specialized Supervision
- F. Presentation by TDCJ-Parole Division-TPD

II. Executive session

A. Litigation-case discussion

Cockrum v. Wayne Scott; Connett v. State of Texas, et al; Enriquez v. Carol Vance, et al; Harden v. Victor Rodriguez, et al; Holmes v. Texas Board of Pardons and Paroles, et al; Johnson v. TDCJ, et al; McCulloch v. TDCJ BPP; Whitehurst v. Beaumont Police Department, et al

B. Litigation update-Attorney General's Office and BPP General Counsel

C. Discussion of personnel matters

Adjourn executive session

Reconvene Texas Board of Pardons and Paroles

A. Consent items-approval of minutes from December 12, 1995, BPP meeting

B. Dissemination of Criminal Justice Policy Council report

C. Board Committee reports/staff reports: Sunset Committee, Legislative Committee; Rules Committee; Recidivism Committee update-Windham School project; consecutive sentencing; Senate Bill 45; hearings section

D. Board approval of proposed amendments to 37 TAC:

- 1. §141.111. Definitions
- 2. §145.12. Action upon review

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5408.

Filed: March 12, 1996, 11:42 a.m.

TRD-9603470

◆ ◆ ◆  
**Pecos River Commission**

Thursday, April 18, 1996, 9:00 a.m.

2000 North Main Street

Roswell, New Mexico

AGENDA:

- 1. Call to order by Chairman Villa; 2. Introduction by Commissioners Newton and McMillan; 3. Approval of the minutes of meeting held May 25, 1995; 4. Report of the chairman; 5. Report of secretary; 6. Report of treasurer; 7. Report of audit; 8. Reports of commission committees (a) Budget, (b) Legal, (c) Engineering; 9. Reports from cooperating agencies and others; 10. Unfinished business; 11. New business; 12. Adjournment.

Contact: Herman Settemeyer, MC-157, 12100 Park 35 Circle, Austin, Texas 78711-3087, (512) 239-4707.

Filed: March 11, 1996, 3:50 p.m.

TRD-9603449  
◆ ◆ ◆

**Texas State Board of Pharmacy**

Wednesday, March 20, 1996, 9:00 a.m.

One Capitol Square, 300 West 15th Street, Fifth Floor, Room 502  
Austin

Disciplinary Hearing

AGENDA:

The State Office of Administrative Hearings will conduct a disciplinary hearing in the matter of Texas State Board of Pharmacy vs. Gerald D. Gay, R.Ph. (TSBP #23523), Case Number B-93-023, SOAH Docket Number 515-96-0209.

Contact: Carol Fisher, 333 Guadalupe, Suite 3-600, Austin, Texas 78701-3942, (512) 305-8027.

Filed: March 7, 1996, 12:29 p.m.

TRD-9603298  
◆ ◆ ◆

**Texas State Board of Plumbing Examiners**

Wednesday, March 20, 1996, 9:30 a.m.

929 East 41st Street

Austin

Board

AGENDA:

- 1. Roll call-9:30 a.m.; 2. Recognize visitors; 3. Public comment-9:35 a.m.; 4. Consider approval of the minutes of the January 8, 1996 board meeting; 5. Plumbing Heating Cooling Contractors of Texas request concerning licensing requirements for drain cleaning companies; 6. Plumbing Heating Cooling Contractors of Texas request that Master Plumber License #M-2 be given to Latane Lamb; 7. Hear committee reports: a. Continuing Education; b. Enforcement; c. Examination; d. Field; e. Legislative; f. Medical Gas; g. Personnel; h. Rules Review; i. Water Supply Protection Specialist; 8. Executive session-The board members will meet in executive session under §551.071(1)(a)(b) of the Government Code, Open Meeting Act, to discuss contemplated litigation and a potential settlement offer regarding Arevalo, et al, represented by Darrell S. Duling; 9. Attorney General's report; 10. Ethics Commission presentation of information for board members; 11. Field/citation report; 12. Examination report; 13. Consideration and possible approval or denial of hardship case; 14. Fiscal department; 15. Administrator's report; 16. Hear staff travel requests; 17. Announcement of next regularly scheduled board meeting-Monday, May 13, 1996, 9:30 a.m.; 18. Adjournment.

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145, ext. 222.

Filed: March 12, 1996, 3:04 p.m.

TRD-9603480  
◆ ◆ ◆

**Public Utility Commission of Texas**

Friday, March 29, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 15500-Application of U.S. Telco, Inc. for a Service Provider Certificate of Operating Authority. This application was filed on March 11,

1996. U.S. Telco plans to provide, on a resell basis, monthly recurring, flat-rate local exchange service including extended area service, toll restrictions, call control options, tone dialing, custom calling services, Caller ID and any other services which are available on a resell basis from the underlying incumbent local exchange carrier or other certificated carrier within the service area of U.S. Telco as a service provider pursuant to §3.2532 of the Public Utility Regulatory Act. The geographic area follows the PUC's certificated boundaries of the existing service areas of the following local exchange carriers: Southwestern Bell, General Telephone of the Southwest (GTE), Centel (Sprint), United Telephone (Sprint), and; other eligible local exchange companies subsequently electing to participate in PURA §3.351 Incentive Regulation of Telecommunications. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by March 22, 1996.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 12, 1996, 10:10 a.m.

TRD-9603460

Friday, March 29, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

A hearing on the merits will be held in Docket Number 15505-Application of USN Southwest, Inc. for a Service Provider Certificate of Operating Authority. This application was filed on March 12, 1996. USN seeks to provide affordable business and residential resold interchange telecommunications services throughout the state of Texas and plans to provide recurring flat-rate local exchange service, EAS service, toll restriction, call control options, tone dialing, custom calling services, Caller ID and any other services which are available on a resell basis from the underlying incumbent local exchange carrier or other certificated carrier within the USN service area, USN intends to serve the geographic regions currently served by the following incumbent LECs' exchanges as the boundary of its proposed service areas: Southwestern Bell, GTE Southwest, Inc., Central Telephone Company of Texas, United Telephone Company of Texas, Inc., Sugarland Telephone Company, Lufkin-Conroe Telephone Exchange, Inc. and other incumbent LEC with over 31,000 access lines. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the commission by March 22, 1996.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 13, 1996, 8:34 a.m.

TRD-9603510

## Railroad Commission of Texas

Thursday, March 21, 1996, 10:30 a.m.

1701 North Congress Avenue, 12th Floor, Suite 12-100, Willa Mae Palmer Conference Room

Austin

AGENDA:

The Railroad Commission of Texas will hold a meeting to discuss pending litigation, Docket Number 32760, Union Pacific Corporation et al, before the Surface Transportation Board, Washington, D.C., and to consult with the commission's attorney to develop litigation strategy in light of analysis by University of North Texas

study. The commission may meet in executive session as permitted by Texas Government Code, Chapter 551.

Contact: Mary Ross McDonald, P.O. Box 12967, Austin, Texas 78711, (512) 463-7008.

Filed: March 12, 1996, 11:58 a.m.

TRD-9603474

Thursday, March 21, 1996, 2:30 p.m.

1701 North Congress Avenue, 12th Floor, Suite 12-100, Willa Mae Palmer Conference Room

Austin

AGENDA:

The Railroad Commission of Texas will hold a meeting on reorganization and personnel matters; the commission will conduct interviews and may take action on personnel matters. The commission may meet in executive session as permitted by Texas Government Code, Chapter 551.

Contact: Mary Ross McDonald, P.O. Box 12967, Austin, Texas 78711, (512) 463-7008.

Filed: March 12, 1996, 11:54 a.m.

TRD-9603472

## Texas Residential Property Insurance Market Assistance Program

Friday, March 22, 1996, 9:30 a.m.

333 Guadalupe, Tower I, Room 1264

Austin

Executive Committee

AGENDA:

General meeting

Consideration of alternative proposal for Subsection VIII-D on pages 12-15 of MAP Executive Committee's recommended plan of operation, relating to agent commissions

Discussion of the implementation of the Property Protection Program in relation to implementation of the Market Assistance Program

Discussion of operational procedures of the MAP, including processes for computerization

Contact: Lyndon Anderson, 333 Guadalupe Street, Austin, Texas 78701, (512) 322-2235.

Filed: March 13, 1996, 9:28 a.m.

TRD-9603517

## State Securities Board

Monday, July 15, 1996, 9:00 a.m.

William P. Clements Building, 300 West 15th Street

Austin

Administrative Hearing

AGENDA:

A hearing will be held at the State Office of Administrative Hearings for the purpose of determining whether the registration of

NationsSecurities as a dealer should be revoked.

Contact: David Grauer, 200 East Tenth Street, Fifth Floor, Austin, Texas 78701, (512) 305-8392.

Filed: March 8, 1996, 1:22 p.m.

TRD-9603379

◆ ◆ ◆  
**Telecommunications Infrastructure Fund Board**

**Friday, March 15, 1996, 8:00 a.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:06 p.m.

TRD-9603313

**Saturday, March 16, 1996, 8:00 a.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:06 p.m.

TRD-9603314

**Sunday, March 17, 1996, 1:00 p.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:06 p.m.

TRD-9603315

**Monday, March 18, 1996, 8:00 a.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:07 p.m.

TRD-9603316

**Tuesday, March 19, 1996, 1:00 p.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:07 p.m.

TRD-9603317

**Wednesday, March 20, 1996, 8:00 a.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Government Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:07 p.m.

TRD-9603318

**Thursday, March 21, 1996, 8:00 a.m.**

100 Crescent Court, Suite 1660, The O'Donnell Foundation

Dallas

AGENDA:

I. Call to order open meeting/quorum call-Chairman Carolyn Bacon

II. Call to order executive session to discuss employment and evaluation of specific executive director applicants pursuant to Gov-

ernment Code, §551.074.

III. Adjourn executive session

IV. Adjourn open meeting

Contact: Jim Glotfelty or Danner Bethel, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: March 7, 1996, 4:07 p.m.

TRD-9603319

◆ ◆ ◆  
**Texas Southern University**

Wednesday, April 3, 1996, 3:00 p.m.

3100 Cleburne/Hannah Hall-Room 111

Houston

Development

AGENDA:

Meeting to consider: reports from the administration on University Fund-Raising efforts.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: March 12, 1996, 3:53 p.m.

TRD-9603490

◆ ◆ ◆  
**Texas Woman's University**

Thursday, March 14, 1996, 9:00 a.m.

TWU Dallas Center-Presbyterian, 8194 Walnut Hill Lane, First Floor, Faculty Conference Room

Dallas

Board of Regents, Academic Affairs Committee

AGENDA:

I. Consider approval of the minutes of the committee meeting of December 7, 1995.

II. Receive an update on activities of the Office of Academic Affairs

III. Hear a report on strategic planning

IV. Hear a report on enrollment management

V. Consider approval of exemption of persons 65 years of age or older from payment of tuition for up to six semester hours of credit per semester or Summer term if space is available and if the person is otherwise eligible to take the classes for credit.

VI. Report of the committee chair.

VII. Discussion of the multi-disciplinary TWU Aphasia Center.

VIII. Tour of TWU academic facilities-Presbyterian.

Contact: Dr. Carol D. Surles, P.O. Box 425587, Denton, Texas 76204, (817) 898-3201.

Filed: March 6, 1996, 4:33 p.m.

TRD-9603203

Thursday, March 14, 1996, 9:00 a.m.

TWU Dallas Center-Presbyterian, 8194 Walnut Hill Lane, Room 117

Dallas

Board of Regents, Committee on Institutional Advancement

AGENDA:

I. Consider approval of the minutes of the committee meeting of December 7, 1995.

II. Report on alumnae relations, development, and public information activities of the Office of Institutional Advancement.

III. Report of the committee chair.

IV. Tour of TWU facilities-Presbyterian.

Contact: Dr. Carol D. Surles, P.O. Box 425587, Denton, Texas 76204, (817) 898-3201.

Filed: March 6, 1996, 4:33 p.m.

TRD-9603204

Thursday, March 14, 1996, 12:30 p.m.

TWU Dallas Center-Presbyterian, 8194 Walnut Hill Lane, First Floor, Faculty Conference Room

Dallas

Board of Regents, Finance and Audit Committee

AGENDA:

I. Consider approval of the minutes of the committee meeting of December 7, 1995 and the scheduled committee meeting of February 1, 1996.

II. Consider recommending approval of personnel additions and changes.

III. Consider recommending acceptance of gifts and grants.

IV. Consider recommending approval of contracts and agreements.

V. Consider recommending approval of allocation of federal funds.

VI. Consider recommending approval of the renewal and extension of insurance.

VII. Consider recommending approval of fiscal 1997 budget guidelines.

VIII. Receive the second quarter 1995-1996 internal audit report and an oral report of the preliminary recommendations as a result of the internal audit peer review.

IX. Report of the committee chair.

Contact: Dr. Carol D. Surles, P.O. Box 425587, Denton, Texas 76204, (817) 898-3201.

Filed: March 6, 1996, 4:34 p.m.

TRD-9603205

Thursday, March 14, 1996, 12:30 p.m.

TWU Dallas Center-Presbyterian, 8194 Walnut Hill Lane, Room 117

Dallas

Board of Regents, Student Affairs Committee

AGENDA:

I. Consider approval of the minutes of the committee meeting of December 7, 1995.

II. Report on activities of the Office of Student Life including the Assistant Vice President's arrival, Hubbard Hall renovation, Reagan Houston apartment renovations, Student Center renovations, Student Service Fees Allocations Committee status, the immunization system, and other miscellaneous information.

III. Report of the committee chair.

Contact: Dr. Carol D. Surles, P.O. Box 425587, Denton, Texas 76204, (817) 898-3201.

Filed: March 6, 1996, 4:34 p.m.

TRD-9603206

Friday, March 15, 1996, 9:00 a.m.

TWU Dallas Center-Parkland, 1810 Inwood Road, Second Floor, DED Building, Faculty Conference Room

Dallas

Board of Regents

AGENDA:

I. Executive session: real estate, litigation, and personnel matters, including extension of the TWU President's contract, under Texas Civil Statutes, Government Code, §§551.072, 551.071, and 551.074.

II. Consider approval of the minutes of the Board of Regents meeting of December 8, 1995.

III. Academic Affairs Committee items:

A. Consider approval of exemption of persons 65 years of age or older from payment of tuition for up to six semester hours of credit each semester or Summer term if space is available and if the person is otherwise eligible to take the classes for credit.

B. Report of the committee chair.

IV. Committee on Institutional Advancement items:

A. Report of the committee chair.

V. Finance and Audit Committee items:

A. Consider approval of personnel additions and changes.

B. Consider acceptance of gifts and grants.

C. Consider approval of contracts and agreements.

D. Consider approval of allocation of federal funds.

E. Consider approval of the schedule of renewal and extension of insurance.

F. Consider approval of fiscal 1997 budget guidelines.

G. Consider acceptance of report containing preliminary recommendations as a result of the internal audit peer review.

VI. Student Affairs Committee items:

A. Report of the committee chair.

VII. Consider extension of the TWU President's contract.

VIII. Report from the president.

Contact: Dr. Carol D. Surles, P.O. Box 425587, Denton, Texas 76204, (817) 898-3201.

Filed: March 6, 1996, 4:34 p.m.

TRD-9603207

## University of Houston

Monday, March 18, 1996, 2:00 p.m.

SRII Building, Room 201, University of Houston, 4800 Calhoun Boulevard

Houston

Institutional Animal Care and Use Committee

AGENDA:

To discuss and/or act upon the following:

Approval of February minutes

Renewal protocols

PETA on the World Wide Web

SCAW survey

Discussion of meeting of February 19, 1996

New "Guide"

Contact: Rosemary Grimmet, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 743-9222.

Filed: March 11, 1996, 10:31 a.m.

TRD-9603433

## University Interscholastic League

Friday, March 8, 1996, 1:00 p.m.

Texas Education Agency, Room 2.160, 1701 North Congress Avenue

Austin

Emergency Meeting

State Executive Committee

AGENDA:

AA. Appeal of waiver review board's denial of retroactive waiver of four-year fule, case #FY95-0228-396, student, Travis High School, Austin, Texas

Reason for Emergency: Appeal, just received, must be heard immediately.

Contact: Sam Harper, 3001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: March 8, 1996, 8:43 a.m.

TRD-9603330

## University of Texas at Arlington

Wednesday, May 8, 1996, 12:45 p.m.

501 South Nedderman, Room 323, Life Science Building

Arlington

Institutional Animal Care and Use Committee

AGENDA:

1. Approval of December 6, 1995 minutes.

2. Further discussion of future improvements for animal facilities.

Contact: Verne C. Cox, Box 19528, Arlington, Texas 76019, (817) 272-3164.

Filed: March 11, 1996, 2:16 p.m.

TRD-9603445

## Texas Water Development Board

Wednesday, March 20, 1996, 3:00 p.m.

Stephen F. Austin Building, Room 513-F, 1700 North Congress Avenue



Austin  
Audit Committee

**AGENDA:**

1. Consider approval of the minutes of the meeting of January 17, 1995.
2. Briefing on general accounting items.
3. Briefing on current audit activities of the internal auditor.
4. Briefing on external audit activities of the Development Fund Audit Section.
5. May discuss items on the agenda of the March 21, 1996 board meeting.

\* Additional non-committee board members may be present to deliberate but not vote in the committee meeting.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: March 12, 1996, 3:36 p.m.

