

Texas Register

Volume 17, Number 9,

Pages 883-967

In This Issue...

Governor

Appointments Made January 17, 1992

Governor's Task Force on Flooding on the Lower Red River..... 893

Appointments Made January 23, 1992

Automobile Theft Prevention Authority..... 893

Appointments Made January 24, 1992

Red River Authority of Texas..... 893

Upper Guadalupe River Authority..... 893

Texas Commission on Alcohol and Drug Abuse..... 893

Texas Board of Professional Land Surveying..... 893

Texas Commission on Law Enforcement Officer Standards and Education..... 893

Texas Planning Council for Developmental Disabilities..... 893

Emergency Sections

Department of Criminal Justice

Parole

37 TAC §195.61 895

Mandatory Supervision

37 TAC §197.21 895

Proposed Sections

Texas Department of Agriculture

Consumer Services Division

4 TAC §15.9 897

Texas Racing Commission

General Provisions

16 TAC §303.6 898

Operation of Racetracks

16 TAC §309.194 898

CONTENTS CONTINUED INSIDE

Texas Register

The *Texas Register* (ISSN 362-4781) is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever 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 Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

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

Information Available: The nine 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

Emergency Sections - sections adopted by state agencies on an emergency basis

Proposed Sections - sections proposed for adoption

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

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

Open Meetings - notices of open meetings

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

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative 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 a 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 17 (1992) is cited as follows: 17 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: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 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, Austin. Material can be found using *Texas Register* indexes, the *Texas Administration Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How to Cite: Under the TAC scheme, each agency 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 rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

Texas Register Art Project

This program is sponsored by the *Texas Register* to promote the artistic abilities of Texas students, grades K-12, and to help students gain an insight into Texas government. The artwork is used to fill otherwise blank pages in the *Texas Register*. The blank pages are a result of the production process used to create the *Texas Register*. The artwork does not add additional pages and does not increase the cost of the *Texas Register*.

Texas Register Publications



a section of the
Office of the Secretary of State
P. O. Box 13824
Austin, Texas 78711-3824
(512) 463-5561
Fax (512) 463-5569

Secretary of State
John Hannah, Jr.

Director
Dan Procter

Assistant Director
Dee Wright

Circulation/Marketing
Jill S. Dahnert
Roberta Knight

TAC Editor
Dana Blanton

TAC Typographer
Madellne Chrisner

Documents Section Supervisor
Patty Parris

Documents Editors
Lisa Martin
Janelene Allen

Open Meetings Clerk
Brenda Bernal

Production Section Supervisor
Ann Franklin

Production Editors/Typographers
Sherry Rester
Janice Rhea
Carla Carter

Subscriptions: Printed - one year (96 regular issues and four index issues), \$95; six months (48 regular issues and two index issues), \$75. Electronic - one year (96 regular issues and four index issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$5 per copy.

Officials and Rules of Horse Racing
16 TAC §313.21 898
16 TAC §313.103 899
16 TAC §313.111 899
16 TAC §313.303 900
16 TAC §313.310 900

Officials and Rules of Greyhound Racing
16 TAC §315.2 900

Veterinary Practices and Drug Testing
16 TAC §319.110 901
16 TAC §319.332 901

Texas Education Agency

Proprietary Schools and Veterans Education
19 TAC §§175.10-175.23 902
19 TAC §§175.121-175.129 902
19 TAC §§175.121-175.130 902

Texas Board of Chiropractic Examiners

Application and Applicants
22 TAC §71.10 921

Rules of Practice
22 TAC §75.1, §75.6 922
22 TAC §75.7 922

Advertising and Public Communication
22 TAC §77.3 923
22 TAC §77.5 923

Practice of Chiropractic
22 TAC §80.1 923
22 TAC §§80.4-80.9 924

Texas State Board of Examiners of Psychologists

Rules of Practice
22 TAC §465.29 925

Texas Department of Health

Texas Board of Health
25 TAC §1.4, §1.9 926

Long-Term Care
25 TAC §145.23 927
25 TAC §145.35 927
25 TAC §145.55 927
25 TAC §145.193 928
25 TAC §145.214 928
25 TAC §145.273 929
25 TAC §145.334 929

Texas Workers' Compensation Commission

General Provisions-Required Notices of Coverage
28 TAC §110.102 930

Medical Benefits-General Medical Provisions
28 TAC §§133.401-133.403 931

Representation of Parties Before the Agency-Attorney's Fees
28 TAC §152.3 932

Texas Department of Human Services

Food Distribution and Processing
40 TAC §11.112 933
TAC §11.6004, §11.6007 933

Child Nutrition Programs
40 TAC §12.12 934
40 TAC §12.112 934
40 TAC §12.207 934
40 TAC §12.307 934
40 TAC §12.407 934

Day Activity and Health Services
40 TAC §50.6903, §50.6905 935

Withdrawn Sections
Texas Board of Chiropractic Examiners

Application and Applicants		
22 TAC §71.10.....	937	22 TAC §519.29 941
Rules of Practice		Fee Schedule
22 TAC §75.1, §75.6.....	937	22 TAC §521.1 942
22 TAC §75.7.....	937	Quality Review
Advertising and Public Communication		22 TAC §527.7 942
22 TAC §77.3.....	937	22 TAC §527.8 942
22 TAC §77.5.....	937	<i>Texas Department of Health</i>
Practice of Chiropractic		Communicable Diseases
22 TAC §80.1.....	937	25 TAC §97.91, §97.92 942
22 TAC §§80.4-80.9.....	937	Emergency Medical Care
Adopted Sections		25 TAC §157.2 943
<i>Railroad Commission of Texas</i>		25 TAC §§157.121-157.129 946
Oil and Gas Division		<i>Texas Workers' Compensation</i>
16 TAC §3.68.....	939	<i>Commission</i>
Transportation Division		Dispute Resolution-Benefit Contested Case
16 TAC §§5.534, 5.535, 5.537.....	940	Hearing
16 TAC §§5.534, 5.536, 5.535, 5.538.....	940	28 TAC §142.13 949
<i>Texas Racing Commission</i>		<i>Texas Youth Commission</i>
Officials and Rules of Horse Racing		Agreements With Other Agencies
16 TAC §313.112.....	940	37 TAC §119.5 949
<i>Texas State Board of Physical Therapy</i>		<i>Texas Department of Criminal Justice</i>
<i>Examiners</i>		Parole
Display of License		37 TAC §195.61 949
22 TAC §337.2.....	940	Mandatory Supervision
<i>Texas State Board of Examiners of</i>		37 TAC §197.21 949
<i>Psychologists</i>		<i>Texas Department of Human Services</i>
Fees		Income Assistance Services
22 TAC §473.3.....	941	40 TAC §3.704 950
<i>Texas State Board of Public Accountancy</i>		40 TAC §3.902 950
Licenses		Medicaid Eligibility
22 TAC §515.10.....	941	40 TAC §15.430 950
Practice and Procedures		<i>Texas Department of Insurance</i>
22 TAC §519.27.....	941	Notification Pursuant to the Texas Insurance Code, Chap-
		ter 5, Subchapter L..... 951

Open Meetings

Texas Department on Aging.....	953
Texas Department of Agriculture.....	953
Advisory Board of Athletic Trainers.....	954
Texas Department of Commerce.....	954
Daughters of the Republic of Texas, Inc.....	954
Texas Commission for the Deaf and Hearing Impaired.....	954
Texas Education Agency.....	954
Texas Employment Commission.....	956
Texas Commission on Fire Protection.....	956
Texas Department of Health.....	956
Texas Historical Commission.....	956
Texas Department of Human Services.....	956
Texas Department of Insurance.....	956
Texas Board of Irrigators.....	957
Texas Commission on Law Enforcement.....	957
Texas State Board of Medical Examiners.....	957
Texas Department of Mental Health and Mental Retardation.....	957
State Preservation Board.....	958
Public Utility Commission of Texas.....	958
Interagency Council on Sex Offender Treatment.....	958
Teacher Retirement System of Texas.....	959
The Texas A&M University System.....	959
University of Texas Health Center at Tyler.....	959

Texas Water Commission.....	959
-----------------------------	-----

Regional Meetings.....	959
------------------------	-----

In Addition Sections

Texas Education Agency

Public Hearing.....	961
---------------------	-----

General Land Office

Consultant Proposal Request.....	961
----------------------------------	-----

Texas Department of Human Services

Public Notice.....	962
--------------------	-----

Public Notice Open Solicitation.....	962
--------------------------------------	-----

Department of Information Resources

Announcement of the Advisory Committee on Service Delivery Alternatives.....	962
--	-----

Texas Department of Insurance

Company Licensing.....	962
------------------------	-----

Texas Department of Mental Health and Mental Retardation

Request for Proposal.....	963
---------------------------	-----

Public Utility Commission of Texas

Notice of Application To Amend Certificate of Convenience and Necessity.....	963
--	-----

Texas Water Commission

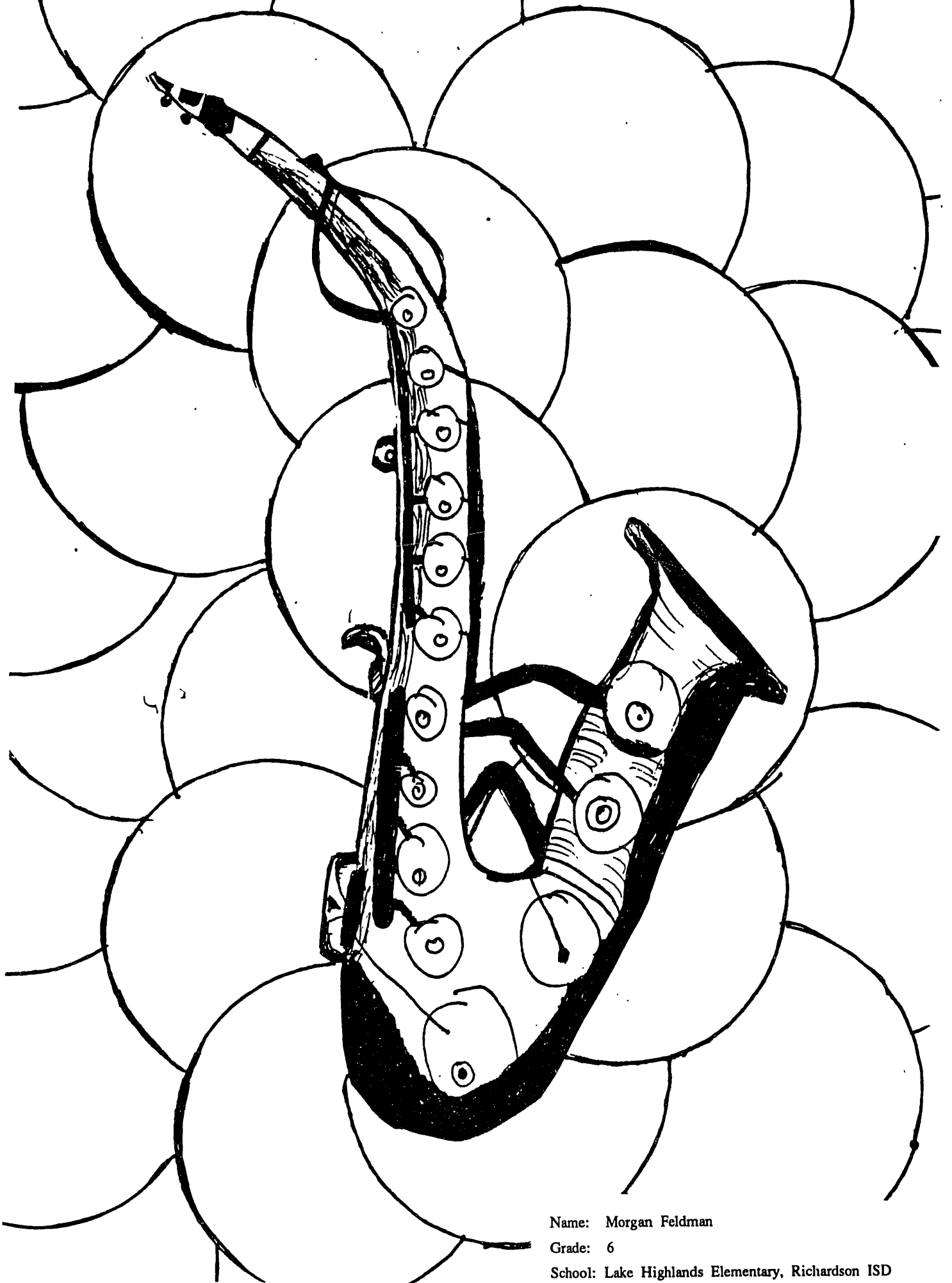
Meeting Notice.....	964
---------------------	-----

Notice of Application For Waste Disposal Permit.....	964
--	-----

Workers' Compensation Commission

Correction of Error.....	965
--------------------------	-----

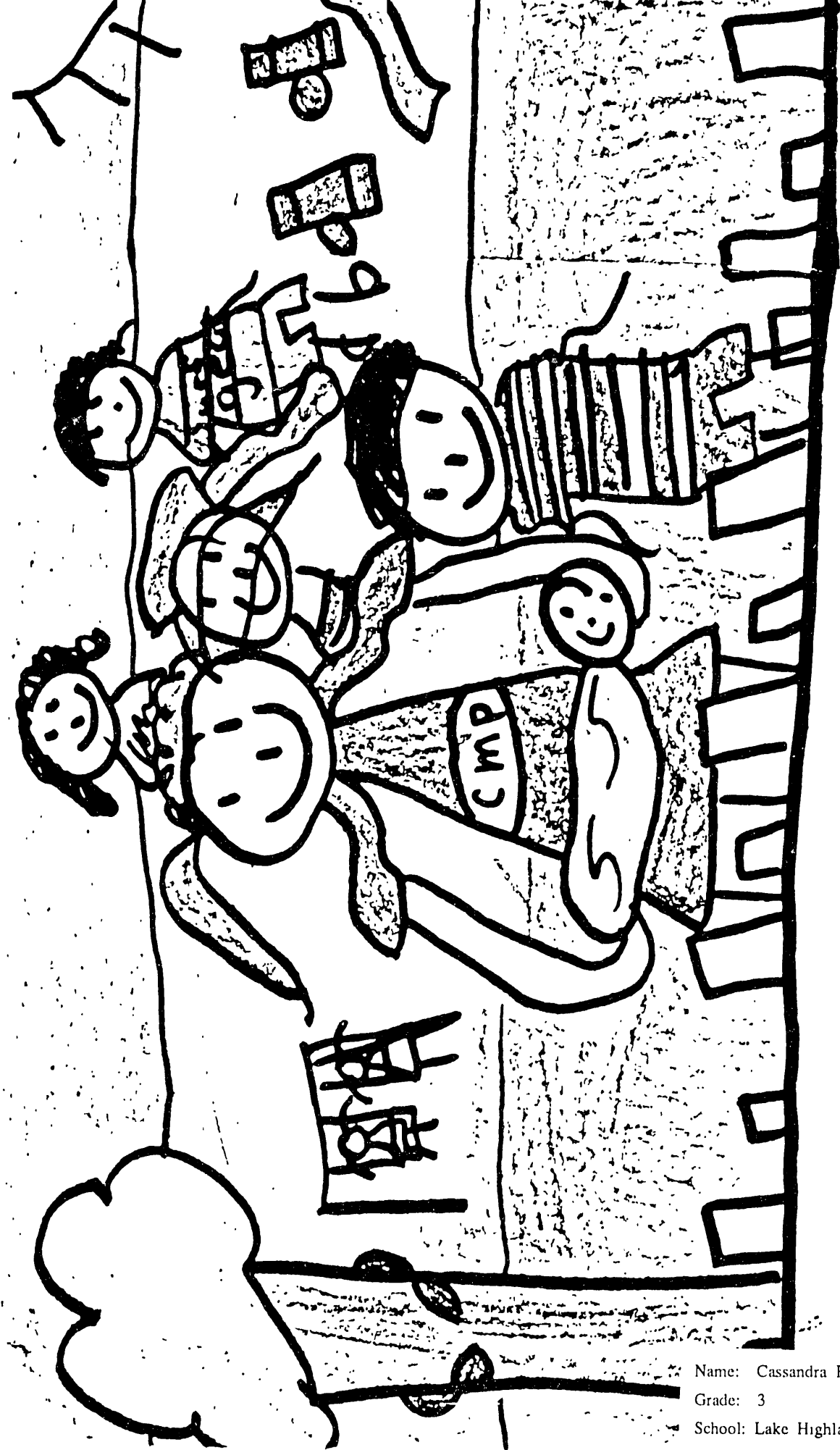
Discount Rate; Interest Rate.....	965
-----------------------------------	-----



Name: Morgan Feldman

Grade: 6

School: Lake Highlands Elementary, Richardson ISD



Name: Cassandra Fraley

Grade: 3

School: Lake Highlands Elementary, Richardson ISD

The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made January 17, 1992

To be on the Governor's Task Force on Flooding on the Lower Red River for terms at the pleasure of the governor: Lamar County: Bobbie Parsons, Route 1, Box 170, Arthur City, Texas 75411-9718; Mayor George Fisher, City Hall, P.O. Box 9037, Paris, Texas 75460; Red River County: Jim Dick Lovett, 501 North Walnut, Clarksville, Texas 75426; Bill Jennings, FM 1159 Clarksville, Texas 75426; Fannin County: W. L. Burnett, Route 1, Windom, Texas 75429; Dwight Scott, 602 Elm, Honey Grove, Texas 75446; Bowie County: Ann Burke, 1801 Robinson Road, Texarkana, Texas 75503; Steve Oden, 40 Dogwood Lake Drive, Texarkana, Texas 77503; Janie Matteson, Route 3, Box 119B, Dekalb, Texas 75559; Greg Arnold (chairman), Route 3, Box 420, Texarkana, Texas 75503; Gwen Poteet, Route 1, Box 228-H, Hooks, Texas 75561; L. D. (Boss) Grimes Route 3, Box 383, Texarkana, Texas 75503; Grayson County: Jerdy Gary, #3 Ridgeway Circle, Denison, Texas 75020; Horace Groff, 100 West Houston, Sherman, Texas 75090.

Appointments Made January 23, 1992

To be a member of the **Automobile Theft Prevention Authority** for a term to expire February 1, 1993: Charles Wirth, 5103 Doe Valley Lane, Austin, Texas 78759. Mr. Wirth is being appointed to a new position pursuant to House Bill Number 640, 72nd Legislature.