TRD-9603488

◆ ◆ ◆  
**Texas Workers' Compensation Commission**

Friday, March 15, 1996, 9:30 a.m.

4000 South IH-35, Room 910-911, Southfield Building

Austin

Medical Advisory Committee

**AGENDA:**

1. Call to order
2. Review and possible approval of the February 9, 1996 minutes
3. Review and discussion of the action items from the February 9, 1996 meeting
4. Update on rules presented to the commission.
5. Review, discussion and possible approval of the acute care inpatient hospital fee guideline
6. Review, discussion and possible approval of the dental fee guideline
7. Establish draft agenda
8. Establish next meeting date
9. Adjournment

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-5690.

Filed: March 8, 1996, 2:29 p.m.

TRD-9603388

◆ ◆ ◆  
**Texas Workforce Commission**

Tuesday, March 19, 1996, 1:30 p.m.

Longworth House Office Building, Room 1024

Washington, D.C.

**AGENDA:**

Texas Workforce Commissioners will meet with Congressional members and staffs to discuss federal job training and employment issues and funding for programs administered by the Texas

Workforce Commission.

Contact: C. Kingsbery Otto, 101 East 15th Street, Austin, Texas 78778, (512) 475-1119.

Filed: March 11, 1996, 4:05 p.m.

TRD-9603450

Thursday, March 21, 1996, 2:00 p.m.

7745 Chevy Chase Drive, Building V, Room 200

Austin

**AGENDA:**

Commissioners will meet with representatives from Jobs for the Future, a Boston-based policy and research firm under contract with the Federal School-to-Work Office. Discussion of short- and long-term strategies for implementing a school-to-work system in Texas. Briefing on school-to-work initiatives and the state's overall workforce development system.

Contact: C. Kingsbery Otto, 101 East 15th Street, Austin, Texas 78778, (512) 475-1119.

Filed: March 11, 1996, 4:06 p.m.

TRD-9603451

◆ ◆ ◆  
**Regional Meetings**

**Meetings Filed March 6, 1996**

The Austin-Travis County Mental Health and Mental Retardation Center Public Relations Committee met at 1430 Collier Street, Board Room, Austin, March 14, 1996, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9603177.

The Central Texas Area Consortium Regular Meeting met at 2 North Fifth Street, Temple, March 7, 1996, at 7:00 p.m. The emergency status was necessary because appointment of members to the Needs Assessment Committee. Information may be obtained from James Majestic, 101 South Main, Suite 142, Temple, Texas 75601, (817) 774-1497. TRD-9603201.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, March 20, 1996, at 9:00 a.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9603184.

The Ellis County Appraisal District Appraisal Review Board met at 400 Ferris Avenue, Waxahachie, March 12, 1996, at 8:30 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9603174.

The Gregg Appraisal District Board of Directors met at 2010 Gilmer Road, Longview, March 12, 1996, at 11:00 a.m. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9603190.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, March 28, 1996, at 9:00 a.m. Information may be obtained from Mick Mikulenska or Tammy Johnson, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax (210) 249-3975. TRD-9603208.

The Nortex Regional Planning Commission General Membership Committee will meet at the Galaxy Center, #2 North, Suite 200, 4309 Jacksboro Highway, Wichita Falls, March 21, 1996, at Noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281, Fax (817) 322-6743. TRD-9603170.

The Central Appraisal District of Rockwall County Board of

Directors met at 106 North San Jacinto, Rockwall, March 12, 1996, at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034. TRD-9603173.

◆ ◆ ◆  
**Meetings Filed March 7, 1996**

**The Blanco County Appraisal District 1996 Board of Directors** met at 200 North Avenue G, Johnson City, March 12, 1996, at Noon. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9603303.

**The Cass County Appraisal District Board of Directors** met at 502 North Main Street, Linden, March 12, 1996, at 7:00 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 7563, (903) 756-7545. TRD-9603299.

**The Golden Crescent Economic Development Forum Full Committee** will meet at 1502 East Airline, One Stop Career Center, Victoria Old Mall, Victoria, March 21, 1996, at 3:30 p.m. Information may be obtained from Carol Matula, 2200 East Red River, Victoria, Texas 77901, (512) 576-6486. TRD-9603282.

**The Appraisal District of Jones County Board of Directors** will meet at 1137 East Court Plaza, Anson, March 21, 1996, at 8:30 a.m. Information may be obtained from Susan Holloway, P.O. Box 348, Anson, Texas 79501, (915) 823-2422. TRD-9603304.

**The Shackelford Water Supply Corporation Annual Membership Meeting** met at the County Road 109, Office and Warehouse, North of Albany, March 12, 1996, at 7:00 p.m. Information may be obtained from Gaynell Perkins, P.O. Box, Albany, Texas 76430, (817) 345-6868 or (915) 762-2575. TRD-9603311.

**The Shackelford Water Supply Corporation Director's** met at the County Road 109, Office and Warehouse, North of Albany, March 12, 1996, at 9:00 p.m. Information may be obtained from Gaynell Perkins, P.O. Box, Albany, Texas 76430, (817) 345-6868 or (915) 762-2575. TRD-9603308.

**The South Texas Development Council Board of Directors** met at the Commissioners Courtroom, Courthouse Annex, Zapata, March 14, 1996, at 11:00 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187. TRD-9603322.

**The STED Corporation Board of Trustees** met at the Commissioners Courtroom, Courthouse Annex, Zapata, March 14, 1996, at 10:00 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187. TRD-9603321.

**The Wise County Appraisal District Board of Directors** met at 206 South State Street, Decatur, March 12, 1996, at 7:30 p.m. Information may be obtained from Freddie Triplett, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9603296.

◆ ◆ ◆  
**Meetings Filed March 8, 1996**

**The Ark-Tex Council of Governments Oversight Committee, Ark-Tex Private Industry Council** met at the Region VIII Service Center, Mt. Pleasant, March 14, 1996, at 1:30 p.m. Information may be obtained from Jeanie Key, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9603351.

**The Ark-Tex Council of Governments Ark-Tex Private Industry Council Planning and Executive Committee** met at the Region VIII Service Center, Mt. Pleasant, March 14, 1996, at 2:15 p.m. Information may be obtained from Jeanie Key, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9603350.

**The Austin Transportation Study US 290-Loop 1 Task Force and Technical Advisory Committee** met at the TxDOT Area Engineer's

Office, 2499-A South Loop 360, Suite 100, Second Floor Conference Room, Austin, March 14, 1996, at 9:30 a.m. Information may be obtained from Michael R. Aulick, 301 West Second Street, Austin, Texas 78701, (512) 499-2275, P.O. Box 1088, Austin, Texas 78767, (512) 499-2275. TRD-9603396.

**The Austin Travis County MHMR Center Human Resources Committee** met at 1700 South Lamar Boulevard, Building #1, Suite 102A, Austin, March 13, 1996, at 4:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Bexar Appraisal District Board of Directors** met at 535 South Main Street, San Antonio, March 14, 1996, at 3:00 p.m. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9603391.

**The Bi-County WSC** met at the Arch Davis Road (FM 2254), Bi-County Office, Pittsburg, March 12, 1996, at 7:00 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9603382.

**The Brazos Valley Development Council Regional Review Committee** met at the BVDC Conference Room, 1706 East 29th Street, Bryan, March 18, 1996, at 1:00 p.m. Information may be obtained from Mary Stevens, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9603349.

**The Coleman County Water Supply Transportation Board of Directors** met at 214 Santa Anna Avenue, Coleman, March 13, 1996, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9603354.

**The Dállas Area Rapid Transit Committee-of-the-Whole** met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, March 12, 1996, at 3:00 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163. TRD-9603380.

**The Dallas Area Rapid Transit Board** met at 1401 Pacific Avenue, Board Room, First Floor, Dallas, March 12, 1996, at 6:30 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163. TRD-9603381.

**The Denton Central Appraisal District Board of Directors** will meet at 3911 Morse Street, Denton, March 28, 1996, at 4:00 p.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9603347.

**The Denton Central Appraisal District Board of Directors** will meet at 3911 Morse Street, Denton, March 28, 1996, at 4:00 p.m. Information may be obtained from Kathy Williams, P.O. Box 2816, Denton, Texas 76202-2816, (817) 566-0904. TRD-9603352.

**The Deep East Texas Council of Governments Grants Application Review Committee** will meet at the Waterwood Country Club, Highway 190, Point Blank, San Jacinto County, March 28, 1996, at 11:00 a.m. Information may be obtained from Jennifer Pledger, 274 East Lamar Street, Jasper, Texas, (409) 384-5704. TRD-9603405.

**The East Texas Council of Governments Executive Committee** met at 1306 Houston Street, Kilgore, March 14, 1996, at 1:00 p.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9603339.

**The El Oso Water Supply Corporation Board of Directors** met at FM 99, Karnes City, March 12, 1996, at 7:00 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9603341.

**The Hansford County Appraisal District Board of Directors** met at 709 West Seventh Street, Spearman, March 13, 1996, at 9:00 a.m. Information may be obtained from Alice Peddy, P.O. Box 519, Spearman, Texas 79081, (806) 659-5575. TRD-9603340.

The Harris County Appraisal District Appraisal Review Board met at 2800 North Loop West, Eighth Floor, Houston, March 15, 1996, 8:00 a.m. Information may be obtained from Susan Jordan, 2800 North Loop West, Houston, Texas 77092, (713) 957-5222. TRD-9603344.

The Hickory Underground Water Conservation District Number 1 Board and Advisors met at the Civic Center, Highway 87 North, Brady, March 14, 1996, at 9:00 a.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9603394.

The Hunt County Appraisal District Board of Directors met at 4801 King Street, Greenville, March 14, 1996, at Noon. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75403, (903) 454-3510. TRD-9603342.

The Kempner Water Supply Corporation Board of Directors met at Highway 190, Kempner, March 14, 1996, at 6:30 p.m. Information may be obtained from Donald W. Guthrie, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9603335.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, March 12, 1996, 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9603386.

The Lower Neches Valley Authority Finance Committee met at 7850 Eastex Freeway, Beaumont, March 13, 1996, at 9:00 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9603400.

The Lower Neches Valley Authority Board of Directors met at 7850 Eastex Freeway, Beaumont, March 13, 1996, at 10:00 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9603384.

The Lower Neches Valley Authority Industrial Development Corporation will meet at 7850 Eastex Freeway, Beaumont, March 19, 1996, at 10:15 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9603385.

The Lower Neches Valley Authority Board of Directors will meet at 7850 Eastex Freeway, Beaumont, March 19, 1996, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9603383.

The Manville Water Supply Corporation Board met at Spur 277, Board Room, Coupland, March 14, 1996, at 7:00 p.m. Information may be obtained from Tony Graf, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9603375.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, two and half miles north of Carlos, on FM-244, March 14, at 9:00 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9603390.

The Panhandle Ground Water Conservation District Number 3 Board of Directors (Public Meeting) met at the District Office, 300 South Omohundro Street, White Deer, March 13, 1996, at 7:00 p.m. Information may be obtained from C. E. Williams, Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9603353.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson, Suite D, Mt. Pleasant, March 14, 1996, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9603337.

The Tarrant Appraisal District Tarrant Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, March 14, 20, and 21, 1996, at 8:15 a.m. Information may be obtained from Linda G.

Smith, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9603367.

The Taylor County Central Appraisal District Board of Directors met at 1534 South Treadway, Abilene, March 13, 1996, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381, Ext. 24 or Fax (915) 676-7877. TRD-9603404.

◆ ◆ ◆  
**Meetings Filed March 11, 1996**

The Central Texas MHMR Center Board of Trustees met at 408 Mulberry, Brownwood, March 18, 1996, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9603446.

The Deep East Texas Council of Governments Regional 9-1-1 Advisory Council will meet at the Waterwood Country Club, Highway 190, Point Blank, March 28, 1996, at 10:00 a.m. Information may be obtained from Wayne DuBose, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9603425.

The Deep East Texas Council of Governments Board of Directors and Grants Application Review Committee will meet at Highway 190 West, San Jacinto County, Waterwood Country Club, Point Blank, March 28, 1996, at 11:00 a.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9603441.

The Johnson County Central Appraisal District Board of Directors will meet at 109 North Main, Suite 201, Room 202, Cleburne, March 21, 1996, at 4:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 558-8100. TRD-9603447.

The Kendall Appraisal District Appraisal Review Board will meet at 121 South Main Street, Boerne, March 28, 1996, at 9:00 a.m. Information may be obtained from Mick Mikulenka or Tammy Johnson, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012, Fax (210) 249-3975. TRD-9603406.

The Northeast Texas Municipal Water District Board of Directors met at Highway 250 South, Hughes Springs, March 18, 1996, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9603428.

The Palo Pinto Appraisal District Board of Directors will meet at the Court House, Highway 180, Palo Pinto, March 20, 1996, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484, (817) 659-1281. TRD-9603452.

The San Antonio River Authority Board of Directors will meet at 100 East Guenther Street, Boardroom, San Antonio, March 20, 1996, 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-9603430.

The Southeast Texas Regional Planning Commission Executive Committee will meet at 801 Main Beaumont City Council Chambers, Beaumont, March 20, 1996, at 7:00 p.m. Information may be obtained from Jackie Vice Solis, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9603429.

The Wheeler County Appraisal Board of Directors met at 103 East Texas Courthouse Square, Wheeler, March 15, 1996, at 5:00 p.m. Information may be obtained from Larry Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9603411.

## Meetings Filed March 12, 1996

**The Bell County Tax Appraisal District Board of Directors** will meet at 411 East Central Avenue, Belton, March 20, 1996, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513, (817) 939-5841. TRD-9603464.

**The Blanco County Appraisal District (Revised Agenda.) 1996 Board of Directors** met at 200 North Avenue G, Johnson City, March 12, 1996, at Noon. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013. TRD-9603457.

**The Brazos Valley Development Council 9-1-1 Advisory Committee** met at 1706 East 29th Street, Bryan, March 18, 1996, at 1:30 p.m. Information may be obtained from Anita Pitt, P.O. Drawer 4128, Bryan, Texas 77805, (409) 775-4244. TRD-9603458.

**The Dewitt County Appraisal District Board of Directors** will meet at 103 Bailey Street, Cuero, March 19, 1996, at 7:30 p.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9603462.

**The Education Service Center, Region VII Board of Directors** will meet at 440 Highway 79 South, Henderson, March 20, 1996, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9603471.

**The Houston-Galveston Area Council Board of Directors** will meet at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, March 19, 1996, at 10:00 a.m. Information may be obtained from Lori Gale, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9603461.

**The Liberty County Central Appraisal District Appraisal Review Board** will meet at 315 Main Street, Liberty, March 21, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9603459.

**The Permian Basin Regional Planning Commission Board of Directors** will meet at 2910 La Force Boulevard, Midland, March 20, 1996, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9603469.

**The Wood County Appraisal District Board of Directors** will meet at 210 Clark Street, Quitman, March 20, 1996, at 1:30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9603466.



## Meetings Filed March 13, 1996

**The Austin Transportation Study Policy Advisory Committee** met at the House Committee on Appropriations Room, Capitol Extension Room E1.030, Austin, March 18, 1996, at 6:00 p.m. Information

may be obtained from Michael R. Aulick, P.O. Box 1088-Annex, Austin, Texas 78767, (512) 499-2275. TRD-9603519.

**The Texas Automobile Insurance Plan Association Second Annual Membership** will meet at the DoubleTree Guests Suites Hotel-Bluebonnet Room, 303 West 15th Street, Austin, March 21, 1996, at 9:00 a.m. Information may be obtained from Dianna Brooks, P.O. Box 18447, Austin, Texas 78760-8447, (512) 444-5999 or Fax: (512) 444-7368. TRD-9603534.

**The Texas Automobile Insurance Plan Association Governing Committee** will meet at the DoubleTree Guests Suites Hotel-Bluebonnet Room, 303 West 15th Street, Austin, March 21, 1996, at 10:00 a.m. Information may be obtained from Dianna Brooks, P.O. Box 18447, Austin, Texas 78760-8447, (512) 444-5999 or Fax: (512) 444-7368. TRD-9603535.

**The Blanco County Appraisal District Agricultural Advisory Board** will meet at North Avenue G, Courthouse Annex, Johnson City, March 20, 1996, at 9:00 a.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (210) 868-4013 or Fax: (210) 868-7330. TRD-9603516.

**The Dallas Central Appraisal District Appraisal Review Board** will meet at 2949 North Stemmons Freeway, Second Floor Community Room, Dallas, March 27, 1996, at 10:00 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9603542.

**The Education Service Center, Region XVII Board of Directors** will meet at 1111 West Loop 289, Lubbock, April 9, 1996, at 1:30 p.m. Information may be obtained from Virgil (Ed) Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 792-4000, Ext. 848. TRD-9603530.

**The Education Service Center, Region XVII Board of Directors** will meet at 1111 West Loop 289, Lubbock, April 16, 1996, at 9:00 a.m. Information may be obtained from Virgil (Ed) Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 792-4000, Ext. 848. TRD-9603531.

**The Guadalupe-Blanco River Authority Board of Directors** will meet at the Capitol Extension, 1400 Congress Avenue, Room E1.028, Austin, March 20, 1996, at 2:00 p.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9603514.

**The Mason County Appraisal District Board of Directors** met at 210 Westmoreland, Mason, March 18, 1996, at Noon. Information may be obtained from Deborah Geistwiedt, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989. TRD-9603518.

**The North Plains Ground Water Conservation District Number Two Board (Regular Meeting)** will meet at 603 East First, Dumas, March 19, 1996, at 10:00 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029-0795, (806) 935-6401. TRD-9603533.



# 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.

---

## Office of the Attorney General 1996 Tax Charts

Pursuant to §154.061(b) of the Texas Family Code, the Attorney General of Texas as the "agency charged with enforcing child support orders under Part D of Title IV of the federal Social Security Act" has promulgated the following charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

### INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's

average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, §§154.061-154.068 provide for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. Computation of the obligee's net resources should follow similar steps.

**EMPLOYED PERSONS  
1996 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes**	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*		
100.00	6.20	1.45	-0-	92.35
200.00	12.40	2.90	-0-	184.70
300.00	18.60	4.35	-0-	277.05
400.00	24.80	5.80	-0-	369.40
500.00	31.00	7.25	-0-	461.75
600.00	37.20	8.70	8.13	545.97
700.00	43.40	10.15	23.13	623.32
800.00	49.60	11.60	38.13	700.67
900.00	55.80	13.05	53.13	778.02
1,000.00	62.00	14.50	68.13	855.37
1,100.00	68.20	15.95	83.13	932.72
1,200.00	74.40	17.40	98.13	1,010.07
1,300.00	80.60	18.85	113.13	1,087.42
1,400.00	86.80	20.30	128.13	1,164.77
1,500.00	93.00	21.75	143.13	1,242.12
1,600.00	99.20	23.20	158.13	1,319.47
1,700.00	105.40	24.65	173.13	1,396.82
1,800.00	111.60	26.10	188.13	1,474.17
1,900.00	117.80	27.55	203.13	1,551.52
2,000.00	124.00	29.00	218.13	1,628.87
2,100.00	130.20	30.45	233.13	1,706.22
2,200.00	136.40	31.90	248.13	1,783.57
2,300.00	142.60	33.35	263.13	1,860.92
2,400.00	148.80	34.80	278.13	1,938.27
2,500.00	155.00	36.25	293.13	2,015.62
2,600.00	161.20	37.70	315.17	2,085.93
2,700.00	167.40	39.15	343.17	2,150.28
2,800.00	173.60	40.60	371.17	2,214.63
2,900.00	179.80	42.05	399.17	2,278.98
3,000.00	186.00	43.50	427.17	2,343.33
3,100.00	192.20	44.95	455.17	2,407.68
3,200.00	198.40	46.40	483.17	2,472.03
3,300.00	204.60	47.85	511.17	2,536.38
3,400.00	210.80	49.30	539.17	2,600.73
3,500.00	217.00	50.75	567.17	2,665.08
3,600.00	223.20	52.20	595.17	2,729.43
3,700.00	229.40	53.65	623.17	2,793.78
3,800.00	235.60	55.10	651.17	2,858.13
3,900.00	241.80	56.55	679.17	2,922.48
4,000.00	248.00	58.00	707.17	2,986.83
4,250.00	263.50	61.63	777.17	3,147.70
4,500.00	279.00	65.25	847.17	3,308.58
4,750.00	294.50	68.88	917.17	3,469.45
5,000.00	310.00	72.50	987.17	3,630.33
5,250.00	323.95 ***	76.13	1,057.17	3,792.75
5,500.00	323.95	79.75	1,130.42	3,965.88
5,750.00	323.95	83.38	1,207.92	4,134.75
6,000.00	323.95	87.00	1,285.42	4,303.63
6,250.00	323.95	90.63	1,362.92	4,472.50
6,500.00	323.95	94.25	1,440.42	4,641.38
6,750.00	323.95	97.88	1,517.92	4,810.25
7,000.00	323.95	101.50	1,595.42	4,979.13
7,500.00	323.95	108.75	1,750.42	5,316.88
8,000.00	323.95	116.00	1,905.42	5,654.63
8,500.00	323.95	123.25	2,060.42	5,992.38
9,000.00	323.95	130.50	2,215.42	6,330.13
9,500.00	323.95	137.75	2,370.42	6,667.88
10,000.00	323.95	145.00	2,526.73	7,004.32
10,500.00	323.95	152.25	2,685.69	7,338.11
11,000.00	323.95	159.50	2,861.89	7,654.66
11,500.00	323.95	166.75	3,046.48	7,962.82
12,000.00	323.95	174.00	3,229.54	8,272.51
12,500.00	323.95	181.25	3,412.60	8,582.20
13,000.00	323.95	188.50	3,597.19	8,890.36

Footnotes to Employed Persons 1996 Tax Chart:

\* An employed person not subject to the Old-age, Survivors and Disability Insurance/Hospital (Medicare) taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.

\*\* These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,550, subject to reduction in certain cases, as described in the next paragraph of this footnote) and taking the standard deduction (\$4,000).

For a single taxpayer with an adjusted gross income in excess of \$117,950, the deduction for the personal exemption is reduced by 2.0% for each \$2,500 or fraction thereof by which adjusted gross income exceeds \$117,950. The reduction is completed (i.e., the deduction for the personal exemption is eliminated) for adjusted gross income in excess of \$240,450. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly gross wages of \$12,000 times 12 months equals \$144,000. The excess over \$117,950 is \$26,050. \$26,050 divided by \$2,500 equals 10.42. The 10.42 amount is rounded up to 11. The reduction percentage is 22% (11 x 2.0% = 22%). The \$2,550 deduction for one personal exemption is reduced by \$561 (\$2,550 x 22% = \$561) to \$1,989 (\$2,550 - \$561 = \$1,989).

\*\*\* For annual gross wages above \$62,700, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1996 maximum Old-Age, Survivors and Disability Insurance tax of \$3,887.40 per person (6.2% of the first \$62,700 of annual gross wages equals \$3,887.40). One-twelfth (1/12) of \$3,887.40 equals \$323.95.  
\*\*\*\*\*  
\*\*\*\*\*

References Relating to Employed Persons 1996 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

(1) Social Security Administration's notice dated October 19, 1995, and appearing in 60 Federal Regulation 54,751 (October 25, 1995)

(2) Section 3121(a)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §3121(a)(1))

(3) Section 230 of the Social Security Act, as amended (42 U.S.C. §430)

(b) Tax Rate

(1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U. S.C. §3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

(1) Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66, §13207, 107 Statutes 312, 467-69 (1993)

(b) Tax Rate

(1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U. S.C. §3101(b))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1996 for Single Taxpayers

(1) Revenue Procedure 95-53, §3.01, Table 3, which appears at page 23 of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1(c) and (f))

(b) Standard Deduction

(1) Revenue Procedure 95-53, §3.04, which appears at page 24 of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S. C. §63(c))

(c) Personal Exemption

(1) Revenue Procedure 95-53, §3.08, which appears at page 25 of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S. C. §151(d))

**SELF-EMPLOYED PERSONS  
1996 TAX CHART**

Monthly Net Earnings From Self- Employment*	Social Security Taxes		Federal Income Taxes***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)**		
100.00	11.45	2.68	-0-	85.87
200.00	22.90	5.36	-0-	171.74
300.00	34.35	8.03	-0-	257.62
400.00	45.81	10.71	-0-	343.48
500.00	57.26	13.39	-0-	429.35
600.00	68.71	16.07	1.77	513.45
700.00	80.16	18.75	15.71	585.38
800.00	91.61	21.43	29.65	657.31
900.00	103.06	24.10	43.59	729.25
1,000.00	114.51	26.78	57.53	801.18
1,100.00	125.97	29.46	71.47	873.10
1,200.00	137.42	32.14	85.41	945.03
1,300.00	148.87	34.82	99.35	1,016.96
1,400.00	160.32	37.49	113.29	1,088.90
1,500.00	171.77	40.17	127.23	1,160.83
1,600.00	183.22	42.85	141.17	1,232.76
1,700.00	194.67	45.53	155.11	1,304.69
1,800.00	206.13	48.21	169.05	1,376.61
1,900.00	217.58	50.88	182.99	1,448.55
2,000.00	229.03	53.56	196.93	1,520.48
2,100.00	240.48	56.24	210.87	1,592.41
2,200.00	251.93	58.92	224.81	1,664.34
2,300.00	263.38	61.60	238.75	1,736.27
2,400.00	274.83	64.28	252.69	1,808.20
2,500.00	286.29	66.95	266.63	1,880.13
2,600.00	297.74	69.63	280.57	1,952.06
2,700.00	309.19	72.31	294.51	2,023.99
2,800.00	320.64	74.99	315.78	2,088.59
2,900.00	332.09	77.67	341.80	2,148.44
3,000.00	343.54	80.34	367.82	2,208.30
3,100.00	354.99	83.02	393.84	2,268.15
3,200.00	366.44	85.70	419.87	2,327.99
3,300.00	377.90	88.38	445.89	2,387.83
3,400.00	389.35	91.06	471.91	2,447.68
3,500.00	400.80	93.74	497.93	2,507.53
3,600.00	412.25	96.41	523.95	2,567.39
3,700.00	423.70	99.09	549.98	2,627.23
3,800.00	435.15	101.77	576.00	2,687.08
3,900.00	446.60	104.45	602.02	2,746.93
4,000.00	458.06	107.13	628.04	2,806.77
4,250.00	486.68	113.82	693.10	2,956.40
4,500.00	515.31	120.52	758.15	3,106.02
4,750.00	543.94	127.21	823.21	3,255.64
5,000.00	572.57	133.91	888.26	3,405.26
5,250.00	601.20	140.60	953.31	3,554.89
5,500.00	629.83	147.30	1,018.37	3,704.50
5,750.00	647.90 ****	153.99	1,084.90	3,863.21
6,000.00	647.90	160.69	1,160.09	4,031.32
6,250.00	647.90	167.38	1,236.55	4,198.17
6,500.00	647.90	174.08	1,313.01	4,365.01
6,750.00	647.90	180.78	1,389.47	4,531.85
7,000.00	647.90	187.47	1,465.93	4,698.70
7,500.00	647.90	200.86	1,618.86	5,032.38
8,000.00	647.90	214.25	1,771.78	5,366.07
8,500.00	647.90	227.64	1,924.71	5,699.75
9,000.00	674.90	241.03	2,077.63	6,033.44
9,500.00	647.90	254.42	2,230.56	6,367.12
10,000.00	647.90	267.82	2,383.48	6,700.80
10,500.00	647.90	281.21	2,537.72	7,033.17
11,000.00	647.90	294.60	2,694.60	7,366.90
11,500.00	647.90	307.99	2,869.83	7,674.28
12,000.00	647.90	321.38	3,052.01	7,978.71
12,500.00	647.90	334.77	3,232.66	8,248.67
13,000.00	647.90	348.16	3,413.31	8,590.63



Footnotes to Self-Employed Persons 1996 Tax Chart:

\* Determined without regard to §1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C.) (the "Code").

\*\* In calculating each of the Old-Age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under §1402(a)(12) of the Code. The deduction under §1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to §1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-Age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%).

The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to §1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to §1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to §1402(a)(12) of the Code) of \$2,500 are calculated as follows:

(i) Old-Age, Survivors and Disability Insurance Taxes:  $\$2,500 \times 92.35\% \times 12.4\% = \$286.29$

(ii) Hospital (Medicare) Insurance Taxes:  $\$2,500 \times 92.35\% \times 2.9\% = \$66.95$

\*\*\* These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,550, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$4,000).

In calculating the annual Federal income tax, gross income is reduced by the deduction under §164(f) of the Code. The deduction under §164(f) of the Code is equal to one-half (1/2) of the self-employment taxes imposed by §1401 of the Code for the taxable year. For example, monthly net earnings from self-employment of \$12,000 times 12 months equals \$144,000. The Old-Age, Survivors and Disability Insurance taxes imposed by §1401 of the Code for the taxable year equal \$7,774.80 ( $\$62,700 \times 12.4\% = \$7,774.80$ ). The Hospital (Medicare) Insurance taxes imposed by §1401 of the Code for the taxable year equal \$3,856.54 ( $\$144,000 \times .9235 \times 2.9\% = \$3,856.54$ ). The sum of the taxes imposed by §1401 of the Code for the taxable year equals \$11,631.34 ( $\$7,774.80 + \$3,856.54 = \$11,631.34$ ). The deduction under §164(f) of the Code is equal to one-half (1/2) of \$11,631.34 or \$5,815.67.

For a single taxpayer with an adjusted gross income in excess of \$117,950, the deduction for the personal exemption is reduced by two percent (2.0%) for each \$2,500 or fraction thereof by which adjusted gross income exceeds \$117,950. The reduction is completed (i.e., the deduction for the personal exemption is eliminated) for adjusted gross income in excess of \$240,450. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly net earnings from self-employment of \$12,000 times 12 months equals \$144,000.

The \$144,000 amount is reduced by \$5,815.67 (i.e., the deduction under §164(f) of the Code-see the immediately preceding paragraph of this footnote for the computation) to arrive at adjusted gross income of \$138,184.33. The excess over \$117,950 is \$20,234.33. \$20,234.33 divided by \$2,500 equals 8.09. The 8.09 amount is rounded up to 9. The reduction percentage is 18% ( $9 \times 2.0\% = 18\%$ ). The \$2,550 deduction for one personal exemption is reduced by \$459 ( $\$2,550 \times 18\% = \$459$ ) to \$2,091 ( $\$2,550 - \$459 = \$2,091$ ).

\*\*\*\* For annual net earnings from self-employment (determined with regard to §1402(a)(12) of the Code) above \$62,700, this amount represents a monthly average of the Old-Age, Survivors and Disability Insurance tax based on the 1996 maximum Old-Age, Survivors and Disability Insurance tax of \$7,774.80 per person (12.4% of the first \$62,700 of net earnings from self-employment (determined with regard to §1402(a)(12) of the Code) equals \$7,774.80). One-twelfth (1/12) of \$7,774.80 equals \$647.90.

\*\*\*\*\*  
\*\*\*\*\*

References Relating to Self-Employed Persons 1996 Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

(1) Social Security Administration's notice dated October 19, 1995, and appearing in 60 Federal Regulation 54,751 (October 25, 1995)

(2) Section 1402(b)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(b)(1))

(3) Section 230 of the Social Security Act, as amended (42 U.S.C. §430)

(b) Tax Rate

(1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1401(a))

(c) Deduction Under §1402(a)(12)

(1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(a)(12))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

(1) Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66, §13207, 107 Statute 312, 467-69 (1993)

(b) Tax Rate

(1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1401(b))

(c) Deduction Under §1402(a)(12)

(1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1402(a)(12))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1996 for Single Taxpayers

(1) Revenue Procedure 95-53, §3.01, Table 3, which appears at page 23 of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §1(c) and (f))

(b) Standard Deduction

(1) Revenue Procedure 95-53, §3.04, which appears at page 24 of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S. C. §63(c))

(c) Personal Exemption

(1) Revenue Procedure 95-53, §3.08, which appears at page 25 Of Internal Revenue Bulletin 1995-52, dated December 26, 1995

(2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S. C. §151(d))

(d) Deduction Under §164(f)

(1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S. C. §164(f))

Issued in Austin, Texas, on February 28, 1996.

TRD-9603387 Suzanne Marshall  
Special Assistant Attorney General  
Office of the Attorney General

Filed: March 8, 1996

◆ ◆ ◆  
**Comptroller of Public Accounts**  
**Notice of Consultant Contract Award**

In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller

of Public Accounts, on behalf of the Texas Prepaid Higher Education Tuition Board, announces this notice of consultant contract award.

The consultant proposal request was published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10839).

The consultant will assist the Comptroller with investment consultant services in connection with the establishment of a prepaid higher education tuition program.

The contract is awarded to Callan Associates, Inc., Six Concourse Parkway, Suite 2900, Atlanta, Georgia 30328. The total dollar value of the contract is not to exceed \$80,000. The contract was executed March 6, 1996, and extends through March 5, 1997. Callan Associates, Inc. is to present an initial report on or about March 20, 1996, and quarterly reports thereafter.

Issued in Austin, Texas, on March 13, 1996.

TRD-9603536 Arthur F. Lorton  
Senior Legal Counsel  
Comptroller of Public Accounts

Filed: March 13, 1996

◆ ◆ ◆  
**Office of Consumer Credit**  
**Commissioner**

**Notice of Rate Ceilings**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1. 04).

<u>Types of Rate Ceilings</u>	<u>Effective Period</u> (Dates are Inclusive)	<u>Consumer<sup>(3)</sup>/Agricultural/ Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/11/96-03/17/96	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) <sup>(1)</sup>	03/01/96-03/31/96	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/96-06/30/96	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	04/01/96-06/30/96	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) <sup>(3)</sup>	04/01/96-06/30/96	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	04/01/96-06/30/96	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	04/01/96-06/30/96	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	03/01/96-03/31/96	10.00%	10.00%

(1) For variable rate commercial transactions only. (2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3) Credit for personal, family or household use. (4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas on March 4, 1996.