To be a member of the **Automobile Theft Prevention Authority** for a term to expire February 1, 1995: Robert L. Springer, 35 West Isle Place, The Woodlands, Texas 77381. Mr. Springer is being appointed to a

new position pursuant to House Bill Number 640, 72nd Legislature.

To be a member of the **Automobile Theft Prevention Authority** for a term to expire February 1, 1997: Victor Rodriguez, P.O. Box 911, Brownsville, Texas 78521. Chief Rodriguez is being appointed to a new position pursuant to House Bill Number 640, 72nd Legislature.

To be a member of the **Automobile Theft Prevention Authority** for a term to expire February 1, 1997: Mateele Rittgers, 10105 Monaco Drive, El Paso, Texas 79925. Ms. Ritters is being appointed to a new position pursuant to House Bill Number 640, 72nd Legislature.

To be a member of the **Automobile Theft Prevention Authority** for a term to expire February 1, 1993: Mart C. Hanna, 21134 Park Tree, Katy, Texas 77450. Lieutenant Hanna is being appointed to a new position pursuant to House Bill Number 640, 72nd Legislature.

Appointments Made January 24, 1992

To be a member of the **Red River Authority of Texas Board of Directors** for a term to expire August 11, 1997: Edward L. Lehman, Jr., 2613 Oaklawn, Vernon, Texas 76384. Mr. Lehman will be replacing Albert B. Wharton, III of Vernon who resigned.

To be a member of the **Upper Guadalupe River Authority Board of Directors** for a term to expire February 1, 1997: Donald C. Oehler, P.O. Box 332, Ingram, Texas 78205. Mr. Oehler will be replacing Dr. R. H. Holekamp of Kerrville whose term expired.

To be a member of the **Texas Commission on Alcohol and Drug Abuse** for a term to expire June 8, 1997: Cynthia Elizabeth

Capra, 5825 Longoria Loop, Laredo, Texas 78041. Ms. Capra will be replacing Calvin Clifton Reed of Kress whose term expired.

To be a member of the **Texas Board of Professional Land Surveying** for a term to expire January 31, 1997: Robert Pounds, 604 Castile, El Paso, Texas 79912. Mr. Pounds will be replacing William C. Wilson, Jr. of El Paso whose term expired.

To be a member of the **Texas Commission on Law Enforcement Officer Standards and Education** for a term to expire August 30, 1997: Sheriff Adan Munoz, Jr., P.O. Box 1347, Kingsville, Texas 78363. Sheriff Munoz will be replacing J. R. "Sonny" Sessions, Jr. of Fairfield whose term expired.

To be a member of the **Texas Commission on Law Enforcement Officer Standards and Education** for a term to expire August 30, 1997: Constable Bill Bailey, 7330 Spencer Highway, Pasadena, Texas 77505. Constable Bailey will be replacing Charles W. Phelps of Bryan whose term expired.

To be a member of the **Texas Planning Council for Developmental Disabilities** for a term to expire February 1, 1995: Mildred J. Wait, 1109 Shadywood Lane, Desoto, Texas 75115. Ms. Wait is being appointed to a new position on the Council.

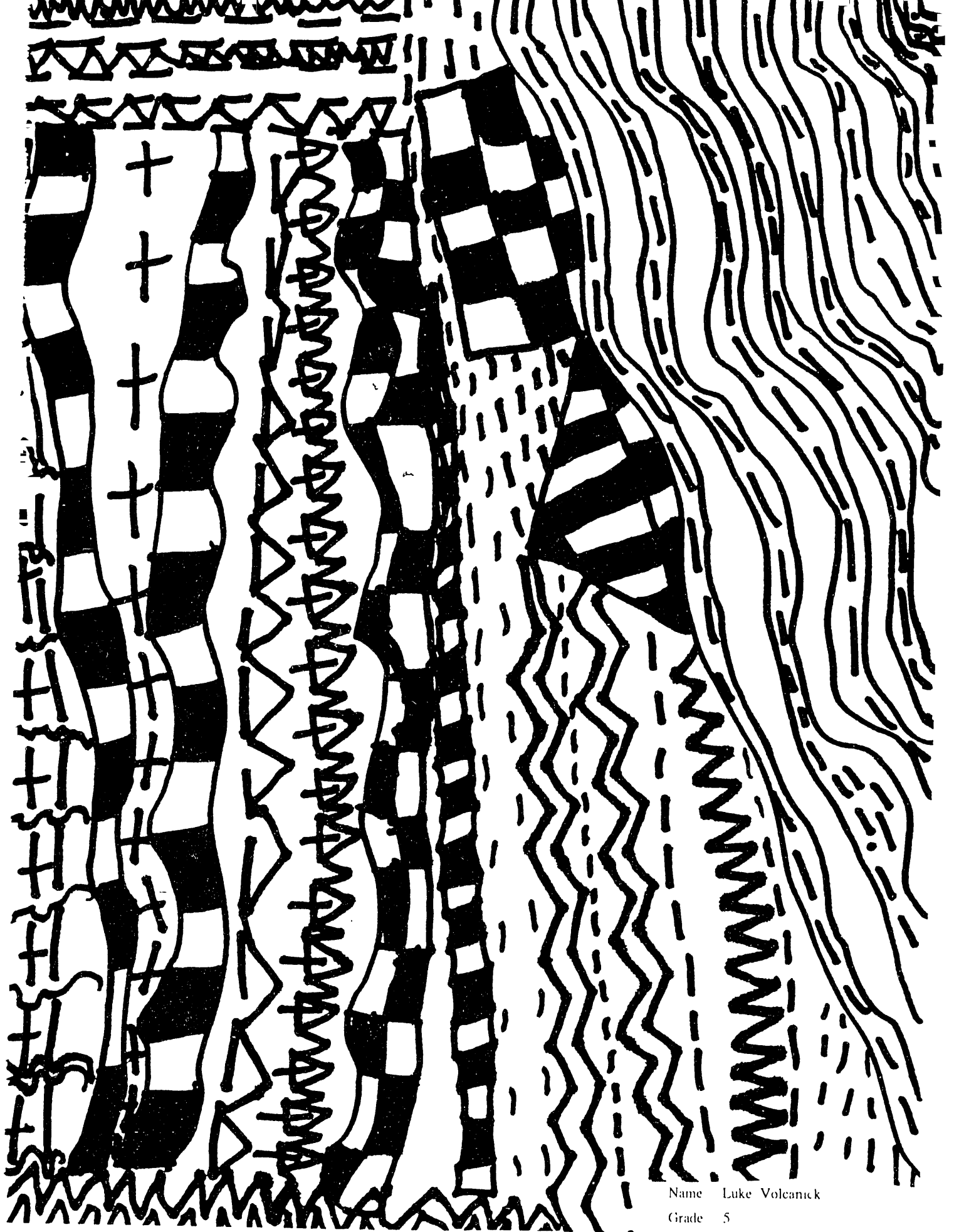
To be a member of the **Texas Planning Council for Developmental Disabilities** for a term to expire February 1, 1997: Hector M. Saenz, 5691 Timber Trail, San Antonio, Texas 78250. Mr. Saenz is being reappointed.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201292

Ann W. Richard
Governor of Texas





Name Luke Volcanick

Grade 5

School Christie Elementary, Plano ISD

Emergency Sections

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

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Department of Criminal Justice

Chapter 195. Parole

Terms and Conditions of Parole

• **37 TAC §195.61**

The Department of Criminal Justice is renewing the effectiveness of the emergency adoption of amended §195.61, for a 60-day period effective February 9, 1992. The text of amended §195.61, was originally published in the September 24, 1992, issue of the *Texas Register* (16 TexReg 5251).

Issued in Austin, Texas, on January 23, 1992.

TRD-9201354 Jackee Cox
 General Counsel
 Department of Criminal
 Justice

Effective date: February 9, 1992

Expiration date: March 15, 1992

For further information, please call: (512) 463-9988

◆ ◆ ◆

Chapter 197. Mandatory Supervision

Rules and Conditions of Mandator Supervision

• **37 TAC §197.21**

The Department of Criminal Justice is renewing the effectiveness of the emergency adoption of amended §197.21, for a 60-day period effective February 9, 1992. The text of amended §197.21, was originally published in the September 24, 1992, issue of the *Texas Register* (16 TexReg 5251).

Issued in Austin, Texas, on January 29, 1992.

TRD-9201356 Jackee Cox
 General Counsel
 Department of Criminal
 Justice

Effective date: February 9, 1992

Expiration date: March 15, 1992

For further information, please call: (512) 463-9988

◆ ◆ ◆



Name: Jon Killian
Grade: 5
School: Christie Elementary, Plano ISD

Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 15. Consumer Services Division

Texas Weights and Measures

• 4 TAC §15.9

The Texas Department of Agriculture (the department) proposes amendments to §15.9 concerning registration of commercial scale and meter-service agencies and service persons. The purpose of these changes is to clarify and update the existing regulations and add new fees that were established by the 72nd Legislature. The amendments to §15.9 are part of a new comprehensive program established by the department for regulation of commercial scale and meter-service agencies and service persons.

The amendments clarify the section and update terms used in the regulations. The amendments will also add the newly established application fees for individual service persons and service agencies, as well as extend the amount of time for returning new installation reports and out-of-order tags to the department.

James H. Eskew, coordinator for Metrology Labs, has determined that for the first five-year period that the proposed section is in effect, there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the section is in effect is an estimated increase in revenue of \$59,500 per year and an estimated additional cost to administer of \$34,000 per year. There will be no fiscal implications for local government or local employment as a result of enforcing or administering the section.

Mr. Eskew also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be improved commercial scale and meter service, improved enforcement of state weights and measures law, improved consumer protection, and fairer trade in commodities and products that are sold by weight or measure in this state. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the amendments as proposed will be \$25 per year in the form of a new registration fee, and

the anticipated economic cost to service agencies that are required to comply with the amendments as proposed will be \$50 per year in the form of a new registration fee.

Comments may be submitted to James H. Eskew, Coordinator of Metrology Labs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of this proposal in the *Texas Register*.

The amendments are proposed under Texas Agriculture Code §13.002, which provides the Texas Department of Agriculture with the authority to enforce the provisions of Chapter 13, Texas Agriculture Code, concerning the sale and use of weights and measures and to supervise all weights and measures sold in this state; and the General Appropriations Act, House Bill 1, 72nd Regular Session, 1991, which establishes fee rates for the registration and issuance of the registration card issued to registered service persons and certificates of registration issued to registered service agencies by the Texas Department of Agriculture.

§15.9. Registration of Service Persons [Servicemen] and Service Agencies. Registration of service persons [servicemen] and service agencies for weighing and measuring devices shall conform with the following.

(1) Any individual person and service agency may apply for voluntary registration to service weighing or measuring devices. Such applications must be submitted on a form supplied by the department, along with the following fee:

(A) Individual service person—\$25; and

(B) service agency—\$50.

(2) (No change.)

(3) Persons and agencies approved by the department shall be issued a registered service person's [servicemen's] card or an agencies' certificate of registration, as appropriate, stamped with an individual identifying number and letter or symbol, which shall serve to identify the person or agency and the type and capacity of device the person or [and] agency is [are] authorized to place in service or return

to service. The [This] card or certificate shall be valid for such duration of time as indicated on the face of the card or certificate.

(4) No service person [serviceman] registered with the department shall remove any out-of-order tag or issue any new installation [placing in service] report on a weighing or measuring device that does not perform within its [its'] prescribed tolerances for accuracy, or which does not meet the specifications for the type of device. No registered service person [serviceman] shall remove an out-of-order tag or place in service a newly installed weighing or measuring device without first conducting an acceptable test of the device. New installation [Placing in service] reports shall be submitted to the department on a form supplied by the department [,] within 10 [three working] days of the time the device is placed in commercial service. Out-of-order tags shall be returned to the department, as prescribed, within 10 [five working] days following removal.

[(5) The department may, for good cause, after careful investigation and consideration, suspend, or revoke a serviceman's registration.]

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201319

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: March 6, 1992

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



**TITLE 16. ECONOMIC
REGULATION
Part VIII. Texas Racing
Commission**

**Chapter 303. General
Provisions**

**Subchapter A. Organization of
the Commission**

• 16 TAC §303.6

The Texas Racing Commission proposes an amendment to §303.6, concerning commission officers. The amendment changes the procedure for electing a vice-chair for the commission.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the commission operates in accordance with state law. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§303.6. Commission Officers.

(a) [The commission shall elect one of the members to serve as chairman for a term of two years.] In January of even-numbered years, the [The] commission shall elect one of the members to serve as vice-chair [vice-chairman] for a term of two years. The vice-chair must be a member of the section of the commission opposite that on which the chair serves. [The chairman and vice-chairman must be elected from different sections of the commission.]

(b) In the event of a vacancy in the [either] office of vice-chair, the vacancy shall be filled for the unexpired term on majority vote of the commission at the next regular meeting of the commission.

(c) In the absence of the chair and vice-chair [chairman and vice-chairman] from a meeting of the commission, the re-

maining members shall elect a pro-tem presiding officer who shall serve until the conclusion of the meeting or until the arrival of the chair or vice-chair [chairman or vice-chairman].

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201228 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

**Chapter 309. Operation of
Racetracks**

**Subchapter B. Horse Race-
tracks
Operations**

• 16 TAC §309.194

The Texas Racing Commission proposes an amendment to §309.194, concerning helmets. The amendment clarifies the requirements for wearing a helmet by individuals riding on horses as pari-mutuel racetracks.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is safe for all licensees. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of racetracks.

§309.194. Helmets. An association may not permit an individual to gallop or pony [be mounted on] a horse or ride a horse in a race unless the individual is wearing a

properly fastened helmet of a type approved by the commission.

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201236 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

**Chapter 313. Officials and
Rules of Horse Racing**

**Subchapter A. Officials
Duties of Stewards**

• 16 TAC §313.21

The Texas Racing Commission proposes an amendment to §313.21, concerning eligibility for appointment. The amendment clarifies the requirements of a written examination for stewards.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the officials supervising pari-mutuel racing are highly qualified. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and under §3.07, which authorize the commission to require annual written examinations for stewards.

§313.21. Eligibility For Appointment.

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

(c) The executive secretary or a designee of the executive secretary shall administer the written examination for stewards. A passing grade for the written examination is 85%. [85 on a scale of 100. The written examination will consist of:

[(1) 85 multiple choice questions; and

[(2) three essay questions.]

(d) (No change.)

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201235 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.103

The Texas Racing Commission proposes an amendment to §313.103, concerning eligibility requirements. The amendment clarifies the eligibility requirements for entering a horse in a race.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is conducted with the utmost integrity and that horse participation in pari-mutuel races are fit and ready to run. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§313.103. Eligibility Requirements.

(a) To be entered in a race, a horse must [A horse may not enter a race unless]:

(1) be [the horse is] properly registered with the appropriate national breed registry;

(2) be [the horse has been] properly tattooed and the horse's registration certificate showing the tattoo number of the horse must be [is] on file with the racing secretary before scratch time for the race, unless the stewards authorize the certificate to be filed at a later time;

(3) be in the care of a licensed trainer and owned by a licensed owner, [the horse is owned by a licensed owner and is in the care of a licensed trainer,] except that the owner and trainer of a horse entered in a stakes race must be licensed before the horse may start in that race;

(4) be [the horse is] eligible to enter the race under the conditions of the race [and is entered for the race];

(5) be [the horse is] present on association grounds not later than the time prescribed by the commission veterinarian; and

(6) have [the horse has had] two published workouts and be [been] approved by the licensed starter for proficiency in the starting gate, if the horse is to start for the first time.

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

(f) If a horse has started in a race in the 45-day period preceding a race, there is no workout requirement for eligibility to start. If a horse has not started in the 45-day period preceding a race, the horse must have one published workout to be eligible to start in that race. [However, if a horse has not started in the 60-day period preceding the race, the horse must have two published workouts to be eligible to start in that race.]

(g) For a horse to be eligible to start in a race, an original certificate indicating a negative Coggin's test for the horse during the six-month period preceding the race must be attached to the horse's registration papers not less than:

(1) scratch time, for a race for which there are "also eligible" horses; and

(2) one hour before post time for the first race of that day, for a race for which there are not "also eligible" horses.

(h) To be entered in a race around a turn, a quarter horse must be approved by the clocker, the outrider and, if the horse is worked from the gate, the starter.

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201234 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

• 16 TAC §313.111

The Texas Racing Commission proposes an amendment to §313.111, concerning age restrictions. The amendment clarifies the age limitation for a "maiden" horse.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that there will be enough horses to conduct high quality pari-mutuel racing. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§313.111. Age Restrictions.

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

(d) A maiden may not start in a pari-mutuel race in this state if the maiden:

[(1) during 1990, is 13 years old or older;]

[(1) [(2)] during 1992 and 1993 [1991], is seven years old or older; or

[(2) [(3)] during 1994 [1992,] and thereafter is six years old or older.

(e) (No change.)

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201233 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
Subchapter C. Claiming Races

◆ ◆ ◆
• 16 TAC §313.303

The Texas Racing Commission proposes an amendment to §313.303, concerning effective time of claim. The amendment clarifies the time at which a valid claim a horse takes effect.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is conducted fairly and with the utmost integrity. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§313.303. Effective Time of Claim.

(a) A person who has a valid claim to a horse becomes the owner when [the stall door of the starting gate open in front of] the horse goes on to the racetrack for the race. This subsection applies regardless of whether the horse reaches the starting gate and regardless of subsequent injury to the horse during or after the race.

(b) (No change.)

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201232 Paula Cochran Carter
General Counsel
Texas Racing Commission

◆ ◆ ◆
Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
• 16 TAC §313.310

The Texas Racing Commission proposes an amendment to §313.310, concerning restrictions on claims. The amendment restricts the number of claims an authorized agent may submit for a race.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is conducted fairly and with the utmost integrity. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorize the commission to adopt rules relating to the operation of race-tracks.

§313.10. Restrictions On Claims.

(a) (No change.)

(b) A person may not claim more than one horse in a race nor submit more than one claim for a race. An authorized agent may not submit more than one claim for a race, regardless of the number of persons the agent represents.

(c)-(e) (No change.)

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201231 Paula Cochran Carter
General Counsel
Texas Racing Commission

◆ ◆ ◆
Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

Chapter 315. Officials and Rules of Greyhound Racing

Subchapter A. Officials Appointment of Officials

◆ ◆ ◆
• 16 TAC §315.2

The Texas Racing Commission proposes an amendment to §315.2, concerning racing judges. The amendment clarifies the requirements of a written examination for racing judges.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the officials supervising pari-mutuel racing are highly qualified. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §3.07, which authorize the commission to require annual written examinations for stewards.

§315.2. Racing Judges.

(a) (No change.)

(b) The executive secretary or a designee of the executive secretary shall administer the written examination required under this section. A passing grade for the written examination is 85%. [85 on a scale of 100. The written examination consists of:

(1) 85 multiple choice questions; and

(2) three essay questions.]

(c) (No change.)

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201230 Paula Cochran Carter
General Counsel
Texas Racing Commission

◆ ◆ ◆
Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
Chapter 319. Veterinary
Practices and Drug Testing

Subchapter B. Treatment of
Horses

• 16 TAC §319.110

The Texas Racing Commission proposes an amendment to §319.110, concerning Coggins test and health certificate. The amendment deletes the reference to eligibility to start.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that the rules of the commission are internally consistent. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§319.110. *Coggins Test and Health Certificate.*

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

(d) A horse is ineligible to start in a race if the horse does not have on file with the commission veterinarian a certificate, indicating a negative Coggins Test, issued by a testing laboratory in the six-month period preceding the date of the race.]

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201229 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

Subchapter D. Drug Testing
Testing Procedures

• 16 TAC §319.332

The Texas Racing Commission proposes an amendment to §319.332, concerning procedure for obtaining specimens. The amendment clarifies who may witness the collection and documentation of a specimen sample.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that pari-mutuel racing is conducted with the utmost integrity. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted on or before March 3, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and under §14.03, which authorize the commission to adopt rules to prohibit the illegal influencing of the outcome of a race.

§319.332. *Procedure For Obtaining Specimens.*

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

(c) The owner, trainer, or kennel owner of a race animal being tested or a designee of the owner, trainer, or kennel owner shall witness or acknowledge the taking of the specimen and shall sign the tag for the specimen. Failure or refusal to be present and witness the collection of the samples or to sign the specimen tag constitutes a waiver by the owner, trainer, or kennel owner of any objections to the source, collection procedures, and documentation of the specimen. A person signing a specimen tag under this section must be at least 18 years of age and be licensed by the commission. **A trainer or kennel owner may not designate another trainer or kennel owner to witness the collection of the sample or to sign a specimen tag.**

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

Issued in Austin, Texas, on January 17, 1992.

TRD-9201238 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 794-8461

◆ ◆ ◆
TITLE 19. EDUCATION

Part II. Texas Education
Agency

Chapter 175. Proprietary
Schools and Veterans
Education

Subchapter B. Commercial
Driver Training Schools

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

The Texas Education Agency (TEA) proposes the repeal of §§175.10-175.23, and 175.121-175.129, concerning proprietary schools and veterans education. The repeal of the sections is necessary to implement changes resulting from the passage of recent legislation included in Senate Bill 757 and House Bill 2885 as passed by the 72nd Legislature.

The chapter currently contains provisions related to commercial driving schools, proprietary schools, and veterans education. The chapter is being repealed and repropoed as two separate chapters, one specifically addressing proprietary schools and veterans education and another pertaining to driver training schools.

Dee Bednar, senior director, proprietary schools, veterans education, and driver training, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Bednar and Criss Cloudt, director for policy planning and evaluation, have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be a clearer more concise statement of rules relating to proprietary and drivers education schools and veterans education. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

• 19 TAC §§175.10-175.23

The repeals are proposed under Senate Bill 757 and House Bill 2885 as passed by the 72nd Legislature, which provide the State Board of Education with the authority to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act.

§175.10. General Information.

§175.11. Branch Schools.

§175.12. Driving Safety Course—Extension Locations.

§175.13. Names and Advertising.

§175.14. Facilities and Educational Materials.

§175.15. Programs of Instruction.

§175.16. Supervisory Instructors and Instructors.

§175.17. Motor Vehicles.

§175.18. Contracts—Students.

§175.19. Student Records.

§175.20. Make-up Policy.

§175.21. Commercial Driver Training School Responsibility for Employees.

§175.22. Prohibited Activities.

§175.23. Uniform Certificates of Course Completion Driver Safety Programs.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9201347 Criss Cloudt
Director, Planning
Coordination
Texas Education Agency

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 463-9701



Subchapter E. Minimum Standards for Operation of Texas Proprietary Schools

• 19 TAC §§175.121-175.129

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

The repeals are proposed under Senate Bill 757 and House Bill 2885 as passed by the 72nd Legislature, which provide the State Board of Education with the authority to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act.

§175.121. General Information.

§175.122. Definitions.

§175.123. Exemptions.

§175.124. Representatives.

§175.125. Approvals.

§175.126. Applications from Small Businesses.

§175.127. Minimum Standards for Operation of Proprietary Schools.

§175.128. Fees.

§175.129. Minimum Standards for Operation of Proprietary Schools Which Grant Degrees.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9201348 Criss Cloudt
Director, Planning
Coordination
Texas Education Agency

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 463-9701



• 19 TAC §§175.121-175.130

The Texas Education Agency (TEA) proposes new §§175.121-175.130, concerning proprietary schools and veterans education. The new sections implement changes resulting from the passage of recent legislation included in Senate Bill 757 and House Bill 2885 as passed by the 72nd Legislature.

Dee Bednar, senior director, proprietary schools, veterans education, and driver training, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government can not be determined due to the inability to estimate the decrease in number of proprietary schools, as well as the impact this decrease will have on the total revenue generated from annual renewal fees. There will be no fiscal implications for local government. The 72nd Legislature changed the amount of the fee from a sliding scale with set increments to one based on .3% of gross income. Therefore, the fiscal implications for small businesses will vary depending on the gross income from student tuition and fees for each business.

Ms. Bednar and Criss Cloudt, director for policy planning and evaluation, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the implementation of statutory provisions designed to regulate the proprietary schools and ensure consumer protection. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the Texas Register.

The new sections are proposed under Senate Bill 757 and House Bill 2885 as passed by the 72nd Legislature, which provide the State Board of Education with the authority to adopt policies, regulations, and rules necessary for carrying out the provisions of the Texas Proprietary School Act.

§175.121. General Information.

(a) The Texas Education Agency will evaluate each school according to the standards of practice set forth in this section, appropriate laws, and State Board of Education rules. The complete picture presented by the entire educational, promotional, and ethical character of the school will receive consideration in its evaluation.

(b) Every effort will be made to evaluate fairly and impartially each school and representative application for approval to solicit students in Texas for the purpose of selling courses of instruction. The Texas Education Agency will endeavor to provide an effective and constructive application of the law and standards of practice adopted for regulating proprietary schools.

(c) The Texas Education Agency will assist all schools and the school directors under its jurisdiction, whenever possi-

ble, in complying with the provisions of the law and standards of practice. Inquiries or requests for information should be directed to the Division of Proprietary Schools and Veterans Education, Texas Education Agency, Austin.

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

Administrator—The state commissioner of education or a person knowledgeable in the administration of regulating proprietary schools, designated by the commissioner to administer the provisions of the Texas Education Code, Chapter 32.

Advertising—Any affirmative act, whether written or oral, designed to call public attention to a school and/or program in order to arouse a desire to patronize that school and/or program.

Agency—This term means the Central Education Agency also known as the Texas Education Agency.

Change of ownership of a school—A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:

(A) in the case of ownership by an individual, when more than 50% of the school has been sold or transferred;

(B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or of the owning partnership or corporation has been sold or transferred; or

(C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school.

Clock hour—Fifty minutes of instruction during a 60-minute period.

Date of notice—The date the notice is mailed by the administrator.

Director—The person designated by the administrator to carry out the functions and regulations governing the proprietary schools and hereinafter referred to as director of the Division of Proprietary Schools and Veterans Education.

Division—The Division of Proprietary Schools and Veterans Education of the Texas Education Agency responsible for executing the provisions of the law, rules, regulations, and standards as contained in this subchapter.

Educational providers—Educational providers include, but are not limited to:

(A) public vocational schools;

(B) community colleges;

(C) federal, state, and local governments; and

(D) proprietary schools.

Employment—A graduating student's employment in the same or substantially similar recognized occupation for which trained.

Externship—Practical off-campus training under direct or indirect instructor supervision.

Good reputation—A person is considered to be of good reputation if:

(A) there are no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;

(B) there are no convictions involving crimes of moral turpitude;

(C) within the last 10 years, the person has never been successfully sued for fraud or deceptive trade practices;

(D) the person does not own a school currently in violation of the legal requirements; has never owned a school with habitual violations; or has never owned a school which closed with violations including, but not limited to, unpaid refunds; or

(E) the person has not knowingly falsified or withheld information from representatives of the agency.

Instructor trainer—A driver training instructor that has been trained to prepare instructors to give instruction in a specified curriculum.

Job employment rate—The percentage of graduating students who have obtained employment in the same or substantially similar recognized occupation for which they have been trained.

Job placement—An affirmative effort by the school to assist the student in obtaining a job in the same or substantially similar recognized occupation for which the student was trained.

Laboratory experience—A specific experience of observation, experimentation, practice, study, technical investigation, analysis, and practical application of theory or verbal instruction involving hands-on supervised study in a selected vocation or subject.

New program—A program is considered to be new when:

(A) it has not been offered previously or has been offered and then discontinued;

(B) the objective has been revised such that the program provides preparation for different jobs (examples: legal secretary to paralegal; dental technician to medical technician; computer operator to computer programmer); and

(C) the total hours, content, or lessons of the approved program change 25% or more within a 12-month period (examples: from 1,000 hours to 750; 20 lessons to 30; 600 hours to 900).

Notice to the school—Written correspondence sent to the address of record for legal service contained in the application for a certificate of approval.

Owner of a school includes:

(A) in the case of a school owned by an individual, that individual;

(B) in the case of a school owned by a partnership, all full, silent, and limited partners;

(C) in the case of a school owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least 10% of the total of the issued and outstanding shares.

Person—Any individual, firm, partnership, association, corporation, or other private entity or combination thereof.

Program—A set of approved subjects offered by the applicant which when taken as a whole prepare a student for employment in a recognized occupation.

Proprietary school referred to as school—Any business enterprise operated for a profit, or on a nonprofit basis, which maintains a place of business within the State of Texas, or solicits business within the State of Texas, and which is not specifically exempt by statutes and includes those schools which offer or maintain a program or programs of instruction or study; or at which place of business such a program or programs of instruction or study is available through classroom instruction or by correspondence or both to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement, except as excluded by the provisions of this subchapter.

Quarter—At a minimum, normally a quarter shall include at least 10 weeks for instruction and one week for final examinations, or a total of 11 weeks instruction and examination combined.

Recognized occupation—An occupation by any one of the following: the Dictionary of Occupational Titles; the United States Department of Labor; the Texas Employment Commission; state or federal law; or a public or private entity recognized by the United States Department of Labor or the Texas Employment Commission as having particular expertise in occupational classifications.

Representative—A person employed by the school, whether the school is located within or without the State of Texas, to act as an agent, solicitor, broker, or independent contractor to directly procure students or enrollees for the school by solicitation within or without this state.

School employee—Any person, other than an owner, who directly or indirectly receives compensation from the school for services rendered.

Semester—At a minimum, normally a semester shall include at least 15 weeks for instruction and one week for final examinations, or a total of 16 weeks instruction and examination combined.

Seminars and workshops—Continuing education programs of 40 clock hours or less in duration which serve to enhance a student's career as opposed to programs offered to develop basic skills and fundamental knowledge required for entry into a particular field of endeavor. This includes continuing professional education and a review for examination.

Subject—A component of the program which constitutes specific subject matter designed to advance the practical skills and knowledge necessary to prepare a student for employment in a recognized occupation.

Support or supported—The primary source and means by which a school derives revenue to perpetuate its operation.

Suspension of enrollments—If the administrator suspends enrollments, the school may not advertise, solicit, or in any way advise prospective students, either directly or indirectly, of the program offerings. Further, reenrollments are also prohibited.

Tour—A tour means an inspection of those areas pertaining to the program of instruction.

Unearned tuition—This definition is for application in qualifying for a \$5,000; \$10,000; \$15,000; or \$20,000 bond. The total projected maximum, at any given time during the period for which the certificate of approval is issued, of the following:

(A) refunds due former students;

(B) the total of all tuition and fees that have been collected or will be collected from students prior to graduation; and

(C) the total of any tuition collected in advance from prospective students.

Week-Seven calendar days.

§175.123. Exemptions.

(a) Schools desiring to be considered exempt from regulation as authorized by the Texas Education Code, §32.12 shall make application and provide any information deemed necessary by the director to determine exempt status.

(b) Any school granted exempt status may be requested to provide information or be visited by representatives of the agency in order to ensure continued operation in compliance with the exemption provisions.

§175.124. Representatives.

(a) Applications to register representatives shall be made on forms provided by the director and accompanied by the appropriate fee. The representative may not begin solicitation until notice of approval has been received.

(b) The representative shall be under the control of the school, and for all purposes, is deemed to be the agent of the school. The school is responsible for any representations or misrepresentations, expressed or implied, made by a representative.

(c) Any student solicited or enrolled by an unapproved representative is entitled to a refund of all monies paid and a release of all obligations. Any contract signed by a prospective student as a result of solicitation or enrollment by an unapproved representative is null and void and unenforceable.

(d) Employees of recruiting firms may not serve as representatives.

(e) Including, but not limited to, the following, a representative is prohibited from:

(1) soliciting in public places other than an educational setting, at job fairs, or other organized meetings;

(2) offering as an inducement or enticement, any substantial consideration to a prospective student prior to enrollment, such as cash, food, housing, or gifts;

(3) administering the entrance test;

(4) advising students about financial aid other than informing the student of the general availability of financial assistance;

(5) giving false, misleading, or deceptive information about any aspect of the school's operation, job placement, or salary potential;

(6) violating any legal requirement or prohibition contained in this chapter, specifically §175.127(b)(7) of this title (relating to Minimum Standards for Operation of Proprietary Schools) or the Texas Education Code, Chapter 32;

(7) soliciting for or representing more than one school unless each owner of every school being represented has knowledge that the representative is also soliciting for or representing other schools;

(8) engaging in acts or practices which have a tendency to intimidate, coerce, or mislead a prospective student into accepting an enrollment;

(9) representing that a program has sponsorship, approval, characteristics, uses, benefits, or qualities which it does not have;

(10) disparaging the program of another school by the false or misleading representation of facts;

(11) failing to invite the prospective student to tour the facility and inspect the equipment prior to enrollment;

(12) failing to provide the prospective student with all required information prior to enrollment; and

(13) soliciting enrollments in a program which have not been approved by the administrator.

(f) Including, but not limited to, the following, a representative shall:

(1) be of good reputation and character;

(2) have sufficient and accurate knowledge of the school to provide a complete and accurate picture of the school to prospective students;

(3) refer questions about financial aid and entrance testing to the appropriate school officials;

(4) provide the required information to the student in advance of enrollment; and

(5) invite the student to tour the school's facilities, talk to students, and inspect equipment.

(g) The approval of a representative to solicit for a proprietary school may be revoked or denied and sanctions imposed against the school if there is false information on the representative's application or the representative engages in the acts prohibited by this section.

§175.125. Approvals.

(a) Requirements for issuance of certificate of approval. The administrator may approve the applying school and issue

a certificate of approval provided the applicant school is found upon investigation to have satisfactorily met the minimum standards for proprietary schools as set forth in this subchapter.

(b) Effective date of certificate of approval. The effective date of the certificate of approval shall be the date the certificate is issued. Exceptions will be made only in cases where administrative delay necessitates issuance of the new certificate subsequent to the expiration of the prior certificate provided the applicant school was in full compliance with the criteria for approval on the effective date.

(c) Renewal of certificate of approval. A complete application for renewal of a certificate of approval shall consist of the following:

(1) annual renewal fee as set forth in the Texas Education Code, §32.71(a)(2) and the fee for the tuition protection fund as set forth in the Texas Education Code, §32.91;

(2) completed application for renewal (Form DPSVE-015);

(3) properly executed school bond;

(4) complete and correct annual financial statements for the most recent fiscal year demonstrating the school is financially stable and capable of fulfilling its commitments for training; and

(5) any other revisions or evidence of which the school has been notified in writing necessary to bring the school's application for approval to a current and accurate status.

(d) Application procedures for additional programs. Schools making application for approval of additional programs after the original approval has been granted shall submit the necessary documents as designated by the director with the appropriate fee. Programs shall be approved prior to solicitation of students, advertising, or conducting classes. An approval for an additional program will not be granted if the school's compliance is in questions at the time of application.

(e) Notification of issuance or denial of certificate of approval. The administrator, upon review and consideration of an application for a certificate of approval from each school, shall determine the applicant to be acceptable or unacceptable. The administrator shall set forth in writing the approval or the reasons for denial of approval.

(f) Revocation of certificate of approval.

(1) The administrator may revoke an issued certificate of approval or

place reasonable conditions upon the continued approval represented by the certificate. A certificate of approval may be revoked or made conditional if there is reasonable cause to believe that the school is guilty of a violation of the law or of any rules and regulations for proprietary schools.

(2) Prior to revocation or imposition of conditions upon a certificate of approval, the holder of the certificate shall be notified in writing of the impending action and the grounds for the action.

(g) Imposition of sanctions.

(1) Peer review. The director may order a peer review of a school as authorized by the Texas Education Code, §32.64.

(2) Suspension of enrollments. The administrator may suspend admission of students to a school for any violation of the law or rules. The suspension may be imposed before the order of a peer review as authorized by the Texas Education Code, §32.64.

(3) Civil penalty. In addition to any other sanction authorized, the administrator may impose a civil penalty against a person as allowed by the Texas Education Code, §32.611.

(h) Certificate of approval. A proprietary school shall obtain a certificate of approval for each location where a program or programs of instruction will be offered, unless the school meets one of the exceptions in this subsection. Schools which held a certificate of approval on May 13, 1978, are not required to apply for an additional certificate for any facilities in which they are conducting continuous programs of instruction, provided that those facilities were approved as part of the school's application for its certificate of approval. The exceptions are as follows:

(1) schools which offer short-term programs not to exceed 200 hours at locations other than their main campuses provided there is a 90-day interval between program offerings;

(2) schools which offer review programs, the purpose of which is to assist students in reviewing for required examinations for licensing or for entering academic institutions and reading improvement schools;

(3) itinerant schools which do not hold classes in more than one location at a time; or

(4) schools which acquire additional classroom facilities for instructional services only if the additional classroom is located within a one-mile radius of the main campus and is dependent on the main campus for administration, supervision, fiscal

control, and student services. Any school which has an additional classroom approved on December 31, 1989, which does not meet this requirement shall be in compliance by December 31, 1991.

(i) Purchase of school. A person or persons purchasing an approved proprietary school shall comply with all the requirements for securing an original approval. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s), and all other instruments necessary to transfer ownership of the school shall be submitted to the agency. The purchaser shall accept responsibility for all refund liabilities.