TRD-9603185 Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit

Filed: March 6, 1996

◆ ◆ ◆  
**Office of the Governor-Criminal**  
**Justice Division**

**Request for funding of the Texas**  
**Narcotics Control Program under the**  
**Edward Byrne Memorial State and**  
**Local Law Enforcement Assistance**  
**Formula Grant Program**

Office of the Governor-Criminal Justice Division (CJD) is submitting an application for funding to the Bureau of Justice Assistance (BJA), to continue the Texas Narcotics Control Program. BJA has made available partial funding

of the fiscal year 1996 appropriation of the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program. This program will allow the Governor's Office, Criminal Justice Division to award grants under the purpose areas prioritized by the Governor's Drug Policy Advisory Board. The application and associated documentation are available for review. Please contact Eddie Hebisen at (512) 463-1806 or write to the Texas Narcotics Control Program, Post Office Box 12428, Austin, Texas 78711.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603195      Pete Wasendorf  
General Counsel  
Office of the Governor

Filed: March 6, 1996

◆      ◆      ◆

### Texas Department of Health

#### Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Eugene P. Alexander, M.D. (registrant R-17323) of San Angelo to cease and desist performing therapy treatments until the therapy system has been properly calibrated. The bureau determined that the application of radiation therapy doses to patients by a system that has not been adequately calibrated may result in patients receiving radiation in excess of that required for treatment. These excessive doses constitute an immediate threat to public health and safety, and the existence of an emergency. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to perform the calibrations.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 11, 1996.

TRD-9603409      Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: March 11, 1996

◆      ◆      ◆

### Notices of Intent to Revoke Certificates of Registration

*(Editor's Note: The following Notice of Intent to Revoke a Certificate of Registration was inadvertently omitted from the March 8, 1996, issue of the Texas Register. The Texas Department of Health submitted the notice on March 4, 1996.*

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following registrant: J. L. Simmons, D.D.S., Ballinger, R14114.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of radiation machine(s); order the registrant to divest himself

of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the order and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificate of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 4, 1996.

TRD-9603041      Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: March 4, 1996

◆      ◆      ◆

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13 (25 Texas Administrative Code §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Kodak Health Imaging Systems, Dallas, R21431; David J. Rossen, D.D.S., The Colony, R16278; James L. Sanders, D.D.S., Sugar Land, R10543; Pat A. Thomas, D.O., P.A., Granbury, R18464; Independent Radiographic Services of Wichita Falls, Wichita Falls, R13640; Fanny Edwards, D.P.M., Missouri City, R16336; Lambeth Family Chiropractic Clinic, Houston, R20064; Richard Hernandez, Jr., M.D., P.A., San Antonio, R20019; Andries Chiropractic Center, Rowlett, R19203; Slide Medical Clinic, Lubbock, R15495; Stockdale Family Medical Center, Stockdale, R02185.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for

public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 12, 1996.

TRD-9603453

Susan K. Steeg  
General Counsel  
Texas Department of Health

Filed: March 12, 1996

## Notice of Rescission of Order

*(Editor's Note: The following Notice of Rescission of Order was inadvertently omitted from the March 8, 1996, issue of the Texas Register. The Texas Department of Health submitted the notice on March 4, 1996.)*

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Revocation Order issued February 8, 1996, to Ronnie Elmore, D.D.S., 1389 West Gulf Bank, Houston, Texas 77088, holder of Certificate of Registration Number R13175.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on March 4, 1996.

TRD-9603040

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

Filed: March 4, 1996

## Request for Proposals

**Project Goals.** The Emergency Medical Services (EMS) Local Projects Grant program was established in 1990 for the purpose of improving emergency medical services throughout Texas by providing money and technical assistance to eligible organizations. This program is administered by the Bureau of Emergency Management (bureau) of the Texas Department of Health (department). The program provides reimbursement for approved costs incurred for a specific project completed during a specified contract period September 1, 1996-August 31, 1997.

The department is accepting proposals for local EMS projects to increase the availability and quality of emergency prehospital health care. Applicable projects are those which, upon completion, can demonstrate a positive impact on the delivery of emergency prehospital health care in the area that it was administered. Types of projects that are acceptable for funding include EMS certification training, specialty training related to prehospital health management, EMS equipment, research topics related to the delivery of emergency prehospital health care, computers for data collection, public information and education programs, continuing education programs, ambulances, and system development programs.

**Performance Requirements.** Contracts will be developed between the department and successful applicants. The contract will be for 12 months and will detail items such as budget, reporting requirements, and any other specifics that might apply to the award. All registered, licensed, or

certified organizations as determined by the bureau (e.g. EMS providers, First Responder groups) must maintain the appropriate credentials throughout the specified contract period. The grant provides reimbursement for an approved project and associated costs incurred after the award is made and during the stated contract period only. Reimbursement may be withheld and a request for return of funds may occur if any of the stated requirements of this grant are not met. For EMS certification projects, proof of successful certification must be submitted within 45 days following the end of the contract period. In addition, it will be the responsibility of the grant recipient to maintain a record of all costs and activities related to the administration of the project. Projects must start on or after September 1, 1996 and be completed prior to August 31, 1997.

**Applicant Eligibility.** Proposals will be accepted from not-for-profit organizations directly or indirectly responsible for providing or impacting emergency prehospital health care (e.g., EMS providers, registered first responder organizations, EMS training programs, local governments, and other organizations impacting emergency prehospital health care). Registered First Responder organizations are those which have the proper bureau First Responder paperwork, based on 25 TAC §157.21 relating to the First Responder Organization Registry, on file and entered into the department network as active no later than September 1, 1996. Failure to comply with this requirement of the grant constitutes grounds for revocation of any award made as part of the local projects program.

**Range of Financial Assistance/Matching Fund Requirements.** The average award in 1995 was approximately \$4,800 with a range of \$465 to \$31,000. The maximum grant award for fiscal year (FY) 1994-1995 was \$25,000. The amount of available funding for FY 1996-1997 will be up to \$1.3 million. The maximum grant for a new ambulance is being increased to \$35,000 this year.

Matching funds may come from sources such as local funds, private donations, other state grants, federal grants, or private foundations. "Soft or in-kind" matching funds are not acceptable. Matching funds will be required for the following.

Any individual equipment item with a useful life of more than one year and a cost greater than \$1,000 (including shipping costs) requires 50% matching funds, with the following exceptions: Fax machines, cameras, video recorders/players, computers, and printers. These items require a 50% match if the individual cost exceeds \$500 and the useful life is greater than one year.

**Advanced Life Support Projects.** Any project that involves advanced life support (ALS) will require the signature of a medical director on the application page. ALS projects include, but are not limited to items such as the purchase of monitor/defibrillator/pacer units, automated external defibrillators, and ALS training.

**Initial Certification Courses/Continuing Education Courses.** Any project involving the hosting of an initial certification course or continuing education course will require prior approval from the EMS staff at the local public health region office.

**Computer-Related Projects.** Any project involving the purchase of computers and computer related items, including accessories and software, must be thoroughly described within the proposal. An appropriate description would be "486 Pentium 75 Processor, 8MG RAM, 855MG hard drive, internal 14,400 modem, 4X CD ROM with

sound card, speakers." A similar description of make and model for the printer, monitor, and any software is also essential.

**Types of Assistance.** The program only provides reimbursement for approved costs associated with the implementation of the approved project. Projects will be funded until the funds are exhausted or preset limits are reached. Examples of costs that are not applicable for funding include items such as salaries, fringe benefits, indirect costs, disposable supplies, and day to day operating expenses (e.g. fuel, insurance, loan payments, rent, etc.) . In addition, land purchases or building funds do not qualify as an applicable project under this program.

In cases where a project is not completed or the full allocation of funding is not used, the department may redistribute funds at its discretion. The department reserves the right to fund a project at any level it feels appropriate, according to the availability of funds and justification for need as presented in the proposal. Any costs incurred prior to September 1, 1996 will not be eligible for reimbursement.

**Application Procedure.** Applicants must submit a proposal which includes the following information: a description of the organization and service area; a complete, specific description of the problem; a detailed explanation of what the proposed project is, how much it will cost, what the department share of the project will be, and what the benefits will be following completion of the project; an itemized budget for the project; the willingness and ability of the organization to provide 50% matching funds on applicable items as specified in the section titled "Range of Financial Assistance"; and how the benefits or impact of the project will be measured and reported.

Only one proposal will be accepted from an agency. A proposal may contain multiple projects, listed in the order of priority.

Proposals must be typed or computer generated on letter-sized paper following the format listed and not exceed five pages in length. Proposals should not be bound. Stapled or clipped proposals are acceptable. Additionally, the applicant may submit five additional pages of supporting documentation (e. g. letters of support, maps, etc). The fill in the blank application, included in the grant information packet, should be completed and returned to the department by June 28, 1996, and a copy submitted with the actual proposal.

The original and two copies of the application and proposal should be submitted by mail to: Gene Weatherall, Chief, Attention: Local Projects Grant Program, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

The application and proposal may be faxed to (512) 834-6611, no later than 5:00 p.m., July 31, 1996. Any proposal that is faxed will still require the original to be sent by mail to the address listed, and be postmarked prior to the stated deadlines. Once an application and proposal is received a confirmation notice will be sent within two weeks that will note receipt.

**Deadlines.** The deadline for submitting the application page will be 5:00 p.m., June 28, 1996. The application page should be mailed to the listed address or faxed to (512) 834-6611. The deadline for submitting proposals by fax will be 5:00 p.m., July 31, 1996. Only those proposals and copies that are post marked on or before July 31, 1996 will be reviewed, regardless of the circumstances. Applica-

tions may be mailed, hand delivered, or faxed. If delivered by hand the proposal must be taken to the Exchange Building, 2nd floor, Bureau of Emergency Management, 8407 Wall Street, Suite S220, Austin, Texas, no later than the specified deadline.

**Evaluation Process and Criteria.** Proposals will be reviewed and scored based on the information provided by the applicant. Evaluation criteria includes, but is not limited to, service area, type of organization, type of project, total cost of project, and the ability of the project to be completed in the required period of time. Consideration will be given in the following areas: the applicant's previous contract experiences with this grant program; not-for-profit EMS provider or first responder; EMS agencies participating in their Regional Advisory Council; cooperative proposals that combine multiple qualifying entities into a single proposal; volunteer organizations; groups providing satellite training programs (training conducted at remote sites other than the main campus); services that are upgrading their capabilities; agencies in rural or frontier areas of the state that are implementing a new service or upgrading their service; organizations that have been funded less than three times through this program; and public education programs.

Proposals will be reviewed to ensure that all budget items requested are applicable and appropriate, matching funds are available, and implementation of the proposed project is possible. Tentative approval will be given by the Chief of the Bureau of Emergency Management and the Associate Commissioner for Health Care Quality and Standards. Final approval will be given by the Commissioner of Health or his appointed agent. All projects not funded will remain active until the end of the funding cycle for consideration in the event funding becomes available.

**Information Statement.** The department strongly supports the concepts of cooperative applications between multiple providers and/or first responder programs, applications that clearly demonstrate and document regional projects involving multiple service organizations, and public education programs such as cardiopulmonary resuscitation (CPR) courses for local communities. Though not a prerequisite for this grant, the department encourages all applicants to pursue such programs. For additional information contact the EMS Local Projects Grant Program, 1100 West 49th Street Austin, Texas 78756, (512) 834-6700 or log onto the EMS Electronic Bulletin Board at (512) 834-6638 and refer to the grants menu.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603398 Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: March 8, 1996

◆ ◆ ◆  
**Health and Human Services  
Commission  
Public Notice**

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 96-03, Amendment Number 504.

The amendment revises OB/GYN procedure codes and reflects the reimbursement rates applicable to each code. The amendment was effective February 1, 1996.

If additional information is needed, please contact Genie DeKneef, Texas Department of Health at (512) 338-6509.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603332 Marina S. Henderson  
Executive Deputy Commissioner  
Health and Human Services Commission

Filed: March 8, 1996

◆ ◆ ◆  
**Texas Higher Education Coordinating Board**

**Request for Proposal**

*(Editor's Note: The following request for proposal was inadvertently omitted from the March 8, 1996 issue of the Texas Register. The Texas Higher Education Coordinating Board submitted the request on February 29, 1996.)*

Under the provisions of Texas Government Code 2254, Subchapter B, the Texas Higher Education Coordinating Board (THECB) invites proposals from qualified consultants to conduct a study by utilizing focus groups to analyze the feasibility and advisability of defining and establishing regional areas of principal responsibility for health professions education offered by public institutions of higher education in Texas. General Information. Senate Concurrent Resolution 124, passed in 1995 by the 74th Legislature, directs the THECB to study the feasibility and advisability of defining and establishing regional areas of principal responsibility for health professions education. The legislation proposes that the regions would be established in order to ensure statewide access to programs and establish a specific level of accountability for each public institution in its designated service area. Consultants will conduct a study through the use of focus groups to analyze the issues concerning access to educational and health service programs in Texas, the potential of regionalization to address these issues, options for models of regionalization, the costs and benefits of such models, and alternatives to regionalization to accomplish increased access to and accountability of programs. The final written report will contain study methodology, an analysis of consensus of the focus groups on the issues above, potential recommendations for action, and options for additional study of this issue.

**Proposal Instructions.** Detailed specifications concerning this project will be made available in proposal preparation instructions, which may be obtained by contacting Karen J. Williams, Associate Program Director, Division of Health Affairs, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or by phone at (512) 483-6540. In general, the proposal should include a description of the consultant firm, the proposed approach to the study, a description of the personnel who would be performing the study (including resumes) and how they will be utilized and organized, the proposed schedule of activities, a description of previous related work by the company with references, and a proposed budget for the study. Proposals must be received by 5:00 p.m., Tuesday, March 26, 1996, to be considered. Three copies of the final proposal are required and may be mailed to Karen J.

Williams, Associate Program Director, Division of Health Affairs, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or hand delivered to Division of Health Affairs, Texas Higher Education Coordinating Board, 7745 Chevy Chase Drive, Austin, Texas, 78752.

**Selection Process.** Proposals will be reviewed, ranked, and selected on the ability of each proposer to carry out all requirements contained in the RFP. The THECB will base selection on, among other things, the demonstrated competence, knowledge and qualifications of the proposer in conducting focus group studies, the reasonableness of the service to be received in relation to the cost, and on the right to select from the highest ranking proposals those that address all requirements in the RFP. The THECB reserves the right to negotiate modifications to improve the quality or cost effectiveness of any proposal. If other considerations are equal, preference will be given to a private consultant whose principal place of business is in Texas or who will manage the consulting contract wholly from an office in Texas. Historically underutilized businesses are encouraged to participate in the submission of proposals.

**Project Timing and Cost.** Contingent upon negotiation of a contract, the period of the contract is anticipated to be April 8, 1996 through July 8, 1996. The consultants selected to conduct the engagement will also be required to submit periodic progress reports and a final report as requested by staff of the THECB Division of Health Affairs. Funding of the study shall not exceed \$28,000. The anticipated award date of the contract is April 8, 1996.

**General Award and Conditions.** The Texas Higher Education Coordinating Board reserves the right to accept or reject any (or all) proposals submitted. The information contained in this Request for Proposals is intended to serve only as a general description of the services desired. Additional terms and conditions relating to this Request for Proposals will be provided in the proposal preparation instructions. The THECB is not obligated to execute a resulting contract, provide funds, or endorse any proposal that is submitted in response to this RFP. This RFP does not commit the THECB to award a contract or pay any cost incurred in the preparation of a response.

Issued in Austin, Texas, on February 28, 1996.

TRD-9602842 James McWhorter  
Assistant Commissioner for Administration  
Texas Higher Education Coordinating Board

Filed: February 29, 1996

◆ ◆ ◆  
**Texas Department of Housing and Community Affairs**  
**1996 Application Workshops**

The Texas Department of Housing and Community Affairs, HOME Investment Partnerships (HOME) Program, invites you to attend one of four application workshops for Program Year 1996. HOME staff will introduce the HOME regulations and requirements of each activity, and will provide guidance on how to complete the various applications. *Note: Applications will not be available to the public until the first workshop.*

**Application Activity Time**

Tenant-Based Rental Assistance 8:30 a.m.-9:30 am  
Owner-Occupied Housing Assistance 9:45a.m.-11:30 am  
Lunch 11:30 a.m.-12:45 p.m.  
First-Time Homebuyer Assistance 12:45 p.m.-2:00 p.m.  
Interim Construction Financing 2:15 p.m.-3:45 p.m.  
Rental Project Assistance\* 4:00 p.m.-5:00 p.m.

\*The Rental Project Assistance Workshop will not be an application workshop. The applications will not be out at that time. The Workshop will be used to discuss the program requirements and the guidelines of the 1996 Rental Project Assistance fund.

Due to limited space, we are requiring pre-registration by April 1, 1996. To pre-register, send the name of your organization, address, phone number, contact person, and the number of people who will be attending to the HOME Program, TDHCA, P.O. Box 13941, Austin, Texas 78711-3941; or fax it to (512) 475-3287. Please include your choice of workshop locations. Walk-ins will be welcome, however, materials will be limited.

Requests for applications should be mailed to: HOME Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941 or fax to (512) 475-3287. For additional information call (512) 475-3109. Thank you for your interest.

#### Workshop Dates and Locations:

April 4, 1996 Edinburg  
Edinburg Auditorium  
415 West McIntyre  
Edinburg, Texas 78540

April 10, 1996 Fort Worth  
Tarrant County Housing Partnerships  
605 East Berry Street, Suite 112  
Fort Worth, Texas 76110

April 12, 1996 Lubbock  
Bingo Hall  
1701A Parkway Drive  
Lubbock, Texas

April 15, 1996 Lufkin  
Lufkin City Hall  
300 Shephard Avenue, City Hall  
Lufkin, Texas 75901

October 18, 1996 Austin  
Texas Department of Housing and Community Affairs  
507 Sabine, Fourth Floor  
Austin, Texas 78701

Individuals who require auxiliary aids or services for these meetings should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603408

Larry Paul Manley  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: March 11, 1996

## Texas Department of Human Services Notice of Intent to Purchase Finger Print Imaging Services

The Texas Department of Human Services (TDHS) announces that it intends to purchase and/or lease equipment and related services to implement a Finger Print Imaging system under the "catalogue purchase procedure" established pursuant to Government Code, Chapter 2157.