(j) New location. An application for a certificate of approval to reflect a new location shall be filed and include all documents designated by the director as being necessary with the appropriate fee. Approval may be issued after the new facilities have been inspected and the application is complete. If a move is beyond 10 miles and a student is prevented from completing the training at the new location as determined by the director, a full refund of all monies paid and a release from all obligations are due.

(k) Notification of legal action. All schools shall notify the director in writing of any legal action which may concern the operation of or filed against the school, its officers, or any owner within five working days after the school, its officers, or any owner has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.

§175.126. Applications from Small Businesses.

(a) Time periods. Applications from small businesses for certificates of approval, representatives, school directors, and instructional staff shall be processed in accordance with the following time periods.

(1) The first period is a time from the receipt of an application to the date of issuance of a written notice approving the application or outlining the reasons why the application is unacceptable. The time periods for each application are:

(A) initial certificate of approval—30 days;

(B) renewed certificate of approval—30 days;

(C) change in owner certificate of approval—30 days;

(D) initial representatives—10 days;

(E) renewed representatives—10 days; and

(F) school directors and instructional staff—20 days.

(2) The second period is a time from receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying approval of the application. The time periods for each application are:

(A) initial certificate of approval—21 days;

(B) renewed certificate of approval—21 days;

(C) change in owner certificate of approval—21 days;

(D) initial representative (approval contingent upon issuance of school's approval)—21 days;

(E) initial representative (approval not contingent upon issuance of school's approval)—10 days;

(F) renewed representative (approval contingent upon issuance of school's approval)—21 days;

(G) school directors and instructional staff (approval contingent on issuance of school's approval)—21 days; and

(H) school directors and instructional staff (approval not contingent on issuance of school's approval)—20 days.

(b) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsection (a) of this section, the applicant has the right to request of the administrator full reimbursement of all filing fees paid in that particular application process. If the administrator does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for certificates of approval, repre-

sentatives, school directors, or instructional staff as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions existed giving good cause for exceeding the established periods.

(c) Appeal. If the request for full reimbursement authorized by subsection (b) of this section is denied, the applicant may then request a hearing by appealing to the commissioner of education for a resolution of the dispute. The appeal will be processed in the same manner as other appeals involving proprietary schools pursuant to the Texas Education Code, Chapter 32, Subchapter E, and Chapter 157 of this title (relating to Hearings and Appeals).

§175.127. Minimum Standards for Operation of Proprietary Schools.

(a) Minimum standards of operation must be maintained by all schools to ensure educational programs of high quality which will be of benefit to the student, the school, and the state. The observance and maintenance of these standards is the responsibility of each school for inherent advantage to the school itself and for the common good of all schools.

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards.

(1) Personnel.

(A) School director and administrative staff members.

(i) Each school shall designate one person as the school director of the school. The school director is responsible for the school program, the organization of classes, the maintenance of the school plant, and the maintenance of proper administrative records and all other procedures related to the administration of the school.

(ii) The school director shall be a graduate of an accredited institution of higher learning (college or university) with one year of experience in administration, institutional management, or the total years of administrative/management experience and/or higher education shall equal five years. An exception is permitted for schools that qualify for a \$5,000 bond as allowed by the Texas Education Code, §32.38(a). In that event, the school director shall have sufficient background and training in the area for which the school

director will be responsible. If the school employs a director of education, that director shall meet the same requirements as an instructor and shall also have one of the following:

(I) one-year employment as a supervisor; or

(II) relevant postbaccalaureate degree.

(iii) The school director or staff member must be a person of good reputation and character.

(iv) The school director shall serve as a liaison person during any compliance visit by the division. The school director may designate a member of staff to serve as liaison.

(v) The director of the school shall designate an individual to perform all the functions of, and succeed to, the authority of the named school director when the school director is absent from the school.

(vi) An individual shall be approved as a school director before employment as such. A school director and assistant school director shall attend an agency-sponsored workshop within three months of application for approval and demonstrate proficiency of knowledge of the requirements of operating a proprietary school before final approval as a director of a school. The workshops will be scheduled when the workshop enrollment reaches 15, or quarterly whichever occurs first. A school director may be required to attend additional workshops in order to maintain skills and continue to be approved as a school director. An acting school director may be designated for a period not to exceed three months. Violations at the school may result in revocation of the approval.

(B) Instructors.

(i) An application for approval of an instructor on forms provided by the agency, shall be filed in accordance with the following criteria.

(I) The application shall be postmarked within five calendar days of employment subject to the conditions outlined in subclause (IV) of this clause.

(II) The application shall include a legible copy of the postsecondary transcript, if required. In lieu of the transcript, proof of a current occupational license may be submitted if that license indicates the applicant's attainment of the educational requirements as verified by agency staff.

(III) Approvals of instructional staff by other state agencies responsible for approval and regulation of the program shall be accepted by agency staff. This does not remove the requirement that the instructor file an application on agency forms.

(IV) A school may employ an instructor prior to approval unless the school has had three applications for instructors which have been finally disapproved for failure to meet the minimum requirements within the previous 24 months. After the third disapproval, for the next 12-month period instructors shall be approved in advance.

(ii) Instructors shall have specific qualifications as set forth in any of the subclauses (I)-(V) of this clause. In such cases where the practical experience is gained on a seasonal basis as an industry standard, such as tax preparation, the season of at least three months of experience shall be considered as one year of experience. The director may approve a variance from these specific qualifications with sufficient justification and an assurance that the program quality will not be lessened.

(I) An instructor shall hold a baccalaureate or higher degree from an accredited college or university and either:

(-a-) the baccalaureate or higher degree includes satisfactory completion of nine semester hours or 12 quarter hours in subjects related to the subject area to be taught; or

(-b-) the instructor has had a minimum of two years of practical experience within the last 10 years in the subject area to be taught.

(II) An instructor shall hold an associate degree from an accredited college, university, or recognized postsecondary institution and either:

(-a-) the instructor has a minimum of two years of practical experience within the last 10 years in the subject area to be taught and the associate degree includes satisfactory completion of nine semester hours or 12 quarter credit hours in subjects related to the subject area to be taught; or

(-b-) the instructor has a minimum of three years of practical experience within the last 10 years in the subject area to be taught.

(III) An instructor shall hold a high school diploma or GED

and a certificate of completion from a recognized postsecondary institution for at least a 900-clock-hour program in a relevant subject area and a minimum of four years of practical experience within the last 10 years in the subject area to be taught.

(IV) An instructor shall hold a high school diploma, GED, or proof of satisfactory completion of relevant subject(s) from a recognized postsecondary institution, and practical experience in the appropriate subject area of a minimum of five years within the last 10 years.

(V) Court reporting speedbuilding instructors shall hold a high school diploma or GED and have completed all court reporting theory requirements in a licensed court reporting school that requires at least 300 clock hours of court reporting theory. The instructor shall also provide evidence of a minimum of one year of experience related to the court reporting field in the last 10 years. Related experience may include, but is not necessarily limited to, actual court reporting, teaching, scoping, and/or note reading.

(iii) The instructor shall be of good reputation and character.

(iv) Each instructor shall be evaluated annually. The report of the evaluation shall be available for review by representatives of the agency.

(v) As determined by the director, an appropriate number of the faculty shall have the relevant license or certificate required for the job objective. The holder of the license or certificate shall actively participate in curriculum development and/or curriculum revision.

(vi) The school shall ensure continuity of instruction through the reasonable retention of the instructional staff.

(vii) The school shall maintain and update annually a written plan for staff development which includes at a minimum: continuing education, staff meetings, and attendance at trade and professional meetings. Documentation of implementation shall also be maintained.

(viii) The number of court reporting speedbuilding instructors who do not hold a court reporting certificate issued by a state, qualified under clause (ii)(V) of this paragraph related to instructor qualifications shall not exceed 20% of the instructional staff.

(ix) The school shall publish as a part of its catalog a list of the instructors including qualifications and the field to be taught.

(x) Upon written notification to the director postmarked no later than the first day in the classroom, a person who

has not been approved or disapproved as an instructor may serve as an instructor for no more than two weeks. This person shall have practical experience or education in the subject area to be taught. There shall be no more than one such person per grading period in an individual subject. It is the school's responsibility to ensure that students continue to receive a quality education.

(2) Admission requirements.

(A) The school shall submit its entrance requirements for each program for approval or disapproval by the director.

(i) For each program, justification shall be submitted for the entrance requirements stated. All applicants without a high school diploma or GED shall be tested. Students without a high school diploma or GED that pass the entrance test are considered to have the ability to benefit.

(ii) Any entrance test shall be a nationally recognized standardized test or one developed by the appropriate industry and approved by the director. A nonstandardized test shall be reviewed by a qualified third party, such as an expert in tests and measurements, for both appropriateness and the specific score level required for admission into the program. The name of the test and its publisher, any time limitations and a minimally acceptable score as referenced in the test material, shall be provided with a copy of the test, if the test is not already on file with the director.

(iii) If multiple opportunities are allowed for retaking the same entrance test, such applicants shall wait five calendar days prior to retaking the test. An applicant may take a second entrance test on the same day provided a substantially different test is administered. This shall be stated in the admissions policy published in the school catalog.

(iv) A representative is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.

(v) If the entrance test reveals the student to be ineligible as an ability-to-benefit student, the student may be enrolled as a remedial student. The school shall have an evaluation procedure approved by the director to determine remedial needs and to determine when the required level of remediation has been reached. The school shall also have a remediation plan for that student consisting of subjects approved by the director as a part of the program. The student may be charged for the remedial portion on an hourly pro rata basis, but the student is not obligated for the tuition and fees of the vocational program until the entrance requirements are

met. The minimum entrance requirement is a high school diploma, GED, or a passing score on the entrance exam.

(vi) Evidence shall be maintained in each student's file to show the entrance requirements have been met. A full refund of all monies paid and a full release from all obligations shall be due at the determination of the director to any student for whom the school cannot show the entrance requirements were met.

(vii) A minimum retention rate for students admitted to the vocational portion of the program acceptable to the director shall be demonstrated for each program.

(B) The school must maintain a written record of the previous education and training of the applicant student which clearly indicates that appropriate credit has been given by the school for previous education and training. Official transcripts of all previous postsecondary institutions attended provided by the student must be placed in the student file with a written evaluation initiated by the school director or the school director's designee. The new training period shall be shortened where warranted through use of appropriate skills or achievement tests and the student so notified. When the training period is shortened, the course cost shall be reduced accordingly. With the exception of seminars and workshops as defined in §175.122 of this title (relating to Definitions) and individual subjects within an established curriculum, schools shall use Form DPSVE-010 or the equivalent which will become a part of the student's permanent record at the school. The subject matter involved in seminars and workshops is such that credit for previous education and training may not be required.

(C) Prior to enrollment the school shall furnish the following to each prospective student:

- (i) school catalog and program outline;
- (ii) schedule of tuition, fees, and other charges;
- (iii) cancellation and refund policy;
- (iv) attendance, progress, and grievance policies;
- (v) rules of operation and conduct;
- (vi) data, if available, about the number of job openings in the program objective in a specified area within the last 12 months with the name of the source;

(vii) regulations pertaining to incomplete grades; and

(viii) written and verbal explanations of the difference between a loan and a grant, if the school participates in a loan or grant program.

(D) Any institution that refers to the awarding of credit hours must explain to each student during the enrollment process that transferability of such hours may be limited. Each student must sign a statement to the effect that an explanation has been provided. Should a school have an articulation agreement with an academic college or university, such information shall be provided, including any limitations. Any such school shall also provide a list of known Texas institutions of higher education and state technical institutes that accept any or all of the credit hours so earned.

(E) In addition, all schools shall use a form approved by the director to verify the student's receipt of the information required in subparagraphs (C) and (D) of this paragraph. At the discretion of the director, the form shall also include the following statements:

(i) "For the program entitled _____, I have been informed that the current completion rate is _____%, or _____ of _____ students enrolled, and for students issued a certificate of completion, the current job placement rate is _____%, or _____ of _____ students, and the employment rate is _____%."

(ii) "I have furnished information disclosing my previous education, training, and work experiences. I understand this will be evaluated and may result in my program length being shortened and the cost being reduced."

(iii) "I further realize that any grievances not resolved by the school may be forwarded to the Division of Proprietary Schools and Veterans Education, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9475."

(iv) "A comparison of the cost to me for a similar program at other schools is available by contacting the Division of Proprietary Schools and Veterans Education, Texas Education Agency, Austin, Texas."

(F) Further, acknowledgment of the receipt of each required piece of information or documentation as set forth in subparagraphs (C), (D), and (E) of this paragraph shall be indicated by the initials of the student by the narrative describing

the requirement with a full signature at the end of the document. A copy shall be given to the student along with a copy of the enrollment agreement. A copy of each document shall be a part of the student files maintained by the school.

(G) The school shall submit an enrollment agreement to the director for approval. Further, with the exception of seminars and workshops, the school shall enroll students using the approved enrollment agreement. The agreement shall include, but is not limited to, the following:

(i) full and correct name and location of the school;

(ii) program title, tuition, fees, reasonable estimate cost of books and supplies, any other expenses, total cost of the program, items subject to cost change, method of payment and payment schedule, disclosure statement (if interest is charged on more than three payments), and detachable buyer's right to cancel if enrollment is procured off campus;

(iii) date training is to begin and program length;

(iv) name and address of the student;

(v) statement that the student has received a copy of the school enrollment agreement and catalog;

(vi) cancellation and refund policy; and

(vii) Federal Trade Commission statement for holder in due course.

(3) Conduct policy.

(A) The school shall submit a copy of the rules and regulations pertaining to conduct for approval.

(B) A statement regarding the following shall be submitted:

(i) conditions for dismissal;

(ii) conditions for reentrance of those students dismissed for violating the conduct policy.

(4) Tuition and fees.

(A) All tuition, fees, and other charges shall be stated in the school's application for approval and shall be disclosed to potential students in the school catalog.

(B) The school shall submit method(s) of payment that are available to enrolling students. If student financing is available through any form of arrange-

ment(s) or agreement(s) between the school and a lending institution, the complete terms of the arrangement(s) or agreement(s) must be disclosed to the director. In addition, if any form of financing is available at the school, all charges and the true annual percentage rate and the name(s) and address(es) of the lending institution(s) shall be disclosed to the director.

(C) Students shall not be held liable for any tuition, fees, or other charges not previously disclosed to the director.

(D) Scholarships may be offered provided terms of scholarships are published and disclosed to the director.

(E) Any funds received from, or on behalf of, a student shall be recorded in a format that is readily accessible to representatives of the Texas Education Agency and acceptable to the director. Receipts shall be issued to the student. The funding source and the reason for the charges shall be clearly identified on both documents. Additionally, these records shall be posted and kept current.

(5) Cancellation and refund policy.

(A) Proprietary school cancellation and refund policies must be in accordance with the Texas Education Code, §32.39.

(B) Each school must have a cancellation and settlement policy that will permit a potential student to cancel any enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student. Any potential student who has not toured the school facilities and inspected the equipment prior to signing an enrollment contract has an additional three days excluding Saturdays, Sundays, and legal holidays following a tour and inspection to request a full refund of any monies paid to the school and release from all obligations. The student shall sign and date a form certifying the tour. Correspondence, combination correspondence-residence, and seminars and workshop programs are not required to provide the student a tour.

(i) For any student enrolled off the school premises, the notice of cancellation must be in the following form.

(I) The notice of cancellation must be attached to the enrollment agreement or contract and easily detachable,

printed in 10-point boldface type, and in the same language used in the contract.

(II) The notice of cancellation must contain, among other things, the date of the agreement, name and address of school, and the date on which the 72-hour period will expire.

(III) The notice of cancellation must be in a form that can be used by the student to notify the school of the student's desire to cancel by dating, signing the form, and mailing or otherwise delivering it to the school's address shown. The notice left with the student must be in duplicate.

(ii) If it is established the enrollment of any student was procured as the result of any misrepresentation in advertising, promotional materials of the school, or representation by the owner or representative of the school, the enrollment agreement or contract is cancelled and full refund of all tuition and fees will be due and payable.

(iii) Refunds based on enrollment in resident schools will be totally consummated within 30 days after the effective date of termination. Proof of consummation of refund will be the refund document or copies of both sides of the cancelled check and must be on file within 120 days of the effective date of termination. All refund checks must identify the student to whom the refund is assigned. In those cases where multiple refunds are made using one check, the check must identify each individual student and the amount to be credited to that student's account.

(C) For residence programs more than 12 months in length, the refund shall be applied to each 12-month period, or part thereof separately.

(i) The determining factor as to whether a program is longer than 12 months will be based on the length of the program as taught by the school in the shortest period of time on a regularly scheduled basis.

(ii) During the subsequent 12-month periods or the remaining part thereof, the refund will be made based on the quarter the 12-month period or the remaining period that is less than 12 months.

(iii) The number of hours in any period will be determined by the actual hours taught during that period.

(D) Refunds of items of extra expenses to the student, such as instructional supplies, tools, student activities, laboratory fees, service charges, rentals, de-

posits, and all other such ancillary miscellaneous charges where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the director.

(E) Refund computations for students enrolled under the attendance criteria outlined in paragraph (8)(B)(iii) of this subsection shall be based on scheduled hours of class attendance. In all refund computations, leaves of absence, suspensions, school holidays, days when classes are not offered, and summer vacations shall not be counted as part of the elapsed time for purposes of calculating a student's refund.

(F) For correspondence programs such policy must provide the following.

(i) Refunds will be computed based on the number of home study lessons in the program.

(ii) The effective date of termination for refund purposes will be the earliest of the following:

(I) the date of notification to the student if the student is terminated;

(II) the date of receipt of written notice from the student; or

(III) the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled. (In this event, the written notice from the student will be maintained in the student's permanent file.) Training must be terminated at the end of any three-month period in which no lessons are received unless written notice is received from the student during that three-month period that the student wishes to remain enrolled.

(iii) If tuition is collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the program, not more than \$50 shall be retained by the school.

(iv) In cases of termination or withdrawal after the student has begun the correspondence program, the school may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition, fees and other charges that the number of

lessons completed and serviced the school bears to the total number of lessons in the program.

(v) Refunds of items of extra expense to the student, such as instructional supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other ancillary miscellaneous charges where these items are separately stated and shown in the data furnished the student before enrollment shall be made in a reasonable manner acceptable to the director.

(vi) Refunds shall be totally consummated within 30 days after the effective date of termination as defined in clause (ii) of this subparagraph.