The TDHS plans to procure a system and related services from a single vendor which, at a minimum, provides the following: system hardware; system software; application support; TDHS staff training in system use; system maintenance; and all other related services.

A conference for potential offerors will be held Friday, March 22, 1996, at 9:00 a.m. in Room 2.102 of the Joe C. Thompson Center, located at the corner of 26th and Red River streets on the University of Texas at Austin campus.

Only offers from "Qualified Information System Vendors" will be considered in this procurement. For information about how to become a "Qualified Information Systems Vendor", contact Jamie Siegel, General Services Commission, Purchasing Division, Catalog Section, by calling (512) 463-3567, or by writing P.O. Box 13047, Austin, Texas 78711. Requests for information about the Finger Print Imaging System Project should be directed to Robert Ambrosino, Finger Print Imaging System Project Director, at (512) 438-5456, or by writing P.O. Box 149030, Mail Code E-304, Austin, Texas 78714.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603481

Glen Scott  
General Counsel  
Texas Department of Human Services

Filed: March 12, 1996

## Open Solicitation for Crane County

*(Editor's Note: The following Notice of Open Solicitation for Crane County was inadvertently omitted from the March 8, 1996, issue of the Texas Register. The Texas Department of Human Services submitted the notice on March 1, 1996.)*

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2324, in the March 31, 1995, issue of the *Texas Register* (20 TexReg 2443), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for Crane County, County #052,

which has no nursing facility and a population of over 5,000. Potential contractors seeking to contract for medic-aid nursing facility beds in Crane County must submit a written reply (as described in 40 TAC §19.2324) to TDHS, Gary L. Allen, Certification, Provider Enrollment, & Billing Services, Long Term Care-Regulatory, Mail Code Y-976, Post Office Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m. April 8, 1996, the last day of the open solicitation period. Potential contractors will be placed on a waiting list for the primary selection process in the order that the beds which were being proposed for Medicaid certification were initially licensed. The primary selection process will be completed on April 18, 1996. If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 90%, TDHS will place a public notice in the *Texas Register* announcing an additional open solicitation period for those individuals wishing to construct a facility.

Issued in Austin, Texas, on March 1, 1996.

TRD-9602903      Glen Scott  
                          General Counsel  
                          Texas Department of Human Services

Filed: March 1, 1996

◆           ◆           ◆  
**Texas Department of Insurance**  
**Insurer Services**

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for incorporation in Texas for Republic National Life Insurance Company, a domestic life, accident and health company. The home office is in Houston, Texas.

Application for a name change in Texas for Texas Health Visions Insurance Company, a domestic life, accident and health company. The proposed new name is Amil International Insurance Company, Inc. The home office is in Austin, Texas.

Application for a name reservation in Texas for Anthem Health Plan of Texas, Inc., a domestic health maintenance organization. The home office is in Dallas, Texas.

Application for a name reservation in Texas for The Beacon Patient-Physician Associations, L.L.C., a domestic health maintenance organization. The home office is in Dallas, Texas.

Application for a name reservation in Texas for United HealthCare of Texas, Inc., a domestic health maintenance organization. The home office is in Austin, Texas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603496      Alicia M. Fechtel  
                          General Counsel and Chief Clerk  
                          Texas Department of Insurance

Filed: March 12, 1996

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission in Texas for The Bankers Surety Company, a foreign fire and casualty company. The home office is in Topeka, Kansas.

Application for a name change in Texas for Prudential Reinsurance Company, a foreign fire and casualty company. The proposed new name is Everest Reinsurance Company. The home office is in Wilmington, Delaware.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603498      Alicia M. Fechtel  
                          General Counsel and Chief Clerk  
                          Texas Department of Insurance

Filed: March 12, 1996

◆           ◆           ◆  
**Notice**

The Commissioner of Insurance, or his designee, will consider approval of a rate filing request outside the promulgated flexibility band filed by Capital City Insurance Company pursuant to Texas Insurance Code Annotated, Article 5.101, §3(g). They are proposing rates of -32% for all classes and coverages for commercial automobile.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, (512) 475-1761.

This filing is subject to Department approval without a hearing unless an objection is filed with the Chief Economist, Birny Birnbaum, at the Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603497      Alicia M. Fechtel  
                          General Counsel and Chief Clerk  
                          Texas Department of Insurance

Filed: March 12, 1996

◆           ◆           ◆  
**Notice of Application by Healthsource**  
**Texas, Inc., Austin, Texas for Issuance**  
**of a Certificate of Authority to**  
**Establish and Operate an HMO in the**  
**State of Texas**

Notice is given to the public of the application of HEALTHSOURCE TEXAS, INC., Austin, Texas for the issuance of a certificate of authority to establish and operate a health maintenance organization (HMO) offering basic health care services in the State of Texas in compliance with the Texas HMO Act and rules and regulations for HMOs. The application is subject to public inspection at the offices of the Texas Department of Insurance, HMO Unit, 333 Guadalupe, Hobby Tower I, Sixth Floor, Austin, Texas.



Upon consideration of the application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to issue a certificate of authority to HEALTHSOURCE TEXAS, INC. without a public hearing.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603499      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: March 12, 1996

### Notices of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2213 on March 28, 1996, at 1:30 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider and possibly take action on the staff recommendations to designate the Texas Insurance Checking Office as the Texas statistical agent for residential property insurance; the National Council on Compensation Insurance as the Texas statistical agent for workers' compensation insurance; and the Insurance Services Office as the Texas statistical agent for commercial and miscellaneous personal lines insurance.

Under Texas Insurance Code, Article 21.69, the designation of a statistical agent in Texas is at the sole discretion of the Commissioner of Insurance, subject to statutory requirements.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603495      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: March 12, 1996

The Commissioner of Insurance will hold a public hearing under Docket Number 2214, on March 28, 1996, at 2:00 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider a proposed appointment to the Board of Directors of the Texas Catastrophe Property Insurance Association (TCPIA). Harley Londrie of Port Isabel has been recommended by the Office of Public Insurance Counsel to serve as a representative of the general public on the TCPIA Board of Directors.

Mr. Londrie has been nominated to serve the remaining term of Reene Vititoe Braggs of Port Arthur. Mr. Londrie's term will expire the third Tuesday of March 1997. The Insurance Code, Article 21.49, §5(g) provides that the TCPIA Board of Directors shall be composed of nine members. Article 21.49, §5(g)(2) provides that two of these members shall be representatives of the general public, nominated by the Office of Public Insurance Counsel, who, as of the date of the appointment, reside in a catastrophe area and are TCPIA policyholders.

The hearing is held pursuant to the Insurance Code, Article 21.49, §5A which provides that the Commissioner, after notice and hearing, may issue any orders considered necessary to carry out the purposes of Article 21.49 (Catastrophe Property Insurance Pool Act), including, but not limited to, maximum rates, competitive rates, and policy forms. Any person may appear and testify for or against the proposed appointment.

Issued in Austin, Texas, on March 13, 1996.

TRD-9603537      Alicia M. Fechtel  
General Counsel and Chief Clerk  
Texas Department of Insurance

Filed: March 13, 1996

The Commissioner of Insurance will hold a public hearing under Docket Number 2215, on March 28, 1996, at 2:00 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to hear public testimony on the recommended plan of operation of the Residential Property Insurance Market Assistance Program (MAP) Executive Committee. The purpose of this hearing is to take public comment on the recommended MAP plan of operation prior to its publication in the *Texas Register* as a proposed rule. All interested parties, including members of the general public, are invited to attend and provide comments and recommendations. The Commissioner will determine whether to include any of the comments received at the hearing in the published plan of operation rule proposal. A subsequent hearing will be held following publication in the *Texas Register* and prior to adoption.

Pursuant to the Insurance Code, Article 21.49-12, §2(a), the MAP Executive Committee is required to develop and submit a plan of operation to the Commissioner for adoption by rule. The MAP Executive Committee is an 11-member body appointed by the Commissioner pursuant to the Insurance Code, Article 21.49-12 to advise and consult with the Commissioner on the administration of the MAP.

The Commissioner is interested in hearing from consumers, insurers, agents, and any other interested parties on the recommended plan of operation, including (1) eligibility requirements; (2) policy forms and types of coverages; (3) application forms and procedures; (4) role and responsibilities of agents and participating insurers; (5) procedures and requirements for agent commissions; (6) procedures for monitoring the operation of the MAP; (7) criteria and procedures for mandatory participation by insurers; (8) procedures for amendment of the plan of operation; and (9) procedures for termination of the MAP; and (10) any other matters related to the plan of operation.

This hearing is held pursuant to the Insurance Code, Articles 1.04C and 21.49-12. Article 1.04C requires the Commissioner to provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the jurisdiction of the Commissioner. Article 21.49-12, §2(a) requires the MAP Executive Committee to develop and submit a plan of operation to the Commissioner for adoption by rule.

Copies of the recommended plan of operation are available from the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies, please contact Sylvia Gutierrez at (512) 463-5327 (refer to Reference Number P-0396-08-I).

Anyone wishing to comment on this matter is requested to complete a witness card which will be available at the hearing site immediately prior to the hearing.

Issued in Austin, Texas, on March 13, 1996.

Filed: March 13, 1996

## Texas Natural Resource Conservation Commission

### Consultant Proposal Request

This request for consulting services is filed under the provisions of Texas Government Code, Chapter 2254.

The Texas Natural Resource Conservation Commission (TNRCC) announces that it plans to issue a request for proposal (RFP) inviting private consultants to provide offers of consulting services to be performed in conjunction with the Texas 1996 Remote Sensing Feasibility Study. The RFP is scheduled to be released by the TNRCC no earlier than March 19, 1996, and bids are to be due no later than 5:00 p.m. on April 22, 1996.

The State of Texas is considering the use of remote sensing technology to identify high-polluting vehicles in the Texas nonattainment areas. Texas currently plans to require periodic emissions testing in conjunction with the annual safety inspection for those vehicles registered in Dallas, Tarrant, El Paso, and Harris counties. Remote sensing technology may be useful for successful identification of high-emitting vehicles operating within these counties that are either commuting in from surrounding areas or are registered within these counties but are not complying with emissions testing requirements. It has been demonstrated that remote sensing technology may be useful for successful identification of very high-emitting vehicles. Remote sensing technology is being considered for use to identify commuting vehicles in Dallas, Tarrant, El Paso, and Harris counties.

The selected consultant will be required to perform functions of site selection and data analysis as they relate to the application of remote sensing technology in the Texas nonattainment areas of Dallas/Fort Worth, El Paso, and Houston. The consultant will be required to prepare and submit an overall work plan for conducting the remote sensing feasibility study consistent with TNRCC guidelines. The consultant will select a limited number of data collection sites to conduct the feasibility study and will identify the full range of eligible remote sensing sites within each nonattainment area. Identified sites will be submitted to the TNRCC in report format. The consultant will also fully analyze data collected at each of the designated study sites in order to evaluate the feasibility and overall cost effectiveness of operating a comprehensive remote sensing program in Texas. This analysis will first be submitted to the TNRCC in draft form and subsequently in final form. Further detail on the full scope of work will be included in the RFP.

After March 18, 1996, copies of the RFP will be filed with the TNRCC Record Services located at 12124 Park 35 Circle, Building C, Room 108W, Austin, and at the Texas State Library located at 1201 Brazos Street, Austin. The TNRCC will evaluate the proposals based upon demonstrated competence, knowledge, and qualifications and on reasonableness of the proposed fee. If all other considerations are equal, the TNRCC will give preference to a private consultant whose principal place of business is in the state or who will manage the consulting contract

wholly from an office in the state. The proposal evaluation will be performed by a committee of TNRCC personnel. Further details regarding evaluation criteria will be contained in the RFP. Subsequent to the proposal evaluation process, the TNRCC will negotiate with the selected consultant. Prospective consultants who have questions or who are interested in obtaining a copy of the RFP should contact Kerri Rowland of the TNRCC Legal Division at (512) 239-5693.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603532

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: March 13, 1996

### Enforcement Orders

An agreed enforcement order was entered regarding TEXAS URETHANES, INC., Docket Number 96-0231-IHW-E (SWR Number 33619) on February 28, 1996, assessing \$19,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting William C. Foster, Staff Attorney, at (512) 239-3407 or Pat Finn, Enforcement Coordinator, at (512) 239-2558, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

An agreed enforcement order was entered regarding CHRIS PATELIS, Docket Number 96-0227-PST-E (TNRCC Facility ID 43624, Enforcement ID E10991) on February 28, 1996, assessing \$3,000 in administrative penalties with \$2,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond C. Winter, Staff Attorney, at (512) 239-0477 or Jaime Lopez, Enforcement Coordinator, at (512) 239-5868, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603377

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

### Notice of Application to Appropriate Public Waters of the State of Texas

The following notices of application for permits to appropriate Public Waters of the State of Texas were issued during the period of February 14-29, 1996.

CITY OF RICHARDSON; Application Number 5544 for a permit pursuant to Texas Water Code, §11.121, and TNRCC Rules 30 TAC §§295.1, et seq to construct and maintain a dam creating a reservoir (Renner Road West Detention Pond) on an unnamed tributary (known locally as Prairie Creek) of Spring Creek, tributary of Rowlett Creek, tributary of East Fork Trinity River, tributary of the Trinity River in Collin County, approximately 16 miles southwest of McKinney, Texas. The dam and reservoir will be used for in-place recreation use, with no diversions or withdrawals of the impounded surface waters.

CITY OF WHITE SETTLEMENT; Application Number 5543 for a permit pursuant to Texas Water Code, §11.121, and TNRCC Rules 30 TAC §§295.1, et seq to construct and maintain a four-foot dam creating a reservoir on an unnamed tributary of the West Fork Trinity River, tributary of the Trinity River, Trinity River Basin. The reservoir will be used for in-place recreational purposes in conjunction with the development of Saddle Hills Park West, located approximately seven miles west of Fort Worth in Tarrant County, Texas. The dam will be a small, low hazard structure. The reservoir will have a surface area of 1.95 acres and a capacity of 14.2 acre-feet.

CITY OF NACOGDOCHES; Application Number 08-4864B to amend Certificate of Adjudication Number 08-4864, as amended, pursuant to Texas Water Code, §11.122, and TNRCC Rules 30 TAC §§295.1, et seq. The Certificate, as amended, includes authorization for the City of Nacogdoches to maintain an existing dam and reservoir (Lake Nacogdoches) on Bayou Loco, tributary of the Angelina River, tributary of the Neches River, Neches River Basin, in Nacogdoches County, Texas, and to impound therein not to exceed 42,318 acre-feet of water. The Certificate, as amended, also authorizes use of the impounded water in the reservoir for recreational use and the diversion and use of not to exceed 22,000 acre-feet of water per annum from the reservoir at a maximum rate of 62.2 cubic feet per second (cfs) for municipal use. The Certificate includes a time priority of January 5, 1970, for the impoundment of 41,000 acre-feet in the reservoir and the municipal water authorized for diversion. The authorization to impound the remaining 1,318 acre-feet of water has a time priority of June 27, 1977. Applicant seeks to amend Certificate of Adjudication Number 06-4864, as amended, by increasing the amount of water authorized for diversion and use from the reservoir for municipal purposes from 22,000 acre-feet per annum to 30,000 acre-feet per annum, and to increase the maximum diversion rate from 62.2 cfs to 82.9 cfs. No other changes are requested.

COMAL COUNTY FRESH WATER SUPPLY DISTRICT NUMBER 1; Application Number 4491B to amend Water Use Permit Number 4163, as amended, pursuant to Texas Water Code, §11.122, and TNRCC Rules 30 TAC §§295.1, et seq. Permit Number 4163 (Application Number 4491) was issued to the Cypress Lake Gardens Property Owners Association, Inc. on January 4, 1985, and authorized permittee, with a time priority of September 4, 1984, to maintain three existing dams and reservoirs on Rebecca Creek and to impound a total of 16.8 acre-feet of water in the reservoirs for recreation purposes. Permittee was also authorized to divert and use not to exceed five acre-feet of water per annum from the underflow of Rebecca Creek via two wells at a maximum combined rate of 35 gallons per minute for municipal purposes in permittee's subdivision in Comal County, Texas subject to a subordination agreement with the Guadalupe-Blanco River Authority (GBRA). Permit Number 4163 has been amended once and currently includes authorization for permittee to divert and use not to exceed 35 acre-feet of water per annum from the underflow of Rebecca Creek for municipal purposes in permittee's subdivision in Comal County, Texas. Use of the additional 30 acre-feet of water per annum has a time priority of August 6, 1985. The amendment was based on a new subordination agreement with GBRA. Applicant seeks authorization to increase the authorized diversion and use of municipal water from 35 acre-feet to 120 acre-feet per annum, to add a diversion point (a well which captures the underflow of Rebecca Creek) and to increase the maximum diversion

rate from the three wells to 270 gallons per minute. The well is referred to as a "spring well" or "Tymis well" and is owned by Tymis Corporation. The applicant has indicated they have a lease/purchase contract with the corporation for use of the well. Applicant has submitted another subordination agreement with the Guadalupe-Blanco River Authority for the additional water.

FRANK AND PAMELA ARNOSKY; Application Number 5545 for a permit pursuant to Texas Water Code, §11.121, and TNRCC Rules 30 TAC §§295.1, et seq to divert 7.5 acre-feet of water per annum from an unnamed tributary of Wanslow Creek, tributary of the Blanco River, tributary of the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin. Diverted water will be used to irrigate ten acres of land out of two tracts totaling 20,553 acres of land in Hays County, approximately 28 miles northwest of San Marcos, Texas.

MARTHA S. JAMESON, DAVID MACK JAMESON, LEONARD W. STASNEY, MARCIA D. STASNEY, MARGARET SUE STASNEY, and GRACE B. STASNEY; Application Number 4578B to amend Water Use Permit Number 4246, as amended, pursuant to Texas Water Code, §11.122, and TNRCC Rules 30 TAC §§295.1, et seq. Water Use Permit Number 4246, as amended, authorizes (with a priority date of June 18, 1985) Martha S. Jameson, David Mack Jameson, Leonard W. Stasney, Marcia D. Stasney, Margaret Sue Stasney, and Grace B. Stasney to divert and use not to exceed 820 acre-feet of water per annum at a maximum rate of 11.59 cubic feet per second (5,200 gallons per minute) from a specific point on the Brazos River, Brazos River Basin, and to irrigate 640.311 acres of land out of 667.311 acres in the T. J. Chambers Grant, Abstract Number 12, Falls County, approximately four miles southwest of Marlin, Texas. The permit, as amended, indicates that diversions are authorized only when the flow of the Brazos River at U.S.G.S. Gaging Station Number 08098290 near Highbank, Texas, exclusive of any releases by the Brazos River Authority from its upstream reservoirs for downstream use, equals or exceeds 640 cubic feet per second (cfs) during the months of April-August, and equals or exceeds 120 cfs during all other months, and that the permit will expire and become null and void on December 31, 1995, unless permittees apply for an extension of the term and such application is subsequently granted for an additional term or in perpetuity. Applicants seek to amend Permit Number 4246, as amended, to delete or extend the expiration date. No other changes are requested.

WHITE RIVER MUNICIPAL WATER DISTRICT; for an extension of time to commence and complete construction of a dam and reservoir pursuant to Texas Water Code, §11.145, and TNRCC Rules 30 TAC §§295.1, et seq. Pursuant to 30 TAC §295.159, the Commission will also consider whether the applicant demonstrated sufficient due diligence and had justification for the delay of this project. Certificate Number 12-3711 was issued to the applicant on February 20, 1985, based on Permit Number 2590 (Application Number 2798) issued July 24, 1970, and authorizes the construction and maintenance of a dam creating a 57,420 acre-foot capacity reservoir (Post Dam and Reservoir) on the North Fork Double Mountain Fork, tributary of the Double Mountain Fork Brazos River, tributary of the Brazos River, Brazos River Basin, approximately six miles east of Post, Texas in Garza County, Texas. The certificate also authorizes the diversion and use of water from the reservoir not to exceed: (1) 5,600 acre-feet of water per annum for municipal purposes; (2) 1,000 acre-

feet of water per annum for industrial purposes; and (3) 4,000 acre-feet of water per annum for mining purposes. The certificate requires that construction be in accordance with very specific special conditions relating to design and reservoir measurement and also be in accordance with plans which are subject to Commission approval. There have been nine time extension requests granted by the Commission since 1972. Currently, construction is supposed to commence by July 24, 1996, and be completed by July 24, 1999. Construction plans and specifications for construction of the dam have not been approved by the Commission and construction has not begun. Applicant is requesting that the time to commence construction of the project be extended from July 24, 1996 to July 24, 2000, and the time to complete construction of the project be extended from July 24, 1999 to July 24, 2004. This project is linked to the development of the City of Lubbock's Justiceburgh Project (reservoir) as part of the regional water supply. In the co-development of water supply projects, a common supply line is intended to be constructed for delivery of water to the intended user, who is the City of Lubbock. The City of Lubbock has not yet completed the purchase of all the mineral rights for the Justiceburgh Project and, therefore, development of this component of the plan is delayed. The applicant states the extension is necessary because financing of the project is dependent upon the applicant entering into a contract with the City of Lubbock for use of water from this project.

The Executive Director will act on these applications unless a written hearing request that includes the following information is filed within 30 days after newspaper publication of the notice of application: the name, mailing address, and daytime phone number of the person requesting the hearing; the name of the applicant and the application number; the statement "I/we request a public hearing"; a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; and the location of your property relative to the applicant's operations.

If a hearing request is filed, the Executive Director will not act on the application and will forward the application and hearing request to the TNRCC Commissioners for consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

Requests for hearing must be submitted in writing during the 30-day notice period to the Chief Clerk's Office, MC105, TNRCC, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-3315.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603378

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996



#### Notice of Application for Waste Disposal Permits

Notices of applications for waste disposal permits issued during the period of February 28-March 8, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

EAST CEDAR CREEK FRESH WATER SUPPLY DISTRICT, P.O. Box 309, Mabank, Texas 75147; the wastewater treatment facilities and the disposal site are approximately six miles south of Mabank, Texas on State Highway 198, then 0.8 miles south of Enchanted Drive to the plant entrance in Henderson County, Texas; amendment; 11890-01.

ERGON ASPHALT AND EMULSIONS, INC., P.O. Box 1639, Jackson, Mississippi 39215-1639; the applicant operates an asphalt emulsions blending facility; the plant site is at 209 Airport Road, approximately one-quarter mile west of the intersection of Airport Road and Jefferson Avenue, south of the City of Mount Pleasant, Titus County, Texas; new; 03877.

LAKE OAKS LANDING, INC., P.O. Box 776, Point Blank, Texas 77364; the Lake Oaks Landing Wastewater Treatment Facilities are approximately four miles south and 1,600 feet east of the intersection of State Highway 156 and U.S. Highway 190, on Lake Livingston, in San Jacinto County, Texas; renewal; 13039-01.

CITY OF LAKESIDE CITY, P.O. Box 4287, Wichita Falls, Texas 76308; the wastewater treatment facilities and the disposal site are approximately 2.5 miles south of the Wichita Falls State Hospital and approximately 7,000 feet southeast of the intersection of State Highway 79 and FM Road 1954 in Archer County, Texas; renewal; 13253-01.

CITY OF SONORA, 201 East Main, Sonora, Texas 76950; the City of Sonora Wastewater Treatment Plant is south of Sonora and south of Dry Devils River, approximately 6,000 feet south and 2,000 feet west of the intersection of U.S. Highways 277 and 290 in Sutton County, Texas; renewal; 10545-01.

TEXAS PARKS AND WILDLIFE DEPARTMENT, 4200 Smith School Road, Austin, Texas 78744; the Martin Dies, Jr. State Park Wastewater Treatment Facilities are 500 feet east of Park Road 48 and approximately 3,500 feet due south of the intersection of U.S. Highway 190 and Park Road 48 in Jasper County, Texas; renewal; 11718-01.

ELF ATOCHEM NORTH AMERICA, INC., 18000 Crosby Eastgate Road, Crosby, Texas 77532; has applied to renew and amend Permit Numbers WDW-122 and WDW-230 which authorize the subsurface disposal of non-hazardous industrial wastes generated on-site from the manufacture of petrochemical products; the facility is located at 18000 Crosby Eastgate Road near the intersection of Crosby Eastgate Road and U.S. Highway 90 near Crosby, Harris County, Texas; renewal and amendment; Permit Numbers WDW-122 and WDW-230.

PHILLIPS 66 COMPANY, Borger Complex, P.O. Box 271, Borger, Texas 79008-0271; has applied to renew and amend Permit Numbers WDW-67 and WDW-68 which authorize the subsurface disposal of non-hazardous industrial wastes generated on-site from the production of specialty chemicals and plastics; the facility is located on a company-owned complex approximately 2.5 miles south of Plemons County Road and approximately 2.5 miles northeast of Borger in Hutchinson County, Texas; renewal and amendment; Permit Numbers WDW-67 and WDW-68.

BETZ LABORATORIES, INC., the applicant operates Betz's Houston Plant which produces dry and liquid water treatment chemicals by blending organic and/or inorganic chemicals, the plant site is at 6900 Nelms Avenue immediately west of Houston Hobby Airport in the City of Houston in Harris County, Texas, renewal, 10243-01.

EGP FUELS COMPANY, the applicant operates its Morgan Point Plant, an organic chemical manufacturing facility, the plant is at 1200 North Broadway in the City of Morgans Point in Harris County, Texas, renewal, 00440.

CITY OF HOUSTON, the wastewater treatment facilities are at 9640 Kingspoint Street, southwest of the southern terminus of Granadier Street, approximately 2,640 feet south of Fuqua Road in South Houston in Harris County, Texas, renewal, 10243-01.

CITY OF GRANDVIEW, the wastewater treatment facilities are on the north side of County Road 102, approximately 1.5 miles southeast of the City of Grandview in Johnson County, Texas, renewal, 10180-01.

HURST CREEK MUNICIPAL UTILITY DISTRICT, the wastewater treatment facilities are approximately 600 feet south of World of Tennis Boulevard and 1,200 feet west of Lohmans Ford Road in the Lakeway Development Complex in Travis County, Texas, amendment, 12215-01.

PORT OF HOUSTON AUTHORITY, the wastewater treatment facilities are at 16800 Peninsula Boulevard in Harris County, Texas, renewal, 13203-01.

CITY OF RIO VISTA, the wastewater treatment facilities are at 702A Cleburne Whitney Road approximately 4,000 feet east and 2,400 feet south of the intersection of County Road 916 and State Highway 174, southeast of the City of Rio Vista in Johnson County, Texas, 13546-01.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603373

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

◆ ◆ ◆  
**Notice of Availability and Request for  
Comments on a Proposed Natural  
Resource Damages Consent Decree  
and Restoration Plan**

*(Editor's Note: The following Notice of Availability was inadvertently omitted from the March 8, 1996, issue of the Texas Register. The Texas Natural Resource Conservation Commission submitted the notice on February 29, 1996.)*  
*AGENCIES: Texas Natural Resource Conservation Commission (TNRCC), Texas Parks and Wildlife Department (TPWD), Texas General Land Office (TGLO), United States Department of the Interior (DOI) and National Oceanic and Atmospheric Administration (NOAA)(hereafter, Natural Resource Trustees).*

**ACTION:** Notice of availability of a proposed natural resource damages settlement and of a 30 day period for public comment on the Natural Resource Damages Consent Decree and its associated Restoration Plan.

**SUMMARY:** Notice is hereby given that on February 21, 1996, a proposed Consent Decree was lodged in United States and State of Texas v. Mobil Mining and Minerals Co., Civil Action Number H96-0605, with the United States District Court for the Southern District of Texas. This Consent Decree provides the terms of a settlement of claims of the United States and the State of Texas against Mobil Mining and Minerals Company (Mobil) for natural resource damages in connection with the April 6, 1992, release of hazardous substances from the Mobil facility in Pasadena, Texas. The settlement document, entitled "Consent Decree Addressing Natural Resource Damages" and its attached Restoration Plan, is available for public review and comment for a period of 30 days.

The proposed Restoration Plan calls for Mobil to undertake a Wetlands Restoration Project which provides for the restoration or replacement of equivalent natural resources, and/or natural resource services, injured, destroyed, or lost as a result of the April 6, 1992, release of hazardous substances from the Mobil facility. The Wetlands Restoration Project will provide for the creation of approximately 17 acres of intertidal estuarine marsh and 15 acres of freshwater wetlands and enhanced upland habitat on property adjacent to the Houston Ship Channel at Mobil's Pasadena, Texas facility. Implementation of the Wetlands Restoration Project will provide valuable feeding and nursery habitat for aquatic organisms and terrestrial wildlife and have beneficial water quality effects on adjacent aquatic systems.

The full project is described in detail in a Restoration and Monitoring Plan which is incorporated into the Consent Decree. Mobil will be responsible for all project costs, including costs of obtaining necessary permits and right-of-ways for construction. The Natural Resource Trustees will review and approve final work plans for construction and performance monitoring, oversee project construction, and monitor post-construction project performance. Mobil is also required to execute and attach a conservation easement or other form of legal restriction on the property

to ensure the ecological services provided by the Project are protected in perpetuity on behalf of the public.

Additional provisions in the Consent Decree require Mobil to pay all past assessment costs and future Trustee oversight costs. Mobil is required to commit \$100,000 for maintenance and/or emergency restoration of the project site for three years after the success of the project is confirmed by the Trustees. Also outlined in the Consent Decree are the processes for Trustee oversight of the project and provisions for implementation or enforcement of the settlement, such as stipulated penalties, access to project records and the site, and procedures for dispute resolution.

The opportunity for public review of the proposed Consent Decree announced by this notice is required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C., §9622(i) and parallels the provisions included in 43 CFR 11.32(c) of the Natural Resource Damage Assessment regulations.

**DATES:** Comments must be submitted in writing on or before April 8, 1996, to Richard Seiler-(MC142) of the TNRCC, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2523. All written comments will be considered by state and federal Natural Resource Trustees in finalizing the proposed agreement.

**SUPPLEMENTARY INFORMATION:** On Monday, April 6, 1992, the southern retaining wall of Mobil Mining and Minerals Company's Number 3 gypsum stack experienced structural failure and released 45 million gallons of gypsum and acidic process water. The material released was a mixture of a number of substances, but was primarily a gypsum slurry containing a 2.31% solution of phosphoric acid with a pH of less than two standard units. The material was classified as hazardous because of its corrosivity and constituted a hazardous substance under the CERCLA, as amended, 42 U.S.C. 9601 et seq. The material flowed into flood control ditches, open fields, Cotton Patch Bayou, and eventually into the Houston Ship Channel through a barge basin. Large areas of terrestrial and aquatic habitat were physically covered by the material along the entire course of the release. The bulk of the material was released during the first day of the incident, however, the release continued for several days.

As a result of the release numerous natural resources were affected. Surface water quality within approximately seven miles of the Houston Ship Channel was adversely affected for at least one week. Injuries were sustained to freshwater, marine, and estuarine wildlife, fishes, invertebrates, plants and sediments. In addition, terrestrial wildlife, plants and soils were impacted by the release. The services provided by these resources, such as the food, shelter, and nursery values of the affected habitats were also impaired.

The incident is subject to the authority of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. Section 1321 et. seq. and CERCLA, 42 U.S.C. §9607 and §9613(b). The TPWD, TNRCC, TGLO, DOI, and NOAA, are designated co-Trustees of the natural resources injured by the release from the Mobil Mining and Minerals Company facility pursuant to the CERCLA, the FWPCA, and subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR §§300.600 - 300.615.

These state and federal agencies (co-Trustees) have determined that natural resources subject to their trust authority under these acts were exposed to phosphoric acid/gypsum as a result of this release. The quantity and concentration

of the material released was sufficient to result in injury to trust resources and information available to the Trustees indicates that trust resources were affected. Consequently the Trustees are seeking the compensation for natural resource damages as identified in the proposed agreement.

Interested members of the public are invited to request a copy of the proposed agreement from Richard Seiler of the TNRCC, P.O. Box 13087, Austin, Texas 78711-3087.

Issued in Austin, Texas, on March 4, 1996.

TRD-9602888

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: February 29, 1996

## Notice of Commission Action

The following matters have reached settlement agreements of all issues in controversy. Therefore, they have been remanded by the State Office of Administrative Hearings (SOAH) to the Executive Director of the TNRCC for administrative disposition. Information concerning these matters may be obtained by contacting the TNRCC Chief Clerk's Office MC105, P.O. Box 13087, Austin, Texas 78711, or by telephone at (512) 239-3300.

Glenwood Home Corporation doing business as Champions Glen Utility Company; TNRCC Docket Number 95-0890-UCR; SOAH Docket Number 582-95-1099; CCN Numbers 11310 and 20518 (Application Number 30799-G).

Buena Vista Water System; TNRCC Docket Number 96-0026-UCR; SOAH Docket Number 582-96-0141; CCN Number 11656; (Application Number 30979-G).

Lakeside Water Supply; TNRCC Docket Number 95-1640-UCR; SOAH Docket Number 582-95-1647; Application Number 30955-G.

Community Utilities Corporation; TNRCC Docket Number 95-1616-UCR; SOAH Docket Number 582-95-1645; CCN Numbers 12671 and 20765; Application Number 30973-G.

Abraxas Utility; TNRCC Docket Number 95-1588-UCR; SOAH Docket Number 582-95-1644; CCN Numbers 11596 and 20759; Application Number 30906-G.

Water Maintenance Company; TNRCC Docket Number 96-0061-UCR; SOAH Docket Number 582-96-0140; CCN Number 12056; Application Number 30936-R.