(vii) Enrollment contracts must specify the amount of time allotted the student to complete the program. If at the end of the specified period the student has not completed the program, the student must be terminated and a refund must be totally consummated within 30 days. Should the student desire to reenroll, appropriate credit must be given as outlined in paragraph (2) of this subsection.

(G) In reference to the Texas Education Code, §32.39(e), a school is considered to have made a good faith effort to consummate a refund if the student's file contains evidence of the following attempts:

- (i) certified mail to student's last known address;
- (ii) certified mail to the student's permanent address; and
- (iii) certified mail to the address of the student's parent, if different from the permanent address.

(H) For programs consisting of a combination of home study lessons and residence training, not more than \$100 will be retained by the school for those students who fail to enter residence training, unless the school submits affirmative evidence acceptable to the administrator disclosing the home study lessons are of such quality and content to reasonably assure that the students will achieve the stated objective without the residence training portion of the program.

(I) If it is determined that the method used by the school to calculate refunds is in error or the school does not routinely pay refunds within the time required by the Texas Education Code, §32.39(b)(7) and (12), the school shall submit a report of an audit which includes any interest due as set forth in the Texas Education Code, §32.39(e), conducted by an independent certified public accountant or

public accountant registered with the State Board of Public Accountancy, of the refunds due former students. The audit opinion letter shall be accompanied by a schedule of student refunds due which shall disclose the following information for the previous four years from the date of request by the agency for each student:

(i) name, address, and social security number;

(ii) last date of attendance, date of termination; and

(iii) amount of refund with principal and interest separately stated, date and check number of payment if payment has been made, and any balance due.

(6) Vocational instructional programs.

(A) Subject hour length and program standards, generally. No subject or combination of subjects constituting a particular program shall be approved by the administrator unless it is demonstrated by the applicant that the program offered is of such quality, content, and length as to reasonably and adequately impart to a student the job skills and knowledge necessary for the student to obtain employment in the business, trade, technical, or industrial occupation for which the instruction is offered.

(B) Standards for program application review. In determining whether an application for a program or combination of subjects constituting a program shall be approved under subparagraph (A) of this paragraph, the administrator shall consider the following.

(i) Occupational objective. The program shall prepare the student for a job in a recognized occupation. An application for program approval that does not identify a recognized occupation shall be denied unless it can be shown by the applicant that:

(I) the occupation is of such recent origin that it has not been recognized by any of the entities identified in §175.122 of this title (relating to Definitions); and

(II) employers regularly solicit and hire employees for such occupation.

(ii) Need for education and training. An application for program approval shall not be approved unless it is demonstrated by the applicant that a student who successfully completes the program is more likely to be employed in the occupation for which the program is offered than

an individual who does not enroll in the program. In determining whether a particular program conforms to the standards set out in this subparagraph, the administrator shall take into consideration all of the following:

(I) whether employers who regularly employ persons in the occupation under review prefer the same or similar education and training offered by the program under review;

(II) whether employers who regularly employ persons in the occupation under review require substantial on-the-job training as a condition of employment and the requirement of such on-the-job training renders the program under review unnecessary; and

(III) whether employers who regularly employ persons in the occupation under review generally allow more rapid advancement to a graduate of the program under review than to persons who have not graduated from the program.

(iii) Occupational demand. The program shall prepare the student for a job in a recognized occupation for which there is demonstrable demand. An application for program approval that does not identify a demonstrable employer demand for the occupation for which the program is offered shall be denied. In determining whether there is demonstrable employer demand for the occupation under review, the administrator shall consider the following:

(I) the applicant's statement of occupational demand which may include, but is not limited to, publications of established relevant occupational associations; references to advertisements for employment in Texas media;

(II) the job employment rate of students who have previously completed the same or substantially similar program;

(III) reports or publications relating to demand for the occupation under review including, but not limited to, the following:

(-a-) any state or federal agency;

(-b-) employers who regularly employ individuals for the occupation under review;

(-c-) Quality Work Force Planning Committee located in the region in which the applicant is located; and

(-d-) established relevant occupational associations; and

(IV) the opinion of individuals whose expertise is recognized in either education or the industry relating to the occupation for which the program is offered.

(iv) Program content. Each subject that collectively constitutes the program shall advance the practical skill and knowledge required for employment in the business, trade, technical, or industrial occupation for which the program is offered. Subjects which do not bear a substantial and demonstrable relationship to the job skills and knowledge required for employment in the recognized occupation for which the program is offered shall not be approved. In determining whether a particular subject or the program as a whole conforms to the standards stated in this clause, the administrator shall take into consideration all of the following:

(I) the structure and content of programs offered by other educational providers which prepare the student for the same or substantially similar occupation;

(II) any statutory requirements applicable to the occupation;

(III) the opinion of individuals whose expertise is recognized in either education and/or the industry relating to the occupation for which the program is offered;

(IV) whether the employability and advancement potential of a student who successfully completes the program under review would be significantly greater than the employability of a student who successfully completes a program with a different content which prepares the student for the same or substantially similar occupation;

(V) the education and experience level set forth in the entrance requirements as a prerequisite; and

(VI) any other relevant sources.

(v) Program length. Each program submitted for approval shall identify the clock/credit hours allocated to each subject which comprises the program. The total number of clock/credit hours allocated to each subject shall bear a direct and reasonable relationship to the job skills and knowledge required for employment in the

recognized occupation for which the program is offered. Subjects or a combination of subjects constituting a program which when considered separately or collectively evidence clock/credit hours which exceed that which is reasonable to prepare the student for the recognized occupation for which the program is offered shall not be approved. In determining whether a particular subject or the program as a whole conforms to the standards stated in this subparagraph, the administrator shall consider all of the following:

(I) the structure, content, and length of programs offered by other educational providers which prepare the student for the same or substantially similar occupation;

(II) any statutory requirements applicable to the occupation;

(III) the opinion of individuals whose expertise is acknowledged in either education or the industry relating to the occupation for which the program is offered;

(IV) whether the employability or advancement potential of a student who successfully completes the program under review would be significantly greater than the employability of a student who successfully completes a program with fewer clock/credit hours which prepares the student for the same or substantially similar occupation;

(V) the education and experience level set forth in the entrance requirements as a prerequisite; and

(VI) any other relevant sources.

(vi) Program title. Each program submitted for approval shall be identified by a title. The title shall clearly identify the occupation for which the program is offered. False, misleading, or deceptive program titles shall not be approved.

(C) Standards of program/subject length. The commissioner of education shall establish minimum and maximum program lengths for recognized occupations consistent with this subsection. The commissioner of education or his designee may approve a variance from the established minimum and maximum program lengths with sufficient justification.

(D) Submission of the program applications. Applications for program

approval shall be submitted on forms provided by the agency.

(E) Catalogs. Schools shall not publish in their catalogs or other promotional literature programs which have not been approved by the director.

(F) Qualified faculty. When a school is approved to offer a program and enrolls students in the program, the school shall maintain sufficient and qualified faculty to teach all subjects for completing the program during the length of time stipulated in the school catalog regardless of the size of the class.

(G) Scheduling of classes. The school shall schedule classes so that the students will be able to complete the program during the length of time stipulated in the school catalog. The school shall publish in its catalog a class schedule to include the amount of time allocated for breaks and mealtimes.

(H) Discontinuance of program. If an approved program is discontinued for any reason, the director shall be notified within 72 hours of discontinuance and furnished with the names and addresses of any students who were prevented from completion by reason of the discontinuance of the program. Should the school fail to make arrangements satisfactory to the students and the director for the completion of their program(s), the full amount of all tuition and fees paid by the students are then due and refundable. If arrangements are not made satisfactory to the students and director, the refunds must be made no later than 30 days from the date the program was discontinued. Any program discontinued will be removed from the list of approved programs.

(I) Evening school. No evening school class schedule shall extend beyond a reasonable time.

(J) Conversion table for credit hours.

(i) If the applicant requests approval to measure programs in credit hours for academic purposes, the following conversion table must be used:

(I) schools which schedule their programs on a quarter or semester basis.

(-a-) One semester credit hour is equal to a minimum of:

(-1-) one hour of classroom lecture per week for a semester or the equivalent number of hours; or

(-2-) two hours of laboratory experience per week for a semester or the equivalent number of hours; or

(-3-) 45 clock hours of externship;

(-b-) One quarter credit hour is equal to a minimum of:

(-1-) one hour of classroom lecture per week for a quarter or the equivalent number of hours; or

(-2-) two hours of laboratory experience per week for a quarter or the equivalent number of hours; or

(-3-) 30 clock hours of externship.

(II) schools in which programs are not scheduled on a quarter or semester basis.

(-a-) One semester credit hour is equal to a minimum of:

(-1-) 15 clock hours of classroom lecture; or

(-2-) 30 clock hours of laboratory experience; or

(-3-) 45 clock hours of externship.

(-b-) One quarter credit hour is equal to a minimum of:

(-1-) 10 clock hours of classroom lecture; or

(-2-) 20 clock hours of laboratory experience; or

(-3-) 30 clock hours of externship.

(ii) The school shall publish in its catalog an explanation of the method used to convert clock hours to credit hours and shall show the actual contact hours of theory, lab, and externship in addition to the total credit hours for each subject.

(K) Reasons for denial. If, upon review and consideration of an original, renewal, or amended application for

program approval, the administrator determines that the applicant fails to meet the requirements in the Texas Education Code or this chapter, the administrator shall notify the applicant, setting forth the reasons for denial in writing. This may include summaries of peer evaluations from both educators and employers offering similar programs.

(L) Reasons for revocation. The administrator may revoke approval of an institution's program(s) at any time the administrator finds cause, including, but not limited to:

(i) any statement contained in the application for the program approval is untrue;

(ii) the institution has failed to maintain the faculty, facilities, equipment, and programs of study on the basis of which approval was issued;

(iii) advertising and/or representations made on behalf of the institution which are false, misleading, or deceptive, including those which use the word "associate" to describe a degree other than those approved by the agency prior to September 1, 1989, or by the Texas Higher Education Coordinating Board; or

(iv) the institution has violated any applicable provision of the Texas Education Code or this chapter.

(M) Right to appeal. An applicant whose program approval is denied or revoked shall have the right to appeal under Chapter 157 of this title (relating to Hearings and Appeals). If the applicant fails to furnish additional evidence or exercise the right of appeal within 15 days after receipt of notice that the application is unacceptable, the notice shall become final.

(7) Advertising.

(A) Printed catalog shall be specific with respect to training prerequisites for admission to the school's programs, the curricula, the content of programs, and graduation requirements.

(B) Schools holding a franchise to offer specialized programs or subjects not available to other schools shall not advertise such programs in such manner as to diminish the value and scope of programs offered by other schools that do not hold such a franchise. Such advertising of special subjects or programs offered under a franchise shall be limited to the subject or programs offered.

(C) Schools or representatives shall not use a photograph, cut,

engraving, or illustration in bulletins, sales literature, or otherwise, in such a manner as to convey a false impression as to size, importance, or location of the school, equipment, and facilities associated with that school.

(D) Schools or representatives shall not use endorsements, commendations, or recommendations by students in favor of a school except with the consent of the writer and without any offer of financial compensation. Such material shall be kept on file and made a permanent record of the school. Such endorsements shall bear the actual name or professional name of student.

(E) Schools or representatives shall not make deceptive statements concerning other proprietary school activities in attempting to enroll students.

(F) Classified advertising seeking prospective students must appear under "instruction," "education," "training," or a similarly titled classification and shall not be published under any "help wanted" or "employment" classification.

(G) Every display-type newspaper advertisement, or other advertisement placed by the school or its representatives, through direct mail, radio, television, or directories seeking prospective students, must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

(H) All advertisements placed by the school or its representatives seeking prospective students must include and clearly indicate the full and correct name of the school, its address, and the city where the school is located.

(I) No advertisements of any type shall use the word "wanted," "help wanted," or the word "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate in any manner that the school has or knows of jobs or employment of any nature available to prospective students; only "placement assistance," if offered, may be advertised.

(J) No statement or representation shall be made that students will be guaranteed employment while enrolled in the school or that employment will be guaranteed for students after graduation, nor shall any school or representative thereof falsely represent opportunities for employ-

ment upon completion of any program of study.

(K) No dollar amount or amounts will be quoted in any advertisement as representative or indicative of the earning potential of graduates.

(L) No statement shall be made that the school or its programs of instruction have been accredited unless the accreditation is that of the appropriate nationally recognized accrediting agency listed by the United States Office of Education.

(M) No statement shall be made that the school or its programs of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by the approving agency of the state or federal government. Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogs. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(N) No proprietary school shall advertise as an employment agency under the same name or a confusingly similar name or at the same location of the school. No representative shall solicit students for a school through an employment agency.

(O) The director at any time may require that a school furnish proof to the director of any of its advertising claims. If proof acceptable to the director cannot be furnished, a retraction of such advertising claims published in the same manner as the claims themselves, must be published by the school and continuation of such advertising shall constitute cause for suspension or revocation of its certificate of approval.

(P) If student tuition loans are available at the school, the school may advertise them only with the language "student tuition loans available" in type no larger than that used for the name of the school. This does not preclude disclosure of the institution's eligibility under the various state and federal loan programs.

(Q) Schools which are cited by the Division of Proprietary Schools and Veterans Education three or more times

during any 12-month period for violating any of the provisions of this subsection shall maintain for one year from the date of the third citation a complete record of all advertising, sales, or enrollment materials (and copies of each) used by or on behalf of the institution during the 12-month period. If the director views the violations to be of sufficient gravity, the school may be required to maintain the record after the first or second violation. The materials maintained shall include, but not be limited to, direct mail pieces, brochures, printed literature used by sales people, films, video and audio tapes disseminated through the broadcast media, materials disseminated through the print media, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel.

(R) Nothing in these guidelines shall prohibit release of information to students as required by a federal agency.

(8) Minimum progress and attendance standards.

(A) Progress. Appropriate standards must be implemented to ascertain the progress of the students enrolled. Progress standards must meet the following requirements.

(i) Schools approved on a clock hour basis must have a progress evaluation system on a maximum of eight weeks. Schools approved on a credit hour basis must have a progress evaluation system at mid-term and end-of-term for semester or quarter or at least every eight weeks.

(ii) Correspondence schools shall maintain on forms approved by the director a progress evaluation system. This form shall include the date course materials are mailed to the student, the date the lesson assignment is received from the student, the grade on a lesson basis, the instructor's name, and the date graded assignments are mailed or returned to the student. The form must also include a final grade for the course with completion date indicated.

(iii) The progress evaluation records must be of the type and nature to reflect whether the student is making satisfactory progress to the point of being able to complete all subject matter within the allotted time provided in the course curriculum.

(iv) Seminars and workshops as defined in §175.122 of this title may give only a final exam at the end of the program in lieu of the progress evaluation system outlined required in this subsection to determine whether the student has the knowledge to warrant a certificate of completion.

(v) For programs of 200 clock hours or less, a student's grades will be recorded at mid-term and at the end of each grading period. A student who is not making satisfactory progress at mid-term shall be placed on probation for the remainder of the grading period. If the student fails to achieve satisfactory progress at the end of the probationary period, the student's enrollment shall be terminated.

(vi) The following subclauses apply to programs in excess of 200 clock hours.

(I) A student who is making unsatisfactory progress at the end of a grading period shall be placed on probation for the next grading period. If the student on probation achieves satisfactory progress for the subsequent grading period but has not achieved the required grades to achieve overall satisfactory progress for the program, the student may be continued on probation for one more grading period.

(II) If the student on probation fails to achieve satisfactory progress for the first probationary term, the student's enrollment will be terminated.

(III) The enrollment of a student who fails to achieve overall satisfactory progress for the program at the end of two successive probationary grading periods shall be terminated.

(IV) When a student is placed on probation, that student will be counseled prior to returning to class, and the date, action taken, and terms of the probation shall be clearly indicated on the appropriate permanent records.

(V) A student whose enrollment was terminated for unsatisfactory progress may be reentered after a minimum of one grading period. This does not circumvent the approved refund policy.

(VI) A student who returns after the enrollment was terminated for unsatisfactory progress shall be placed on probation for the next grading period. The student shall be advised of this action and the students file documented accordingly. If the student does not maintain satisfactory progress during or at the end of this probationary period, that student will be terminated.

(vii) The school shall submit its regulations pertaining to incomplete grades to the director for approval and publish those regulations in the school's catalog. The regulations shall address the possibility of the subjects being discontin-

ued when the student returns and clarify appropriate reasons as set forth in the Texas Education Code, §32.39(f) .

(B) Attendance.

(i) Absence shall be charged for a full day when the student attends none of the scheduled classes on that day. A partial day of absence shall be charged for any period of absence during or at the end of the day. Seminar and workshop programs which begin and end during one day do not have to maintain an attendance policy.

(ii) School holidays, such as summer vacation and Christmas holidays, etc., shall not be considered as days of absence.

(iii) The attendance policy shall stipulate the following condition for termination of students who accumulate absences as outlined in the following subclauses prior to entering the period in which the student is obligated for all tuition, fees, and other charges:

(I) more than 10 consecutive school days;

(II) more than 15% of the total clock hours in a program;

(III) more than 25% of the total clock hours, if the program is 200 clock hours or less in the approved programs.

(iv) Students whose enrollments are terminated for violation of the attendance policy may not reenter before the start of the next grading period. This does not circumvent the approved refund policy.

(v) For schools having specific term-beginning dates a school may not start students after the third day of classes, during any given term, except in those cases where appropriate credit has been given according to the Texas Education Code, §32.33(d), and of §175.127(b)(2)(B) of this title (relating to Minimum Standards for Operation of Proprietary Schools).

(vi) Make-up work shall not be authorized for the purpose of removing an absence.

(vii) Leaves of absence are as follows.

(I) Leaves of absence for reasonable purposes acceptable to the school director shall not exceed the lesser of 30 school days or 60 calendar days.

(II) A student shall be granted only one leave of absence per 12-month period.

(III) The school attendance records shall clearly show the dates for which the leave of absence was granted. A written statement as to why the leave of absence was granted signed by both the student and the school director indicating approval shall be placed in the individual student file.

(IV) If the student fails to return from leave, the student will be automatically terminated, and a refund shall be totally consummated within 30 days.

(V) The leave of absence policy shall be stated in the school's catalog.

(viii) All schools must maintain a master record of attendance for each student which clearly indicates the number of scheduled hours each day and the hours of absence. The instructor's roll books must indicate a positive record of each student's attendance. Entries in the roll books shall be made in ink. Schools offering seminars, workshops, or other programs where students do not change instructors during the school day are not required to maintain a separate master record of attendance.

(9) Equipment requirements.

(A) The equipment required for instruction shall be determined by the program objective. The equipment shall be comparable to that commonly found in business and industry offering employment in the occupation for which the instruction is being offered.

(B) The school shall provide adequate equipment in good working order for the intended instructional purpose. Equipment not in working order shall be removed from the instructional area, marked as out-of-order, or properly identified as awaiting repair.

(C) The school equipment shall be of sufficient quality and quantity to meet the maximum use requirements of the current students, as demanded by the activity patterns of the training program.

(10) School-sponsored housing.

(A) Housing endorsed by the school shall comply with all local, city, county, municipal, state, and federal regulations such as fire, building, and sanitation

codes.

(B) The school shall inspect proposed housing before endorsement.

(11) Financial stability.

(A) New school.

(i) The prospective owner shall furnish the director with an initial application for a certificate of approval, an audited balance sheet consistent with generally accepted accounting principles and auditing standards, that has been certified by an independent public accountant or certified public accountant properly registered with the appropriate state board of accountancy.

(ii) If the school will be owned by a sole proprietor, the balance sheet may be reviewed, rather than audited by the accountant. The notes to the personal balance sheet must disclose the amount of payments for the next five years to meet debt agreements as required by generally accepted accounting principles for other types of financial statements.

(iii) The balance sheet must be accompanied by the owner's statement outlining any payments made since the balance sheet date and the expected expenses for the first three months of operation. These expenses may include, but are not limited to, the following:

(I) salaries, listed by position name and including withholding, unemployment taxes, and any other related expenses;

(II) lease payments for equipment listed by the name of the equipment;

(III) lease payments for facilities;

(IV) accounting, legal, and professional fees; and

(V) an estimate of other expenses such as advertising, travel, textbooks, office supplies, classroom supplies, printing, telephone, utilities, taxes, and sales commission.

(iv) The prospective owner shall also furnish such other evidence as may be deemed appropriate by the administrator to establish financial stability.

(B) General requirements for financial statements. Each certificated school shall furnish annually two copies of

acceptable financial statements in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements shall be consistent with generally accepted accounting principles except compilations and must include the following:

(i) balance sheet. Calculation of unearned student tuition shall be based upon at least a quarterly pro rata basis or refund policy basis for the program whichever would most accurately reflect recognition of income;

(ii) statement of results of operation (statement of income and retained earnings). This statement must include the gross amount of tuition and fees earned net of refunds during the fiscal year for all programs approved under the Texas Education Code, Chapter 32, for each school;

(iii) statement of cash flows;

(iv) the gross amount minus refunds of annual student tuition and fees for each school unless the school chooses to pay the maximum annual renewal fee.

(C) Specific types of statements required. Certificated schools shall meet the following requirements.

(i) Schools shall submit audited financial statements which have been certified by an independent public accountant or certified public accountant at the end of their first year of operation.

(ii) At the end of the second year of operation and thereafter, schools shall submit annual financial statements as set forth in subparagraph (B)(i)-(iv) of this paragraph which may be reviewed rather than audited, by an independent certified public accountant or public accountant. The school may submit financial statements which have been compiled by an independent certified public accountant or public accountant, if the gross annual revenue from student tuition and fees is \$50,000 or less; or the programs are less than one month in length. The compiled financial statements shall contain at least one note which discloses the current and long term liabilities similar to those required by generally accepted accounting principles for reviewed and audited statements.

(iii) If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, that has been certified by an independent certified public accountant or public accountant.

(iv) Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph (B)(i)-(iv) of this paragraph, the annual audited financial statements of the parent corporation provided that:

(I) said statements shall be accompanied by an audited list of any Texas student tuition refunds payable by the subsidiary school at the close of its fiscal year. In addition, the statements shall also be accompanied by an audited amount for each school stating the gross amount minus refunds of Texas student tuition and fees earned during the fiscal year on all programs approved under the Texas Education Code, Chapter 32, unless a written assurance that the maximum annual renewal fee shall be paid for each school accompanies the financial statements; and

(II) the parent corporation assumes full responsibility for ensuring that each student enrolled in the subsidiary school receives either the training agreed upon or a refund as provided in the Texas Education Code, Chapter 32, and submits a certified resolution of its board of directors to this effect.

(D) Interim financial statements. If a school chooses to submit interim financial statements in addition to the annual statements to establish financial stability, those interim statements must meet the minimum requirements in subparagraphs (B) and (C) of this paragraph.

(E) Financial stability required. The school shall have sufficient finances to establish and carry out a satisfactory program of education on a continuing basis.

(i) The balance sheet required in subparagraph (A) of this paragraph must reflect sufficient cash to pay all expenses for the first three months of operation. To determine sufficient cash, see subparagraph (A)(iii) of this paragraph.

(ii) The applicant's balance sheet required in subparagraphs (A)-(D) of this paragraph shall reflect all of the following:

(I) positive equity or net worth balance;

(II) unearned tuition as a current liability; and

(III) a current ratio of at least one-to-one. To determine this ratio, staff will deduct any unearned tuition from

both the asset and liability sections, and deduct from the asset section and the equity section of the balance sheet, any subscription receivables, and/or related party receivables in connection with loans to stockholders if the loan has been included in current assets for more than one year. The requirements related to the current ratio do not apply to those schools whose bond amount is \$20,000 or less as required by the Texas Education Code, §32.38, provided that the amount of the bond is greater than the amount of unearned student tuition and the amount of any negative equity considered separately.

(iii) The balance sheet shall reflect that stockholder's equity or net worth exceeds the amount shown for goodwill under assets in the balance sheet.

(F) Federal audits. Schools which participate in federal financial aid programs must submit a copy of each audit in accordance with reporting requirements of "Government Auditing Standards," the most current edition, issued by the Comptroller General of the United States at the same time the audit report is submitted to the Department of Education.

(G) Change in ownership. Prior to a change in ownership of a proprietary school, the purchaser must furnish the director an acceptable balance sheet which meets the requirements outlined in subparagraph (A) of this paragraph with the exception of subparagraph (A)(iii) of this paragraph. The purchaser shall furnish any other evidence deemed appropriate by the administrator to establish financial stability.

(H) Other requirements. All financial statements must identify the name of the independent public accountant or certified public accountant associated with the statements and be in accordance with generally accepted accounting principles. Compilations must be accompanied by the owner's affidavit that the statements are true and correct. Accountants from states other than Texas must give their state license number.

(12) Adequate space for classroom instruction and shop/laboratory experiences.

(A) The amount of classroom and shop/laboratory space shall meet the use requirements of the maximum number of current students in class with appropriate seating facilities and/or work stations, as necessitated by the activity patterns of the training program.

(B) Enrollment shall not exceed the design characteristics of the stu-

dent work stations. The facilities shall meet any state and local ordinances governing housing and safety for the use designated.

(C) Seminars and workshops without a fixed location, itinerant schools, and schools with multiple locations shall submit for the approval of the director the dates of program offerings, locations, and class schedule at least 30 days prior to teaching a class.

(13) Maximum pupil-teacher ratio. These ratios may be varied at the discretion of the director to conform to conditions in an individual school. If adequate facilities and equipment are available, the following pupil-teacher ratios will be acceptable:

(A) Business theory—40 to 1;

(B) Business lab (examples: accounting, typing, shorthand)—50 to 1;

(C) Technical and vocational theory—40 to 1;

(D) Technical lab (examples: computer programming, data processing, electronics)—20 to 1;

(E) Vocational lab (examples: auto mechanics, air conditioning and refrigeration, drafting) —30 to 1.

(14) Records.

(A) All schools shall make available the records and necessary data required for approval and to show compliance with the Texas Education Code, Chapter 32, and this chapter for inspection by authorized representatives of the agency. In addition, a copy of the accreditation authorization and the letter of eligibility from the United States Department of Education shall be available for review. There will be at least one unannounced compliance survey at each school each year. Other compliance surveys may be announced at the discretion of the director.

(B) The schools shall retain all student records for at least three years. Financial records must be retained as required by federal retention requirements.

(C) Schools must maintain student transcripts which record academic records permanently. Transcripts shall be available to students and prospective employers at a reasonable charge, if the student has fulfilled the financial obligation to the school and is not in default nor owes a

refund on any federal or state student financial aid program.

(D) Each school shall maintain a master student registration list consisting of at least the information in this paragraph. An entry shall be made on this list for any person who signs an enrollment agreement, makes a down payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs. The order of these events may vary from school to school. The following information is required:

- (i) date;
- (ii) name of student;
- (iii) address of student including city, state, and zip code;
- (iv) telephone number;
- (v) social security number;
- (vi) date of birth; and
- (vii) name of program.

(E) All schools must maintain positive records of student attendance acceptable to the director.

(F) All schools must complete the labor market information survey on forms provided by the division and submit on or before the date provided in the survey packet as requested by the administrator.

(G) All schools shall report job placement and employment data on an annual basis in each program approved for an occupational objective.

(i) The report form will be provided to each school by the agency at least 30 days prior to the report due date for each approved program and will be due five months after the end of the reporting period.

(ii) Verifiable documentation shall be available for review to support data reported. This shall include, but is not limited to, the names of graduates and the names, addresses, and telephone numbers of the employers of the graduates.

(15) Student complaints.

(A) The school shall have a written grievance procedure approved by the director that is disclosed to all students. The function of the procedure will be to attempt to resolve disputes between students, including drops and graduates, and the school. Adequate records shall be maintained.

(B) The school shall make every effort to resolve complaints at the school.

(C) The investigation fee authorized by the Texas Education Code, §32.71(e), is per site visit. The school director shall be notified that an on-site investigation was conducted which resulted in the assessment of the fee.

§175.128. Application Fees and Other Charges.

(a) In the event of a change in ownership of the school, the new owner shall pay the same fee as that charged for an initial fee for a school.

(b) The annual renewal fee for a school is based on the gross amount minus refunds of annual student tuition and fees. This gross amount minus refunds must be included in the annual financial statements required by §175.127(b)(11) of this title (relating to Minimum Standards for Operation of Proprietary Schools) and reflect the amount for each school separately. If the financial statements of the parent corporation are submitted, the gross amount minus refunds may be included as a separate document but must be audited by an independent certified public accountant or public accountant registered with the appropriate state board of accountancy. In the alternative, a school may choose to pay the maximum annual renewal fee instead of reporting the gross amount of annual student tuition and fees.

(c) A late renewal fee of 12% of the renewal fee shall be paid in addition to the annual renewal fee if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval. The requirements for a complete application for renewal are found in §175.125 of this title (relating to Approvals). The complete renewal application must be postmarked with a date on or before the due date. (Note: Late fee may not be less than the statutory minimum of \$100.)

(d) Fees shall be set in an amount allowed by law that is estimated to finance agency regulation of the proprietary school industry.

(e) Certificate and registration fees shall be collected by the administrator and deposited with the state treasurer in accordance with the following schedule.

(1) Initial fee for a school is \$2,550.

(2) The first annual renewal fee is and each subsequent renewal fee authorized by the Texas Education Code, §32.71(a)(2), is 0.3% of the school's gross

tuition and fees excluding refunds as provided by the Texas Education Code, §32.39.

(3) The initial fee for a representative is \$90.

(4) The annual renewal fee for a representative is \$45.

(5) The fee for a change of name or a school owner is \$150.

(6) The fee for the change of address of a school is \$270.

(7) The fee for a change in the name or address of a representative or a change of the name or address of a school that causes the reissuance of a representative permit is \$15.

(8) The application fee for an additional program is \$225, except for seminar and workshop programs for which the fee is \$35.

(9) The application fee for a school director, administrative staff member, or instructor is \$20.

(10) The application fee for the authority to grant degrees is \$3,000.

(11) The application fee for an additional degree course is \$375.

(12) The fee for an inspection required by rule of the State Board of Education of classroom facilities that are separate from the main campus is \$375.

(13) The fee for an investigation of a complaint against a school, if the school is at fault, is \$600.

(14) The fee for regulating a school or course through a memorandum of understanding is \$2,000.

(f) The rate required by the Texas Education Code, §32.91, to collect funds for the proprietary school tuition protection fund is set at 30% of the school's annual renewal fee.

§175.129. Minimum Standards for Operation of Proprietary Schools Which Grant Degrees.

(a) **Background.** The commissioner of education and the commissioner of higher education shall develop a memorandum of understanding regarding the regulation of proprietary schools for those schools offering degrees regulated by the Texas Higher Education Coordinating Board. Schools approved to issue the Associate of Applied Arts (AAA), Associate of Applied Science (AAS), and Associate of Occupational Studies (AOS) degree prior to June 16, 1989, may continue to admit students to those degree programs until June 16, 1993, unless approval has been revoked. All students enrolled in such degree programs shall complete all degree requirements be-

fore December 15, 1995. The degrees referred to in this subsection are only the AAA, AOS, and AAS degrees previously approved by the Central Education Agency, and the Applied Technology and Occupational Studies degrees which have been authorized by the Texas Education Code, §32.401. Any new AAA and AAS degrees requested after September 1, 1989, will have to meet different standards to be designated by the Texas Higher Education Coordinating Board.

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

(1) **Applied foundations courses**—Language and mathematics courses such as business English, technical writing, report writing, business mathematics, electronic mathematics, and/or any other courses approved by the director which provide the student with the foundation and skills appropriate for the objective of the degree.

(2) **Applied Technology (AT) degree**—A technical certificate issued to students who complete an occupational curriculum and general education of collegiate level and character consisting of at least 60 semester hours or 90 quarter hours, but not less than 1,200 clock hours of instruction.

(3) **Occupational Studies (OS) degree**—A technical certificate issued to students who complete an occupational curriculum which will assure adequate preparation for entry level employment in a particular occupational field. These programs shall consist of at least 60 semester hours or 90 quarter hours, but not less than 1,400 clock hours of instruction.

(4) **Block-time programs**—Programs in which courses are not scheduled on a standard quarter or semester basis. Courses in these programs are normally scheduled serially.

(5) **Branch campus**—A certificated institution whose accreditation is based on another certificated institution, fully and separately accredited as a free standing institution in Texas and which is owned by the same person, persons, partnership, and/or corporation as the main campus.

(6) **Classroom lecture**—Presentation of theory by an instructor.

(7) **General education courses**—Language, mathematics, history, economics, science, or behavioral science courses or any other courses approved by the director which meet the general education needs of students and which provide the student with foundation and developmental skills appropriate for the occupational objective of the degree.

(8) **Term**—A period of instruction into which the academic year may be divided in programs offered on a block-time basis. A term must not be greater than 18 weeks in length.

(c) **Minimum standards.**

(1) In addition to compliance with all other appropriate minimum standards for operation of proprietary schools in this chapter and the Texas Education Code, Chapter 32, the standards and requirements in this section shall be applicable to proprietary schools which grant degrees.

(2) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program by providing graduates of these programs with marketable skills. In addition, prior to graduation students shall demonstrate the attainment of advanced skills as appropriate to the degree. At least 95% of the subjects required for each degree shall be offered in organized classes.

(3) An institution may contract with another institution for the instruction of general education or applied foundation courses if that contract has been approved by the agency. A minimum of 14 quarter credit hours and nine semester credit hours of the courses required for the applied technology degree shall be general education courses. A minimum of nine quarter credit hours or six semester credit hours of the courses required for the occupational studies degree shall be applied foundations courses.

(4) Deans, directors, or supervisors of AAA, AAS, AOS, OS, or AT degree programs shall have at least:

(A) a master's degree with three years of experience in the field within the last 10 years or a master's degree with three years of administrative experience within the last 10 years; or

(B) a bachelor's degree with five years of experience in the field within the last 10 years or a bachelor's degree with five years of administrative experience within the last 10 years.

(5) Instructors employed in AAA, AAS, AOS, OS, or AT programs shall have:

(A) a bachelor's degree if the subject to be taught is general education; otherwise,

(B) a bachelor's degree with two years of experience in the field within the last 10 years; or

(C) an associate's OS, or AT degree with three years of experience in the field within the last 10 years; or

(D) a high school diploma or GED with five years of experience in the field within the last 10 years.

(6) There are sufficient number of permanent teaching faculty to ensure the following:

(A) continuity and stability of the education programs;

(B) opportunities for student consultations and inservice training for the faculty members; and

(C) a teaching load that is reasonable in the number of subject preparations, numbers of class periods and hours of assigned instruction, and other additional duties.

(7) Schools which offer degree programs shall use advisory committees in developing and evaluating curriculum content and equipment. There shall be an advisory committee for each degree program consisting of at least five members knowledgeable about that occupation. Schools which offer more than one degree program with similar objectives may have a maximum of two of the five members from one of the degree programs serve on the advisory committee for another program. The committees must meet at least once a year, and minutes of their activities must be recorded and maintained.

(8) For schools offering degree programs, the progress and attendance standards shall include the following:

(A) a progress evaluation system at least every semester, quarter, or at least every eight weeks in block-time programs;

(B) a requirement that the minimum grade point average for graduation from all degree programs be a 2.0 based on a 4.0 scale and that students achieve a passing grade in all required subjects;

(C) a probationary period of one semester, quarter, or approved grading period following the end of the semester, quarter, or approved grading period in which the student's grades become unsatisfactory;

(D) conditions for suspension or termination at the end of not more than two consecutive probationary periods if the student's cumulative grade point average does not improve to the level required for graduation;

(E) provisions for termination or probation during the next quarter, semester, or approved term when a student is absent for more than 15% of the scheduled clock hours during a quarter, semester, or approved term;

(F) provisions for termination when a student is absent for more than 15% of the scheduled clock hours during the probationary quarter, semester, or approved term; and

(G) provisions for termination prior to the last quarter when a student is absent in excess of 10 consecutive school days or 15% of the total clock hours in the course, whichever occurs first.

(9) In addition to the requirements concerning leaves of absence in §175.127(b)(8)(B)(vii) of this title (relating to Minimum Standards for Operation of Proprietary Schools), schools which offer degree programs that schedule their courses on a quarter or semester basis may include in their attendance policies provisions for summer leaves of absence which shall not exceed the lesser of 120 days or the interval between the end of the spring quarter or semester and the start of the fall quarter or semester.

(10) The requirements for learning resources are as follows.

(A) Schools offering degree programs must provide an adequate learning resource center or centers. This requirement may be met in any one or any combination of the following ways:

(i) within the individual classrooms;

(ii) within the individual laboratories;

(iii) within individual shops; or

(iv) in a school-wide learning resource center.

(B) Materials shall include such items as reference books; industrial and technical manuals; trade, technical, and professional periodicals; and audio-visual aids and equipment appropriate to the nature of the program. Responsibility must be assigned for maintenance of the center or

centers and for purchasing, recording, and distributing materials and equipment. A current inventory shall be maintained. The center or centers must be available for use by students during the school's regular hours of operation.