G and W Water Supply Corporation; TNRCC Docket Number 95-1587-UCR; SOAH Docket Number 582-95-1648; CCN Number 12508; Application Number 30730-S.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603372

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

**Notice of Opportunity to Comment on  
Permitting Actions—For the Week  
Ending March 8, 1996**

The following applications will be signed by the Executive Director in accordance with 30 TAC §263.2, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain uncontested permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office (Mailcode 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Consideration of the applications of Steiner Utility, Inc. (Steiner) to Amend Water and Sewer Certificates of Convenience and Necessity (CCN) Numbers 12024 and 20665 by Decertifying a Portion of the Certificated Areas and To Transfer a Portion of Water CCN Number 12024 to Travis County Water And Control and Improvement District (WCID) Number 17, CCN Number 12010 in Travis County, Texas (Applications 30427-Q, 30428-Q, and 30507-S, Vera Poe).

Signature of a Proposed Order Approving the Petition of Five Electors for Designation of a Meeting Place for Harris County Municipal Utility District Number 136. Petitioners request that the Commission designate a meeting place at 4045 Deerfield Village Dr., Houston, Texas (TNRCC Internal Control Number 082295-D03; Cindy Cartwright).

Issued in Austin, Texas, on March 8, 1996.

TRD-9603374  
Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

**Notice of Public Meetings**

The Waste Reduction Advisory Committee has established meeting dates for 1996. The committee is composed of representatives from industry, local government, public interest and environmental organizations, academia, and legislative representatives. The purpose of the committee is to advise the Texas Natural Resource Conservation Commission on the development of pollution prevention and waste reduction programs for Texas.

The meetings will be held on the following dates: April 18, July 11, and October 10 at the Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78753 in Building F, Room 2210. The meetings begin at 9:00 a.m. with an opportunity for public comments.

For more information contact Ken Zarker, Office of Pollution Prevention and Recycling at (512) 239-3145 or Internet: kzarker@smtpgate.tnrcc.state.tx.us

Issued in Austin, Texas, on March 13, 1996.

TRD-9603529  
Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: March 13, 1996

**Notice of Receipt of Application and  
Declaration of Administrative  
Completeness for Municipal Solid  
Waste Management Facility for the  
Week Ending March 8, 1996**

**APPLICATION BY CITY OF MIDLAND;** Proposed Permit Amendment Number MSW1605-B, authorizing an amendment to their Type I (Landfill) municipal solid waste facility permit. The site covers approximately 412 acres of land and is to receive approximately 400 tons of solid waste per day. The site is located approximately seven miles east of Midland and approximately 1/2 mile north of State Highway 158, in Midland County, Texas.

**APPLICATION BY WASTE MANAGEMENT OF TEXAS, INC.;** Proposed Permit Amendment Number MSW1025-B, authorizing a Type I (Landfill) municipal solid waste management facility permit. The site covers approximately 408 acres of land and is to receive approximately 4,000 tons of solid waste per day. The site is located approximately 2.25 miles E/SE of the intersection of I-35E and Highway 121 (to center of site) in Denton County, Texas.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

Requests for a public hearing or questions concerning procedures should be submitted in writing to the Chief Clerk's Office, Park 35 TNRCC Complex, Building F,



Room 4301, Texas Natural Resource Conservation  
Commission, Mail Code 105, P.O. Box 13087, Austin,  
Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603376

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

◆ ◆ ◆

### Notification of Availability of Grants for Construction of Scrap Tire Recycling Facilities

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of \$2 million in assistance grants for the purpose of promoting recycling of scrap tires. The TNRCC is requesting submission of proposals from entities that recently constructed or will soon construct facilities that recycle the rubber from scrap tires into useful and marketable products.

For this grant program, shredded tire chips are not considered as a "recycled" product; however, crumb rubber (small particles of rubber, with all the fibers and wire removed) is among those products considered as a recycled and marketable product. Also, tire incineration for energy recovery is not considered as "recycling for this grant program period".

Grants will be in the form of reimbursement for construction costs for recycling plants, as specified in the Request for Proposals (RFP). To be eligible for reimbursement, the eligible construction must have occurred after January 1, 1994; and the facility must be in production of a useful and marketable product for a period of at least 12 months before reimbursement can occur.

TNRCC anticipates that there will be more than \$2 million requested by eligible applicants; therefore, applicants should not expect to receive the complete amount requested. Lowest scoring applicants might not receive any funding.

In order to be considered for funding, proposals (applications plus required information) must be prepared and submitted in accordance with the RFP and other printed guidelines available from TNRCC as part of **Grant Application Packet "96-Tire-R"**. Entities or individuals desiring to receive this particular packet are encouraged to write, call, or FAX: Automotive Programs, Municipal Solid Waste Division-MC 125, P.O. Box 13087, Austin, Texas 78711-3087, Phone: (512) 239-6001 or (512) 239-6698, FAX: (512) 239-6015 or (512) 239-6717.

**Request Grant Application Packet "96-Tire-R"**. Note that the completed proposals must be sent to the individual and address named in the RFP: **The deadline for applying for a grant under this RFP is 5:00 p.m., Monday, May 6, 1996.**

Issued in Austin, Texas, on March 13, 1996.

TRD-9603539

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: March 13, 1996

### Notification of Availability of Grants for Retrofitting of Energy Recovery Facilities to Utilize Tire Shreds as Fuel

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of \$2 million in assistance grants for the purpose of promoting the use of tire shreds as fuel. The TNRCC is requesting submission of proposals from entities that recently completed or will soon complete retrofitting of existing energy recovery facilities to enable those facilities to utilize shredded tires as fuel.

Grants will be in the form of reimbursement for retrofitting costs for energy recovery facilities, as specified in the Request for Proposals (RFP). To be eligible for reimbursement, the eligible retrofitting must have occurred after September 1, 1995; and the facility must be in active utilization of tire shreds as fuel for a period of at least 12 months before reimbursement can occur.

TNRCC anticipates that there will be more than \$2 million requested by eligible applicants; therefore, applicants should not expect to receive the complete amount requested. Lowest scoring applicants might not receive any funding.

In order to be considered for funding, proposals (applications plus required information) must be prepared and submitted in accordance with the RFP and other printed guidelines available from TNRCC as part of **Grant Application Packet "96-Tire Shred-Retrofit"**. Entities or individuals desiring to receive this particular packet are encouraged to write, call, or FAX: Automotive Programs, Municipal Solid Waste Division-MC 125, P.O. Box 13087, Austin, Texas 78711-3087, Phone: (512) 239-6001 or (512) 239-6698, FAX: (512) 239-6015 or (512) 239-6717.

**Request Grant Application Packet "96-Tire Shred-Retrofit"**Note that the completed proposals must be sent to the individual and address named in the RFP: **The deadline for applying for a grant under this RFP is 5:00 p.m., Monday, May 6, 1996.**

Issued in Austin, Texas, on March 13, 1996.

TRD-9603540

Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: March 13, 1996

◆ ◆ ◆

### Notification of Availability of Grants for Retrofitting of Energy Recovery Facilities to Utilize Whole Used/Scrap Tires as Fuel

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of \$4 million in assistance grants for the purpose of promoting the use of whole used/scrap tires as fuel. The TNRCC is requesting submission of proposals from entities that recently completed or will soon complete retrofitting of existing energy recovery facilities to enable those facilities to utilize whole used/scrap tires as fuel.



Grants will be in the form of reimbursement for retrofitting costs for energy recovery facilities, as specified in the Request for Proposals (RFP). To be eligible for reimbursement, the eligible retrofitting must have occurred after September 1, 1995; and the facility must be in active utilization of whole used/scrap tires as fuel for a period of at least 12 months before reimbursement can occur.

TNRCC anticipates that there will be more than \$4 million requested by eligible applicants; therefore, applicants should not expect to receive the complete amount requested. Lowest scoring applicants might not receive any funding.

In order to be considered for funding, proposals (applications plus required information) must be prepared and submitted in accordance with the RFP and other printed guidelines available from TNRCC as part of Grant Application Packet "96-Whole Tire-Retrofit". Entities or individuals desiring to receive this particular packet are encouraged to write, call, or FAX: Automotive Programs, Municipal Solid Waste Division-MC 125, P.O. Box 13087, Austin, Texas 78711-3087, Phone: (512) 239-6001 or (512) 239-6698, FAX: (512) 239-6015 or (512) 239-6717.

Request Grant Application Packet "96-Whole Tire-Retrofit". Note that the completed proposals must be sent to the individual and address named in the RFP: The deadline for applying for a grant under this RFP is 5:00 p.m., Monday, May 6, 1996.

Issued in Austin, Texas, on March 13, 1996.

TRD-9603541 Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation  
Commission

Filed: March 13, 1996

### Provisionally-Issued Temporary Permits to Appropriate State Water

Listed are permits issued during the period of March 4-8, 1996.

Application Number TA-7634 by D. L. Lennon, Incorporated for diversion of two acre-feet for industrial (road construction) use. Water may be diverted from No Name Slough at the stream crossing of FM 14, approximately 22 miles southeast of Quitman in Wood County, Texas, Sabine River Basin.

Application Number TA-7635 by Hunter Industries, Inc. for diversion of three acre-feet for industrial (road construction) use. Water may be diverted from the San Gabriel River at a location approximately ten miles southwest of Cameron at the FM 487 stream crossing, Milam County, Texas, Brazos River Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit

expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on March 8, 1996.

TRD-9603371 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: March 8, 1996

### Request for Proposals

The Texas Natural Resource Conservation Commission (TNRCC) and the Texas State Soil and Water Conservation Board (TSSWCB) announce that they wish to solicit proposals for federal fiscal year (FY) 1997 Nonpoint Source Program (NPS) implementation grants under the Federal Clean Water Act, §319(h).

**Objective.** The objective of the request is to promote the preparation and implementation of high-quality, goal-oriented work plans for NPS watershed and demonstration projects to improve and protect water quality in targeted priority areas. Section 319(h) grants are awarded preferentially to innovative implementation projects that are determined to be most likely to result in documented water quality improvements. Therefore, projects that have already gone through a planning and development phase and are ready for implementation are likely to be most successful in receiving funding. The proposals regarding urban and non-agricultural/non-silvicultural nonpoint source pollution will be handled by TNRCC. Proposals regarding agricultural and silvicultural nonpoint source pollution will be handled by TSSWCB.

**Budget and Schedule.** The TNRCC and TSSWCB anticipate receiving federal grant funds of approximately \$4.7 million total that will be available for FY 1997 projects. The statute requires a 40% local match with non-federal funds or in-kind services. The TNRCC and TSSWCB may require applicants to match the entire grant they receive, including the administrative overhead as well as the pass-through portion of the grant. The maximum budget allowable will be consistent with the specific scope of work as determined by the TNRCC and TSSWCB. Only projects which address waters identified in the State's Nonpoint Source Assessment Report and that are consistent with the State's Nonpoint Source Management Program are eligible for funding. Information pertaining to the State's Assessment Report and Management Program will be made available in the Request for Proposals (RFP) materials.

The grant schedule provides complete project work plan proposals to be submitted to the TNRCC and TSSWCB by May 1, 1996. Interested parties are encouraged to coordi-

nate project proposals with the TNRCC and TSSWCB at the earliest possible date. Complete project work plan formats and submittal procedures will be provided in the RFP materials and explained at a workplan preparation workshop scheduled for April 8, 1996, in Austin for urban, non-agricultural/non-silvicultural projects. The TSSWCB will hold a workshop throughout the state for agricultural and silvicultural projects. Please contact Suzanne Cardwell at (817) 773-2250 for the dates and location. Submittals will be reviewed and ranked by a state review committee of staff from TNRCC and TSSWCB and forwarded to the United States Environmental Protection Agency. The grant funds are to be awarded in November 1996.

**Submittal Information.** A copy of the complete RFP materials may be obtained in three ways: by sending a regular or certified letter requesting a copy of the RFP materials to: Denise Cullen (MC 150), Nonpoint Source Program Team, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087 or Suzanne Cardwell, Statewide Management Program, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503-0658. Upon receipt, the TNRCC and TSSWCB will transmit the RFP materials to the potential applicant by certified mail; by sending an overnight or expedited delivery letter requesting a copy of the RFP materials to the previously stated addresses with a prepaid self-addressed overnight or expedited delivery return envelope to accommodate approximately two pounds of 8 1/2-inch by 11-inch material; or in person with a signed letter receipt at the Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Building F, Room 2202/C161, Austin, or Texas State Soil and Water Conservation Board, 311 North Fifth, Temple.

Ms. Cullen is the designated person to whom proposals which pertain to urban non-agricultural/non-silvicultural nonpoint source pollution should be submitted. Additional information may be obtained by calling Ms. Cullen at (512) 239-4491. Information concerning agricultural and silvicultural nonpoint source pollution may be obtained by calling Ms. Cardwell, TSSWCB, at (817) 773-2250. Six copies of the complete project work plan proposal must be received at the addresses listed previously before 5:00 p.m. on the closing date, which is May 1, 1996, to be considered. Upon submittal, the proposals become the property of the State of Texas. The contents of the proposals shall be considered as part of the public record, unless otherwise identified by the applicant. The submittal of confidential or proprietary information should be made under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TNRCC reserves the right to reject or return confidential information. All contracting procedures shall be conducted in accordance with all applicable state laws.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603468 Kevin McCalla  
Director, Legal Services Division  
Texas Natural Resource Conservation Commission

Filed: March 12, 1996

## Texas Department of Protective and Regulatory Services Notice of Award-Economic Impact Study

In accordance with Texas Government Code, Chapter 2254, Subchapter B, Title 10, the Texas Department of Protective and Regulatory Services announces this consultant contract award. The invitation for offers was published in the November 30, 1995, issue of the *Texas Register* (20 TexReg 10299).

**Description of Services:** The selected contractor will submit deliverables required by the contract and other reports requested by the Department in an appropriate format and on a timely basis; and make available at reasonable times and for reasonable periods offeror's work-papers, records, other programmatic reports and supporting documents for reviewing and copying by the Department, or their authorized representatives. The first draft of deliverable, under the Request for Proposal (RFP), will be due June 30, 1996. The second draft of deliverable will be due July 31, 1996. The final deliverable will be due August 31, 1996. All other reports will follow the schedule set forth in the RFP specifications. The deliverables are analyses and recommendations in a written report detailing the methodology, analysis and results of the economic impact and cost/benefit study of changes to the child/staff ratios, group sizes, and square footage requirements in the minimum standards for licensed day care centers.

**Name of Consultant:** The contract for consulting has been awarded to Tonn and Associates, Arboretum Plaza One, Suite 350, 9442 Capital of Texas Highway North, Austin, Texas 78759.

**Amount and Term of contract:** This contract will not exceed \$100, 000. This contract will begin February 15, 1996, and end August 31, 1996.

**Reporting Dates:** As stated in the description of services, the first deliverable is due June 30, 1996. All other reports will be due the first business day of the calendar month. The final deliverable will be due August 31, 1996.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603444 Deborah L. Churchill  
Supervising Attorney  
Texas Department of Protective and Regulatory Services

Filed: March 11, 1996

## Public Utility Commission of Texas Notice of Application for Approval of a Special Amortization

Notice is given to the public of filing with the Public Utility Commission of Texas an application on February 27, 1996, for approval of a special amortization pursuant to the Public Utility Regulatory Act (PURA), Texas Civil Statutes, Article 1446c-0, §2.151(a) and §3.151(b) (Vernon Supp. 96). The following is a summary of the application.

Docket Title and Number: Application of Hill Country Telephone Cooperative, Inc. for a Special Amortization. Docket Number 15425.

The Application: Hill Country Telephone Cooperative, Inc. upgraded its digital electronic switching equipment in fourteen central offices and requests approval for a special amortization of depreciation reserves for the retirement of the obsolete equipment.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Section at (512) 458-0223, or (512) 458-0221 for teletypewriter for the deaf on or before April 10, 1996.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603165 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 6, 1996

◆ ◆ ◆  
**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 DataRace in San Antonio, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for DataRace in San Antonio, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15434.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for DataRace. The geographic service market for this specific service is the San Antonio, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603435 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆  
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 City of Fort Worth in Fort Worth, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for City of Fort Worth in Fort Worth, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15449.

The Application. Southwestern Bell Telephone Company is requesting approval of a 656 station addition to the

existing PLEXAR-Custom service for City of Fort Worth. The geographic service market for this specific service is the Fort Worth, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603436 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆  
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 County of Hood in Granbury, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for County of Hood in Granbury, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15450.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for County of Hood. The geographic service market for this specific service is the Granbury, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603437 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆  
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 Wiley College in Marshall, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Wiley College in Marshall, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15455.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Wiley College. The geographic service market for this specific service is the Marshall, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call

the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603438 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Texas Commission on Fire Protection in Austin, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Texas Commission on Fire Protection in Austin, Texas. Pursuant to Public Utility Substantive Rule 23.27. Tariff Control Number 15480.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Texas Commission on Fire Protection. The geographic service market for this specific service is the Austin, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603439 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆

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 Valero Transmission L.P. in San Antonio, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Valero Transmission L.P. in San Antonio, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15490.

The Application. Southwestern Bell Telephone Company is requesting approval of an optional feature addition to the existing PLEXAR-Custom service for Valero Transmission L.P. The geographic service market for this specific service is the San Antonio, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 11, 1996.

TRD-9603440

Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 11, 1996

◆ ◆ ◆

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 Bausch and Lomb in San Antonio, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for Bausch and Lomb in San Antonio, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15494.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for Bausch and Lomb. The geographic service market for this specific service is the San Antonio, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603500 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 12, 1996

◆ ◆ ◆

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 General Services Administration-Brownsville in Brownsville, Texas.

Tariff Title and Number. Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for General Services Administration-Brownsville in Brownsville, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15495.