(11) The residency requirements for schools offering degree programs are as follows.

(A) Transfer students. Students who transfer from other postsecondary institutions shall complete at least 20 semester hours or 30 quarter hours in residency at the school which will grant the degree. This does not apply to transfers within the same school system.

(B) Current students. Students attending at the time a school becomes a degree-granting school may be awarded a degree provided that they have met all the prerequisites for acceptance into the degree program and satisfactorily complete all courses and/or equivalent courses in the approved curriculum of the degree program.

(C) Former students. To qualify for a degree, former students shall meet all the prerequisites for acceptance into the degree program and must satisfactorily complete all courses and/or equivalent courses in the approved degree program.

(12) The institution shall provide prospective students, prior to enrollment, a catalog containing information describing the purpose, length, and objectives of the programs offered by the institution; schedule of tuition, fees, and all other charges and expenses necessary for completion of the program of study; cancellation and refund policies; and such other facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures specified by this chapter. Any institution that provides a degree must explain to each student in the enrollment process that transferability may be limited. Each student must sign a statement to the effect that an explanation has been provided. Should a school have an articulation agreement with an academic college or university, such information shall be provided, including any limitations. Any such school shall also provide a list of known Texas institutions of higher education and state technical institutes that accept any or all of the credit hours so earned.

(13) Upon satisfactory completion of training, the student shall be given appropriate educational credentials by the institution indicating that the program of instruction or study undertaken has been satisfactorily completed by the student.

(14) Adequate records shall be securely maintained by the institution to show attendance, progress, or grades. The institution shall maintain student academic transcripts permanently and shall make these transcripts available to students and prospective employers at a reasonable charge if the student has fulfilled the financial obligation to the school and is not in default or owes a refund on any federal or state student financial aid program.

(15) The institution shall require for admission into its degree programs a high school diploma or recognized equivalency certificate or evidence of successful completion of the equivalent of one full-time semester (12 semester hours) or quarter (18 quarter hours) at an accredited college or university or postsecondary institution. Official transcripts of all previous postsecondary institutions attended provided by the student must be in the student file with a written evaluation initialed by the school director or the school director's designee.

(16) The institution shall be maintained and operated in compliance with all ordinances, laws, and rules pertaining to the safety and health of all persons upon the premises.

(d) Eligibility requirements.

(1) Schools desiring approval for a degree shall be accredited by an agency or association recognized by the United States Commissioner of Education.

(2) Institutions which have been in operation in Texas and have complied with the Texas Education Code as nondegree-granting institutions for a minimum of two years may make application to the Central Education Agency for approval to grant a degree. As a minimum, "in operation" means that classes have been conducted for two years.

(3) The institution and its programs of study submitted for approval of a degree shall be fully operational on the dates of the on-site evaluations; i.e., there must be on hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate the capability to meet the minimum standards.

(4) A certificated and accredited branch campus of a fully and separately accredited institution that has been approved to grant a degree in Texas may apply to grant the same degree provided that the branch campus is also in compliance with all other minimum standards except paragraph (2) of this subsection.

(5) Correspondence schools and schools which are not located in Texas are not eligible to apply for approval to grant a degree under the provisions of this section.

(e) Application for approval to grant a degree. An institution may apply to the Central Education Agency for approval to grant a degree in specified programs of study on the application forms provided by the agency. Effective September 1, 1989, all applications for the AAA and AAS degrees must be submitted to the Texas Higher Education Coordinating Board.

(f) Issuance of approval to grant a degree.

(1) The administrator may issue an approval to grant a degree if the administrator finds that the applicant institution meets the standards for approval.

(2) The institution approved to grant a degree shall not use terms to interpret the significance of the approval which specify or connote greater approval. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the Central Education Agency or the Texas Education Agency. Any institution that advertises a degree shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogues. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(g) Amendments to current approvals.

(1) When an amendment to an existing approval to award a new or different degree or a change in a previously approved degree is sought within the period covered by an existing approval, the institution shall forward to the director a detailed description of the proposed change. In addition to all the provisions of §175.127(b)(6)(A) of this title, this shall include, but need not be limited to, an outline of the curriculum to be offered, the qualifications of the faculty involved, textbooks to be used, learning resource center materials to be provided, and advisory committee membership changes, if appropriate.

(2) If the proposed changes meet the required standards, the institution's approval will be amended.

(3) Degree programs are subject to review and renewal with the school's certificate of approval.

§175.130. Truck Driver Training.

(a) General information. In addition to compliance with all other appropriate minimum standards for operation of proprietary schools in this chapter and the Texas Education Code, Chapter 32, the standards and requirements in this section are applicable to schools offering truck driver training.

(b) Programs. All behind-the-wheel instruction shall consist of actual driving practice while the motor vehicle is in motion. If behind-the-wheel instruction is conducted with groups of students, all contracts and advertisements shall so state. No more than four persons, excluding the instructor, may occupy any motor vehicle during the behind-the-wheel instruction. If group observation training is employed, only the actual time spent behind the wheel in vehicle operation shall be credit toward satisfying minimum standards for behind-the-wheel instruction.

(c) Training program for qualifying truck driver training instructors. Truck driver instructors must complete 40 clock hours in safety education and driver training, as determined by the administrator.

(1) The following is an outline of subjects and required hours of minimum 40-clock-hour courses to be followed by truck driver instructor trainer:

(A) techniques of instruction—five hours:

- (i) qualities of a competent instructor;
- (ii) the learning process;
- (iii) methods of teaching;
- (iv) development of habits;
- (v) demonstration teaching;
- (vi) use of instruction material;
- (vii) use of training aids;
- (viii) course preparation and lesson plans;
- (ix) testing and evaluation; and
- (x) duration and frequency of lessons;

(B) personality factors affecting the driver and pedestrian—2 hours:

- (i) natural abilities;
- (ii) senses;
- (iii) mind and nerves;
- (iv) bones and muscle;
- (v) knowledge of vehicle, road, traffic, and self;
- (vi) character:
 - (I) attitudes; and
 - (II) emotions;

(vii) reaction time;
(viii) circumstances affecting personality:

(I) poisons—alcohol, other drugs, carbon monoxide;

(II) over-the-counter, prescription, and illegal drugs;

(III) diseases—heart ailments, epilepsy, diabetes, insanity; and

(IV) fatigue—exhaustion, tension, monotony;

(C) state laws relating to the operation of motor vehicles—six hours:

(i) registration of vehicles;

(ii) certificate of title;

(iii) operation of vehicles;

(iv) uniform act;

(v) miscellaneous offenses;

(vi) driver's license; and

(vii) safety responsibility;

(The titles correspond to those used in the Texas Motor Vehicle Law book.)

(D) driving procedures—eight hours:

(i) city driving;

(ii) rural driving;

(iii) night driving;

(iv) winter driving;

(v) mountain driving;

(vi) freeway driving;

(vii) driving in rain, fog, sandstorms, etc.;

(viii) driving on slick roads and running off road;

(ix) traffic signs, markings, and signals;

(x) driver signals;

(xi) passing problems on two- and three-lane roadways;

(xii) proper passing procedures;

(xiii) proper use of rear-view mirrors;

(xiv) vehicle braking and stopping distances;

(xv) following distances;

(xvi) right-of-way, when and how to yield it;

(xvii) vehicle acceleration and deceleration;

(xviii) blowout hazards and recovery procedures;

(xix) problems and procedures involving trucks and supersize motorized equipment; and

(xx) yielding right-of-way to emergency vehicles.

(E) physical forces affecting the motor vehicle in motion—three hours:

(i) forces of gravity;

(ii) friction;

(iii) acceleration, mass, and force;

(iv) inertia and centrifugal force;

(v) kinetic energy and momentum;

(vi) kinetic energy and braking; and

(vii) horsepower and acceleration.

(F) highway characteristics—two hours:

(i) types of highways—primary, secondary, expressway, freeway, farm or ranch road;

(ii) types of roadways—two-way two-lane, two-way three-lane, two-way multilane, two-way multilane divided, one-way multilane;

(iii) parking;

(iv) freeway characteristics;

(v) traffic controls:

(I) signs—shape, color, location, importance;

(II) traffic marking—center line, lane lines, no pass zone, transition markings, turn lane marking, stop lines, crosswalk lines, etc.; and

(vi) signals—classification location, type, timing;

(G) the automobile—systems and maintenance—two hours:

(i) electrical—generator or alternator, battery, lighting, electric-powered equipment;

(ii) cooling system;

(iii) lubrication and fuel systems;

(iv) power train—engine, transmission, differential;

(v) brake system;

(vi) wheels and tires—caster, camber, toe-in, balance, inflation, tire condition, and care;

(vii) exhaust system;

(viii) instruments and gauges;

(ix) compartment adjustments—seat, ventilation, mirrors, headrests, seat belts, and shoulder harness;

(x) starting the engine and warm-up procedures;

(xi) proper use of safety devices—door locks, seat belts, and shoulder harness, headrests, etc.; and

(xii) windshield wipers, heater, defroster.

(H) behind-the-wheel elementary lessons (demonstration in appropriate vehicle and practice to be performed in presence of instructor)—two hours:

(i) starting;

(ii) steering;

(iii) stopping;

(iv) shifting gears;

(v) backing;

(vi) turning—right and left; and

(vii) parking and starting on grade;

(I) behind-the-wheel driving safety lessons (demonstration in appropriate vehicle and practice to be performed in presence of instructor)—six hours:

(i) developing good seeing habits;

(ii) speed control;

(iii) safe following;

(iv) lane driving and lane changing;

(v) intersections and right-of-way;

(vi) proper signaling;

(vii) correct turn procedures;

(viii) detection of and handling problems—vehicle, cycle, pedestrian;

(ix) freeway driving-ramp use, entering, exiting, lane use, emergency stopping;

(x) parking procedures;

(xi) entering traffic from parked position; and

(xii) night driving.

(J) school and instructor approval requirements—two hours:

(i) school approval requirements;

(ii) instructor approval requirements;

(iii) classroom and automotive equipment requirements;

(iv) required student records;

(v) contract requirements; and

(vi) department of instructors.

(K) specialized training—two hours:

(i) students with physical, mental, or emotional handicaps;

(ii) illiterate students;

(iii) non-English-speaking students; and

(iv) habitual violators and problem drivers.

(d) Instructors.

(1) Qualifications. A truck driver training instructor providing instruction to students behind-the-wheel in truck driver training programs shall meet the Department of Transportation's minimum standards for drivers pertaining to physical well-being.

(2) Approval.

(A) Truck driver instructor trainer. Responsibilities of a truck driver instructor trainer include administering and instructing an agency-approved 40-clock-hour truck driver training instructor development course to instructor trainees.

(B) Truck driver training instructor. Responsibilities of a truck driver training instructor include instructing the multiphase truck driving course.

(3) Refusal, suspension, revocation. The administrator may suspend, revoke, or refuse to renew an approval to any truck driver training instructor or instructor trainer, upon determining that:

(A) the applicant or instructor has been convicted under the laws of this state, another state, or the United States of any felony, or an offense involving moral turpitude, or an offense of criminally negligent homicide committed as a result of the person's operation of a motor vehicle, an offense involving driving while intoxicated or driving under the influence of drugs, or an offense involving tampering with a governmental record; or

(B) the applicant or instructor becomes incompetent to safely operate a motor vehicle or conduct classroom or behind-the-wheel instruction properly.

(e) Motor vehicles.

(1) Before filing an original or renewal application for an approval with the agency, each truck driver training school shall cause the insuring company or carrier to issue a certificate on forms furnished by the agency and certifying to the agency that the insurance company or carrier has issued a policy or policies of insurance, in the designated amounts, for the vehicles listed and any other such information as requested. An insurance certificate or certificates shall accompany and account for each motor vehicle listed by each truck driver training school vehicle fleet schedule form as provided by the director filed with the agency.

(2) In the event insurance coverage for any vehicle used for truck driver training purposes is not renewed, the truck driver training school shall give written notice to the agency at least 10 days prior to the expiration date of the insurance coverage.

(3) In the event the motor vehicle insurance coverage is to be cancelled, a copy of the written notice of cancellation shall be furnished immediately upon receipt of notice to the division by registered or certified mail.

(f) Contracts—students. The student contract or school catalog for schools offering truck driver training programs shall show the minimum number of hours of actual driving time while the vehicle is in motion.

(g) Prohibited activities. Including, but not limited to, the following, a person shall not:

(1) allow an instructor to give instruction or allow a student to secure instruction in the classroom or in a motor vehicle if that instructor or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, or drug as those terms are defined in Texas Civil Statutes, Article 67011-1;

(2) permit a student to operate a motor vehicle without a valid driver's license or instruction permit in the student's possession during behind-the-wheel instruction;

(3) permit more than a ratio of four students per vehicle and three vehicles per instructor on truck driving ranges; or

(4) permit more than four students per vehicle per instructor during street instruction for truck driver training.

(h) Advertising. No truck driver training school or instructor shall, by an advertisement or otherwise, state or imply that a driver's license or permit is guaranteed or assured to any student or individual who will take or complete any instruction or course of instruction, enroll, or otherwise receive instruction in any truck driver training school.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9201349

Criss Cloudt
Director, Planning
Coordination
Texas Education Agency

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 463-9701

◆ ◆ ◆
**TITLE 22. EXAMINING
BOARDS**
**Part III. Texas Board of
Chiropractic Examiners**
**Chapter 71. Application and
Applicants**

• **22 TAC §71.10**

The Texas Board of Chiropractic Examiners proposes an amendment to §71.10, concerning application and applicants. The amendment addresses reexaminations and requirements for completing the remaining course of study for an examinee who passes the state board exam before he or she graduates.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the board will monitor individuals who pass the boards before graduating from school and determine whether or not they completed the remaining course work in a timely manner as

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

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The amendments are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§71.10. Reexaminations.

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

(c) To be eligible for licensure, an examinee in his or her final semester of chiropractic school must satisfactorily complete the remaining course of study resulting in graduation from chiropractic college within six months from the date of successful completion of the examination for licensure. Failure to complete the course of study in the required time disqualifies that examinee for licensure until such time examinee retakes the examination and successfully passes all sections to once again be eligible for licensure.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201322 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

◆ ◆ ◆
Chapter 75. Rules of Practice

• **22 TAC §75.1, §75.6**

The Texas Board of Chiropractic Examiners proposes amendments to §75.1, §75.6, concerning rules of practice. The amendments address what constitutes grossly unprofessional conduct and the penalty for not responding to board inquiries.

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

Ms. Smetana also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the rules will disallow fee splitting and referral

fees for patients referred to licensee. In addition, the licensees will be required to answer all board inquiries, including consumer complaints. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The amendments are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§75.1. Grossly Unprofessional Conduct. The rules and regulations of the board are prescribed by law in the Chiropractic Act, §14a. Under the provisions of §14a, (5), (6), and (8), the board rules that it shall be considered grossly unprofessional conduct for a licensee:

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

(7) to violate any applicable health care, insurance, or advertising statute. [to fail to state on every insurance claim in which he has waived the co-payment, the following statement, "Insurance payment will be accept as full payment." and to fail to provide the patient with a copy of each insurance form as mailed to the third party payor.]

(8) to practice chiropractic in any facility that is not registered with this board.

§75.6. Failure to Respond to Board Inquiries. Each licensee shall [promptly] respond specifically (and within 20 days) to any and all board inquiries or alleged violations of the Chiropractic Act or rules promulgated by this board. [concerning complaints of professional misconduct by the licensee.] Responses shall be in writing and shall be directed to the attention of the board's Enforcement Committee. Failure to timely respond to a complaint shall be an independent ground for disciplinary proceedings.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201323 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

◆ ◆ ◆

• **22 TAC §75.7**

The Texas Board of Chiropractic Examiners proposes new §75.7, concerning rules of practice. The new section addresses authorized practices, techniques, and procedures allowed to be utilized by chiropractors.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the new rule will outline what procedures and methods of treatment are within the scope of practice for chiropractic. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§75.7. Authorized Practices, Techniques, and Procedures.

(a) Licensees of this board are authorized to use clinical and physical examinations, laboratory examination, diagnostic imaging, electro-diagnostic testing, and other forms of testing and measurement used to properly evaluate and examine patients, provided said examination, testing, and measurement is consistent with this subsection.

(b) Licensees of this board are authorized to render diagnostic and other opinions consistent with subsection (d) of this section in making a proper analysis of examination and evaluation findings.

(c) Licensees of this board are authorized to utilize osseous and soft tissue adjustments and manipulative techniques, physical and rehabilitative therapy, acupuncture and other reflex techniques, exercise therapy, immobilization, splinting, bracing or supportive techniques, patient education, advice and counsel, nutritional and herbal supplements, non-legend medication, and other treatment services and procedures in order to provide therapeutic and preventative care for a patient provided said services and procedures are consistent with subsection (d) of this section.

(d) Licensees of this board shall not utilize any practices, techniques, or procedures which this board finds to be invalid or

which are in violation of Texas Civil Statutes, Article 4512b or other rules of this board.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201324 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

Chapter 77. Advertising and Public Communication

• 22 TAC §77.3

The Texas Board of Chiropractic Examiners proposes new §77.3, concerning advertising and public communication. The new section addresses the rules for offering free or discounted services to patients.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the specific guidelines will ensure that the doctor and the public are aware of what can be offered as a free service and what is meant by "free." There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§77.3. Offering of Free/Discounted Services.

(a) When a licensee advertises or offers a service as "Free," said service shall be performed or rendered at no cost to the patient or any other party or entity, including an insurance plan, that would normally pay for or reimburse for all or any part of that service had it not been offered as "Free."

(b) When a licensee advertises or offers a service at a discount or reduced price, said service shall be performed or

rendered at that discounted or reduced price. The charge to the patient or any other party or entity, including an insurance plan, that pays for or reimburses for any part of the cost of said service on behalf of the patient, shall be at the discounted or reduced price.

(c) Violation of this section shall be deemed as false, misleading, and/or deceptive and shall be a violation of this article.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201325 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

• 22 TAC §77.5

The Texas Board of Chiropractic Examiners proposes amendments to §77.5, concerning advertising and public communication. The amendment addresses the disclosure of all fees for services rendered to that patient.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the doctor will have a greater awareness of whether or not the patient understands the service rendered and the charges of those services, because he will be responsible. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§77.5. Miscellaneous. Licensees of this board shall assume responsibility for providing a full and complete disclosure that reasonably assures patient understanding of fees and services. A licensee shall, on the date of providing goods or services to a patient, disclose to the patient in writing the

full amount of the licensee's charges. Compliance with this rule may be in any written form reasonably calculated to notify the patient of the actual charges for the goods or services provided.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201326 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

Chapter 80. Practice of Chiropractic

• 22 TAC §80.1

The Texas Board of Chiropractic Examiners proposes amendments to §80.1, concerning practice of chiropractic. The amendments address the practice of chiropractic and what is considered to be the practice of chiropractic.