The Application. Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for General Services Administration-Brownsville. The geographic service market for this specific service is the Brownsville, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603501 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 12, 1996

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 General Services Administration-Laredo in Laredo, Texas.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for PLEXAR-Custom Service for General Services Administration-Laredo in Laredo, Texas. Pursuant to Public Utility Commission Substantive Rule 23.27. Tariff Control Number 15496.

**The Application.** Southwestern Bell Telephone Company is requesting approval of a new PLEXAR-Custom service for General Services Administration-Laredo. The geographic service market for this specific service is the Laredo, Texas area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Consumer Affairs Division at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on March 12, 1996.

TRD-9603502 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 12, 1996

◆ ◆ ◆  
**Public Notice**

On February 26, 1996, GTE Southwest, Inc. (GTE) filed notice to file LRIC studies pursuant to Substantive Rule §23.91 for Business Group Call Waiting, Directed Call Pick-Up, Directory Number Hunting, Extended Call Pick-Up, Group Call Pick-Up, Repeat Number Dialed, Pilot Number Hunting, Preferential Multiline Hunting, Business Group Customer-Changeable Speed Calling, Business Group Threeway Calling, Toll Restriction, Business Group Automatic Call Back, Intraoffice Switching, Interoffice Switching-Outgoing and Measurement Interoffice Switching-Incoming in Project Numbers 12475 and 12481, Applications of Southwestern Bell Telephone Company and GTE Southwest, Inc. for Approval of LRIC Workplans Pursuant to Substantive Rule 23.91. GTE expects to file these studies on March 8, 1996.

Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by April 15, 1996. A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Public Information Office at (512) 458-0256. The telecommunications device for the deaf (TDD) is (512) 458-0221.

Issued in Austin, Texas, on March 6, 1996.

TRD-9603196 Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: March 6, 1996  
◆ ◆ ◆

## Texas Savings and Loan Department Notice of Application to Establish Remote Service Unit

Notice is hereby given that application has been filed with the Savings and Loan Commissioner of Texas by: Life Savings Bank, SSB, Austin, Texas, for approval to establish and operate a remote service unit at the following location: Toulouse Bar, 402 East Sixth Street, Austin, Travis County.

The applicant savings bank asserts that: the security of the savings bank's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public. Anyone desiring to protest the previous listed application must file a written protest with the Commissioner within ten days following publication. The Commissioner may dispense with a hearing on this application.

This application is filed pursuant to rule 7 TAC §75.37 of the Rules and Regulations Applicable to Texas Savings Banks. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

Issued in Austin, Texas, on March 7, 1996.

TRD-9603307 James L. Pledger  
Commissioner  
Texas Savings and Loan Department

Filed: March 7, 1996  
◆ ◆ ◆

## Texas A&M University Request for Professional Services

This request for professional services is filed pursuant to the provisions of the Texas Government Code, Chapter 2254.

Notice of Invitation:

Texas A&M University, Department of Residence Life and Housing intends to engage a firm to perform a Facility Condition Analysis of its housing facilities and support structures on the College Station campus.

The Department of Residence Life and Housing operates 2.6 million gross square feet of residence hall/apartment facilities. Included in this inventory are multistory dormitories, apartments, administrative structures and support facilities.

The analysis will include:

1. Identification of deficient conditions in Deferred Maintenance, Capital Repair, Code and Routine Maintenance.
2. Calculation of estimated cost for identification maintenance projects.
3. Prioritizing of projects.
4. Converting the non-electronic floor plan drawings to MicroStation CAD software.
5. Developing full function IBM compatible database.

Closing Date: A letter notifying TAMU of the provider's interest shall be mailed to Mr. Charles Caffee, Manager, Facilities Planning Division, The Texas A&M University

System, UMS Box 1586, College Station, Texas 77843 or faxed to (409) 862-4082. Letters of interest will be received until 5:00 p.m. on Monday, April 8, 1996. All respondents will be issued a Statement of Work and other information that will identify procedure for further evaluation.

It is the intent of Texas A&M University that Historically Underutilized Businesses be afforded every opportunity to participate in this Facilities Conditions Analysis.

Issued in College Station, Texas, on March 11, 1996

TRD-9603465

Vickie Running  
Secretary of the Board of Regents  
Texas A&M University

Filed: March 12, 1996



## The University of Texas System Consultant Proposal Request

The University of Texas at Austin Archer M. Huntington Art Gallery, in accordance with the provisions of Government Code, Chapter 2254, solicits to contract with a qualified and experienced firm for the development of a long range plan for the Archer M. Huntington Art Gallery.

### PROJECT DESCRIPTION

The consultant selected shall provide the University of Texas at Austin Archer M. Huntington Art Gallery expertise in designing a long range plan to establish a long-term vision of its strategic goals and objectives for the next five to ten years. In performing this service, the consultant will be expected to:

- provide a planning structure
- prepare a planning document
- synthesize material
- facilitate meetings as necessary
- provide guidance and oversee the entire process
- assist in drafting the final planning document
- assist in preparation of the architectural program to eliminate duplication.

### CONTACT

Information concerning this proposal may be obtained from Terri Shrode, Associate Director of Purchasing, The University of Texas at Austin, 2200 Comal Street, Austin, Texas 78712, (512) 471-4266, Fax: (512) 471-7745.

### PROCEDURE FOR SELECTION OF CONSULTANT

Proposals will be evaluated by U. T. Austin Huntington Art Gallery Administration and selection will be based overall upon criteria specified in the Request for Proposal dated March 1, 1996, and that considered most advantageous to U. T. Austin.

### DUE DATE

Proposals must be received by the University of Texas at Austin by 5:00 p.m. , on March 29, 1996.

Issued in Austin, Texas, on March 5, 1996.

TRD-9603095

Arthur H. Dilly  
Executive Secretary to the Board of Regents  
The University of Texas System

Filed: March 5, 1996



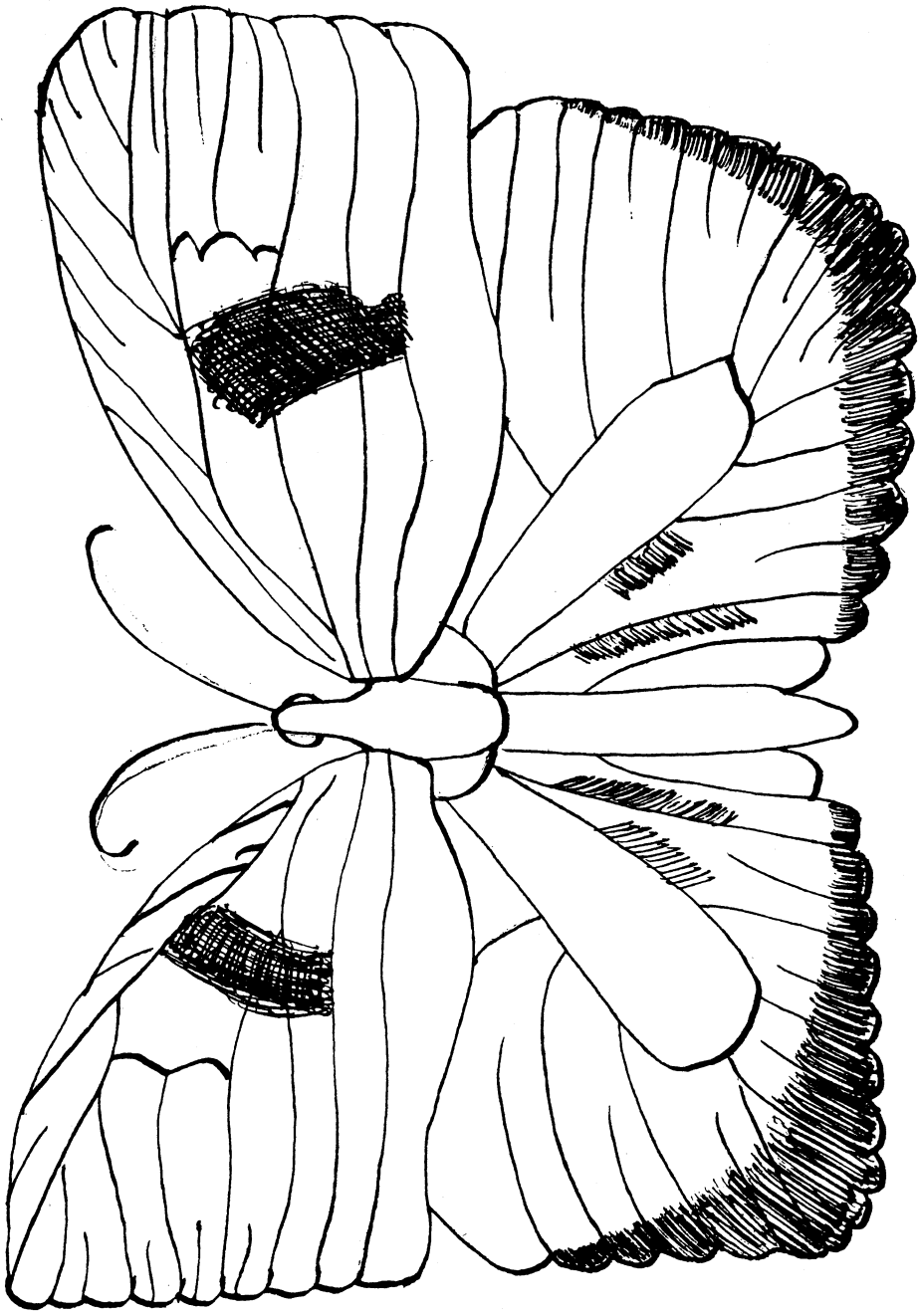
Name: Hilda Garcia  
Grade: 12  
School: Harlandale High School, Harlandale ISD





Name: Hilda Garcia  
Grade: 12  
School: Harlandale High School, Harlandale ISD

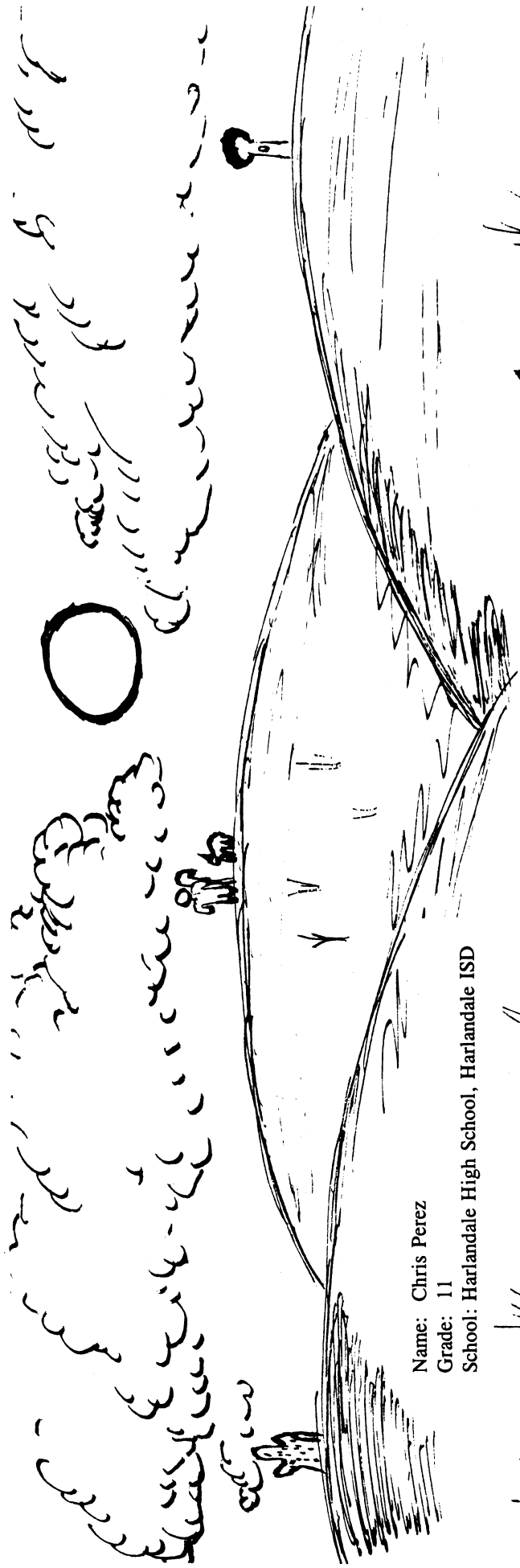




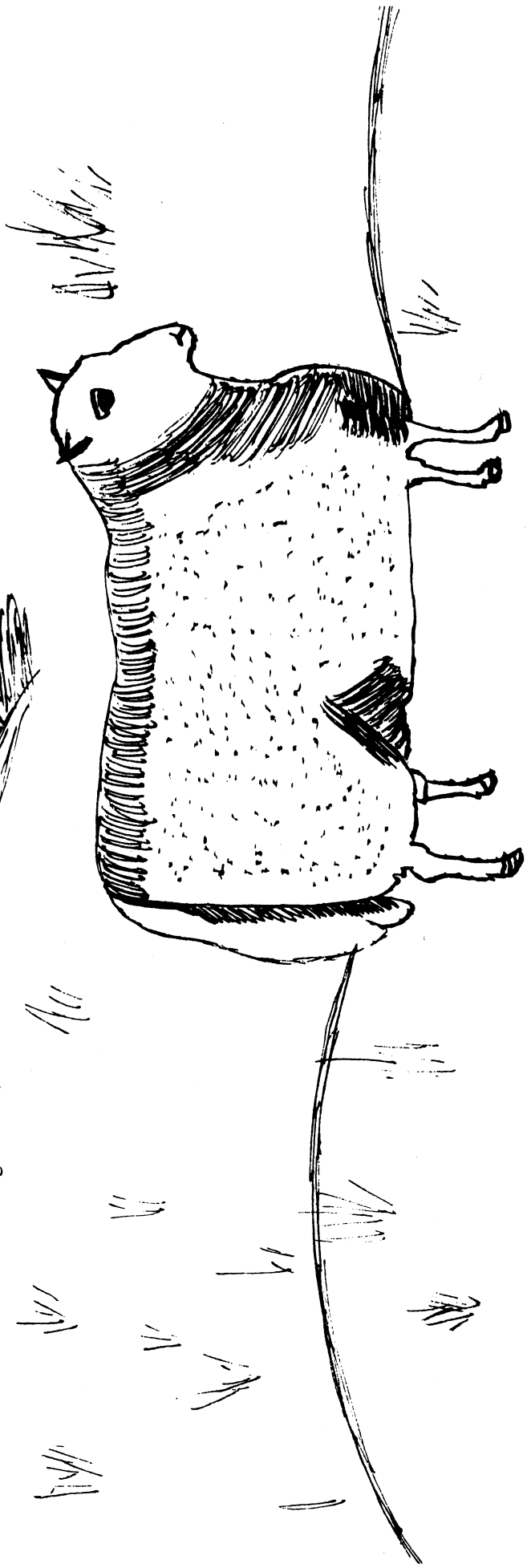
Name: Chris Perez

Grade: 11

School: Harlandale High School, Harlandale ISD



Name: Chris Perez  
Grade: 11  
School: Harlandale High School, Harlandale ISD



## How to Use the Texas Register

**Information Available:** The 13 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

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

**Secretary of State** - opinions based on the election laws.

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

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

**Proposed Rules** - sections proposed for adoption.

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

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

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Texas Department of Banking** - opinions and exempt rules filed by the Texas Department of Banking.

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

**Open Meetings** - notices of open meetings.

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

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

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 21 (1996) is cited as follows: 21 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 "21 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 21 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.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in a plain text version as well as a .pdf (portable document format) version through the Internet. In addition to the Internet version, the *Texas Register* is available online through a dialup bulletin board and as ASCII files on diskette. For subscription information, see the back cover or call the Texas Register at (800) 226-7199.

Texas Administrative Code  
The *Texas Administrative Code* (TAC) is the official

compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC. West Publishing Company, the official publisher of the TAC, publishes on an annual basis.

The TAC volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

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 26, April 9, July 12, and October 8, 1996). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

**Update by FAX:** An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561 or (800) 226-7199.

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues required. You may use your VISA or Mastercard. All purchases made by credit card will be subject to an additional 2.1% service charge. Return this form to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824. For more information, please call (800) 226-7199.

**Change of Address**

**Back Issue**

\_\_\_\_\_ Quantity

Volume \_\_\_\_\_,

Issue # \_\_\_\_\_

*(Prepayment required  
for back issues)*

**New Subscription (Yearly)**

Printed  \$95

Diskette  1 to 10 users \$200

11 to 50 users \$500

51 to 100 users \$750

100 to 150 users \$1000

151 to 200 users \$1250

More than 200 users--please call

Online BBS  1 user \$35

2 to 10 users \$50

11 to 50 users \$90

51 to 150 users \$150

151 to 300 \$200

More than 300 users--please call

NAME \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

Customer ID Number/Subscription Number \_\_\_\_\_

*(Number for change of address only)*

**Bill Me**

**Payment Enclosed**

Mastercard/VISA Number \_\_\_\_\_

Expiration Date \_\_\_\_\_ Signature \_\_\_\_\_

Please make checks payable to the Secretary of State. Subscription fees are not refundable.  
Do not use this form to renew subscriptions.

\_\_\_\_\_  
\_\_\_\_\_  
Second Class Postage

PAID

Austin, Texas  
and additional entry offices  
\_\_\_\_\_  
\_\_\_\_\_