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

Ms. Smetana also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the rule change will add specific language to state any individual who attempts to control the professional judgement of a doctor will be considered as practicing chiropractic. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§80.1. Practice of Chiropractic. A person shall be regarded as practicing chiropractic within the meaning of Texas Civil Statutes, Article 4512b, §1, if the person reviews or analyzes, by subjective or objective means, the test, medical records, x-rays, diagnosis, treatment plan, or prognosis made by a treating chiropractor for the purpose of rendering an opinion concerning the necessity

of the treating chiropractor's treatment or the necessity of the treating chiropractor's plan of treatment. This section does not apply to a person, other than licensees of this board, who is functioning with statutory under the Texas Insurance Code, Article 21.58.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201327 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

◆ ◆ ◆
• 22 TAC §§80.4-80.9

The Texas Board of Chiropractic Examiners proposes new §§80.4-80.9, concerning practice of chiropractic. The new sections address specific guidelines and requirements which should be followed in the practice of chiropractic.

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

Ms. Smetana, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that more specific rules will determined the procedures used by chiropractors concerning the examination and evaluation, the analysis and diagnosis, therapeutic procedures, appropriateness and necessity, and disclosure of financial interest and records. There will be no effect on small businesses. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Jennie Smetana, Executive Director, Texas Board of Chiropractic Examiners, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759.

The new sections are proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§80.4. *Evaluation and Examination.*

(a) A licensee is responsible for making proper determinations and recommendations for examination and evaluation services which for a patient in/her charge are appropriate and necessary to adequately:

(1) determine the biomechanical condition of the region of the

spine and musculoskeletal system which for said patient is in question (including the nature, severity, and etiology of any abnormality);

(2) determine the nature, severity, and etiology of subluxation of any articulation in the region of the musculoskeletal system which for said patient is in question;

(3) determine which, if any, techniques or procedures in chiropractic treatment might be indicated or contraindicated in the care of said patient;

(4) differentiate the extent to which said patient's condition is a result of biomechanical abnormalities as opposed to the result of other health problems which are not amendable to chiropractic care.

(b) Failure of a licensee to make proper determinations and recommendations regarding the appropriateness and necessity of examination and evaluation services for a patient in his/her charge may be considered a failure to use proper diligence in the practice of chiropractic.

§80.5. *Analysis, Opinion, and Diagnosis.*

(a) A licensee is responsible for making a proper analysis of and for rendering appropriate diagnostic and other opinions regarding the findings of examinations and evaluations of a patient in his/her charge. Proper analysis or appropriate diagnostic and other opinions could include any or all of the following:

(1) rendering an analysis or diagnosis regarding subluxation or the biomechanical condition of the spine or musculoskeletal system including the cause for, nature of, and extent of involvement of any abnormality;

(2) rendering a diagnostic opinion of any factors or conditions which complicate any subluxation or other biomechanical abnormality of the spine or musculoskeletal system;

(3) rendering an opinion regarding the appropriate course of treatment for an abnormal biomechanical condition of the spine or musculoskeletal system;

(4) rendering an opinion regarding the likelihood of recovery from a biomechanical abnormality under various courses of treatment;

(5) rendering an opinion regarding the risk to a patient's health from an abnormal biomechanical condition of the spine or musculoskeletal system;

(6) rendering an opinion regarding the biomechanical and resulting general health risks from various occupations, activities of daily living, and the treatment or lack of treatment for any biomechanical abnormalities;

(7) rendering an opinion that the patient's health care problem is not amendable to chiropractic care and referral of that patient to other classes of health care providers for appropriate care;

(8) rendering an opinion regarding the effect of an abnormal biomechanical condition in the spine or musculoskeletal system on an individual's ability to carry out normal job functions and other daily activities, including assessment of the degree of disability or impairment;

(9) rendering any other necessary or appropriate opinions regarding a patient in his/her charge.

(b) Failure of a licensee to make a proper analysis of or to render appropriate diagnostic or other opinions regarding the findings of examinations and evaluations of a patient in his/her charge may be considered a failure to use proper diligence in the practice of chiropractic.

§80.6. *Therapeutic Procedures and Services.*

(a) A licensee is responsible for making proper determinations and recommendations for the treatment, services, and procedures which are appropriate and necessary to adequately:

(1) correct, improve, control, or promote the healing of or recovery from any or all components of a subluxation complex involving an articulation of the musculoskeletal system in order to return said patient to normal health;

(2) correct, improve, control, or promote the healing of or recovery from an abnormal biomechanical condition or the spine or musculoskeletal system in order to return said patient to normal health;

(3) prevent the development of a biomechanical abnormality of the spine or musculoskeletal system or to minimize the impact of any such abnormality on said patient's overall health.

(b) Failure of a licensee to make proper determinations and recommendations regarding the appropriateness and necessity of treatment, services, and procedures for a patient in his or her charge may be considered a failure to use proper diligence in the practice of chiropractic.

§80.7. *Chiropractic Necessity and Appropriateness Reviews.*

(a) A licensee, who renders an opinion or makes a recommendation regarding the appropriateness or necessity of chiropractic care or services provided or to be provided to any patient of another doctor of chiropractic and who renders said opinion without physically examining the patient, is responsible for:

(1) adequately reviewing all records of the patient's condition and care prior to rendering any opinion or making any recommendation;

(2) rendering opinions or recommendations which are consistent with scientific and statistical facts and accepted standards of the chiropractic profession;

(3) rendering opinions or making recommendations which are substantially supported by and consistent with the patient's records;

(4) clearly identifying in any report those items which represent factual or statistical information and those items which represent the opinion or recommendation of the licensee;

(5) clearly describing all documents, records, and information regarding the patient's history, condition, or care which were reviewed prior to rendering any opinion or making any recommendation;

(6) providing a complete, signed, written report (including all opinions rendered and recommendation made with their adequate substantiating documentation) to the patient and the patient's treating doctor of chiropractic within 10 days of rendering an opinion or making recommendation regarding appropriateness or necessity of chiropractic care or services;

(7) refusing to render an opinion or make a recommendation regarding a subject area of which the licensee lacks adequate knowledge or training;

(8) any impact or effect on the patient's health and well-being which is the result of opinions and recommendations made by the licensee.

(b) It may be considered a failure to use proper diligence in the practice of Chiropractic and/or grossly unprofessional or dishonorable conduct when a licensee who, without physically examining the patient, renders an opinion or makes a recommendation regarding the appropriateness or necessity of chiropractic care or services provided or to be provided to any patient of another doctor of chiropractic and who:

(1) fails to adequately review the complete records of the patient's condition and care prior to rendering any opinions or making any recommendations;

(2) fails to render opinions or make recommendations which are consistent with scientific and statistical facts or with accepted standards of the chiropractic profession;

(3) fails to render opinions or make recommendations which are substantially supported by and consistent with the patient's records;

(4) fails to clearly identify in any report those items which represent factual or statistical information and those items which represent the opinion or recommendation of the licensee;

(5) renders any report of opinions and recommendations regarding the necessity or appropriateness of chiropractic care or services which contains any items which are in any way false, misleading, or deceptive or which contain any material misrepresentation of fact;

(6) fails to clearly describe all documents, records, and information regarding the patient's history, condition, or care which were reviewed prior to rendering any opinion or making any recommendation;

(7) fails to provide a complete, signed, written report (including all opinions rendered and recommendations made with their substantiating documentation) to the patient and the patient's treating doctor within 10 days of rendering an opinion or making a recommendation;

(8) fails to report documentation adequate to substantiate any opinions or recommendations;

(9) renders an opinion or makes a recommendation regarding a subject area of which the licensee lacks adequate knowledge or training;

(10) renders an opinion or makes a recommendation which as a result adversely impacts a patient's health or well-being.

§80.8. Disclosure of Financial Interest. Any licensee who refers a patient to another facility for treatment, rehabilitation, or diagnostic procedures including imaging or any other procedure in which the referring licensee has greater than or equal to 5.0% interest, must inform the patient at the time of the referral that he or she has a financial interest, in that facility. Financial interest is defined as any legal or equitable interest including partnership interest, community property interest, or ownership of shares or bonds of a corporation.

§80.9. Records.

(a) A licensee shall make, maintain, and keep accurate and adequate records of the history, examination or evaluation, the analysis or diagnosis, and the recommendations and treatment performed for and upon each of his or her patients for a period of not less than five years following the completion of the treatment or last service rendered.

(b) All records or copies of records, including x-rays or copies of x-rays, shall be made available to the patient, par-

ent, or legal guardian if the patient is a minor, another licensed health care provider, or any other designee of that patient. For purposes of this subsection:

(1) "records" shall include records pertaining to the history, examination, diagnosis, treatment, daily progress notes, or other information pertinent to that patient's condition;

(2) consent for the release of records must be in writing and signed by the patient, parent, or legal guardian of a minor, or personal representative if the patient is deceased;

(3) licensee shall transfer or furnish records in a timely manner not to exceed 10 days from the date of receipt of request for records;

(4) fees for transfer of records or copies of records shall not exceed an incurred or reasonable status, i.e. workman's compensation or courthouse costs.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201328

Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 343-1895

◆ ◆ ◆
**Part XXI. Texas State
Board of Examiners of
Psychologists
Chapter 465. Rules of Practice**

• **22 TAC §465.29**

The Texas State Board of Examiners of Psychologists proposes new §465.29, concerning remuneration for securing or soliciting patients. The 72nd Legislature passed a law which prohibits this activity in certain areas for the health and safety of citizens of Texas. Patients should receive psychological services they need. Psychologists should not receive payment for referrals to other professionals or other facilities as stated in Texas Civil Statutes, Article 5.21, Chapter 161, Health and Safety Code, Subchapter 161.091.

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

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

result of enforcing the section will be to inform the public that patients who are referred for psychological services are to be referred because of the needs of the patients and not because of a need to fill a hospital bed or fill any other type of "quota" that might be stated in an agreement between a psychologist and a facility, organization, or other professional. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M.P. A., 9101 Burnet Road, Suite 212, Austin, Texas 78758.

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

§465.29. Remuneration for Securing/Soliciting Patients. Any licensee or certificand found to be in violation of Chapter 161, Subchapter 161.091, Health and Safety Code, Article 5.21, which prohibits receipt of certain remuneration for securing or soliciting patients has violated board rules.

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201320 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: March 6, 1992

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

◆ ◆ ◆
TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Procedures and Policies

• 25 TAC §1.4, §1.9

The Texas Department of Health (department) proposes amendments to §1.4 and 1.9, concerning the Texas Board of Health (board). The sections cover committees and actions requiring board approval. The amendment to §1.4 modifies the provision on appointment of advisory committees by providing that board members may nominate candidates to the advisory committees as vacancies occur, notwithstanding any other board rule and consistent with existing law.

Such nominations will be in addition to nominations from other designated sources. The amendment to §1.9 modifies the provision concerning board approval of expenditures over \$50,000 for purchases of major items of equipment. This provision will be replaced by one which states that the board shall approve an annual operating budget and capital asset replacement plan to guide the expenditure of funds by the department for a fiscal year.

Stephen Seale, Chief Accountant III, Budget Division, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications as a result of enforcing or administering the amendments. Neither state nor local government will have any additional cost or receive any additional revenue because of the amendments.

Mr. Seale also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be to enable the board to nominate members to advisory committees and to enable the board to approve an annual operating budget and capital asset replacement plan. There will be no effect on small businesses. There will be no anticipated cost to persons who are required to comply with the sections as proposed. There will be no impact on local employment.

Comments on the proposed amendments may be submitted to Hal L. Nelson, Chief, Office of General Counsel, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7236. Comments will be accepted for 30 days after publication of the proposed amendments in the *Texas Register*.

The amendments are proposed under the Health and Safety Code, §11.013, which provides the board with the authority to adopt policies and rules to govern the department; §11.016, which provides the board with authority to appoint advisory committees to assist the board; and §12.001, which provides the board with authority to adopt rules for its own procedure and for the performance of each duty imposed by law on the board.

§1.4. Committees.

- (a) (No change.)
- (b) Advisory committees.
 - (1) (No change.)
 - (2) **Notwithstanding any other board rule, and consistent with existing law, board members may nominate candidates to advisory committees as vacancies occur. Such nominations will be in addition to nominations from any other designated sources.**

(3)[(2)] The committees may adopt their own rules of procedure, subject to the following requirements.

(A) If a member misses two consecutive regular meetings without just cause, written notice shall be given to the member.

(B) A third consecutive absence from a regular meeting will be sufficient grounds for requesting replacement of a member by the board.

(c) (No change.)

§1.9. Actions Requiring Board Approval.

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

(f) **Annual operating budget and capital asset replacement plan. The board shall approve an annual operating budget and capital asset replacement plan to guide the expenditure of funds by the department for the fiscal year [Expenditures of over \$50,000. Any expenditure in excess of \$50,000 for purchases of major items of equipment shall be approved by the board].**

(g) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201227 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

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

◆ ◆ ◆
Chapter 145. Long Term Care
Subchapter B. Minimum Standards for Nursing Homes.

The Texas Department of Health (department) proposes amendments to §§145.23, 145.35, 145.55, 145.193, 145.214, 145.273, and 145.334, concerning long term care. Section 145.23 covers physical plant and environment standards for nursing homes; §145.33 covers minimum standards for custodial care homes; §145.55 covers types of construction programs and application of these standards for maternity homes; §145.193 covers safety standards for adult day care and adult day health care facilities; §145.214 covers physical plant and environment standards for facilities serving persons with mental retardation and related conditions in Texas; §145.273 covers general considerations for planning and construction for nursing homes; and §145.334 covers building construction standards for personal care homes.

The amendments will update the sections by requiring long term care facilities to comply with the following requirements: provisions of the Americans with Disabilities Act of 1990, Public Law 101-336; federal regulations implementing the Act in Title 28, Code of Federal Regulations, Part 35; provisions concerning architectural barriers in the Texas

Civil Statutes, Article 9102; and rules implementing Article 9102 by the Texas Department of Licensing and Regulation in Title 16, Texas Administrative Code, Chapter 6.

Stephen Seale, Chief Accountant III, Budget Division, has determined that for the first five-year period that the sections will be in effect there will be no fiscal implications to state government as a result of enforcing or administering the sections as proposed. However, there will be fiscal implications to local governments in that the costs of remodeling facilities operated by local governmental entities could generally range from \$1,000 to \$50,000 for each year of the first five years that the sections are in effect.

Mr. Seale also has determined that for each year of the first five years that the sections are in effect the public benefits anticipated will be to make long term care facilities accessible to persons with disabilities and to ensure compliance with federal and state law. There will be fiscal implications to small and large businesses in that the cost of remodeling facilities operated by the businesses could generally range from \$1,000 to \$50,000 for each year of the first five years that the sections are in effect. There is no anticipated cost to individuals and there will be no impact on local employment.

Comments on the proposed amendments may be submitted to Janice Caldwell, Chief, Bureau of Long Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3185, (512) 458-7709. The department will accept comments for 30 days after publication of the proposed amendments in the Texas Register.

• 25 TAC §145.23

The amendment is proposed under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect Chapter 242 of the Health and Safety Code.

§145.23. *Physical Plant and Environment.*

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

(c) Applicable codes and standards. Facilities shall meet the requirements of the Life Safety Code, as defined in §145.12 of this title (relating to Definitions), and any other codes and standards of the National Fire Protection Association (NFPA) listed in this section, except as may be otherwise approved or required by the licensing agency. In addition, the following codes, standards or guidelines shall generally govern their subject areas for existing construction.

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

(5) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United

States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102. [Handicap provisions are to be designed and installed in accordance with Standard A117.1-1980 of the American National Standards Institute (ANSI) and the requirements of the State Purchasing and General Services Commission for handicapped or disabled citizens.]

(d) -(s) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201220 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512) 458-7709

◆ ◆ ◆
Subchapter C. Minimum Standards for Custodial Care Homes.

• 25 TAC §145.35

The amendment is proposed under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect Chapter 242 of the Health and Safety Code.

§145.35. *Physical Plant.*

(a) (No change.)

(b) Codes, guides, and manuals.

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

(4) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation

(Attention: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

(c)-(k) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201221 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512) 458-7709

◆ ◆ ◆
Subchapter D. Minimum Standards for Maternity Homes.

• 25 TAC §145.55

The amendment is proposed under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect Chapter 242 of the Health and Safety Code

§145.55. *Types of Construction Programs and Applications of These Standards.*

(a)-(g) (No change.)

(h) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attention: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201222 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512) 458-7709

Subchapter M. Minimum Licensing Standards for Adult Day Care and Adult Day Health Care Facilities.

• 25 TAC §145.193

The amendment is proposed under the Health and Safety Code, §242.037 which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001 which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

§145.193. Safety

(a) Environmental safety.

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

(3) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102. [Accessibility provisions are required for all facilities and shall be designed and installed in accordance with State Purchasing and General Services Commission requirements in Title 1, Texas Administrative Code, Chapter 115, "Elimination of Architectural Barriers."]

(4) (No change.)

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

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201223

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512) 458-7709



Subchapter N. Minimum Licensing Standards for Facilities Serving Persons with Mental Retardation and Related Conditions in Texas.

• 25 TAC §145.214

The amendment is proposed under the Health and Safety Code, §242.037, which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001, which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

§145.214. Physical Plant and Environment.

(a)-(d) (No change.)

(e) Applicable codes and standards. Facilities shall meet the requirements of NFPA 101, 1985 edition, and any other codes and standards of NFPA listed in this section, except as may be otherwise approved or required by the licensing agency.

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

(5) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102. [Accessibility provisions are to be designed and installed in accordance with the requirements of the State Purchasing and General Services Commission, as authorized by the State General Purchasing Act, Texas Civil Statutes, Article 601b, Article 7 (concerning the elimination of architectural barriers). Accessibility provisions are required for all large facilities and every small facility that houses persons with physical disabilities and/or mobility impairment].

(f)-(k) (No change.)

(l) Accessibility provisions (handicap requirements).

[(1) General.] The physical plant shall be designed for persons with physical disabilities and/or mobility impairments and must comply with applicable federal, state, and local requirements.

[(2) Basic accessibility provisions.

[(A) A minimum of 5.0% of the client living units shall have accessibility provisions.

[(B) The facility shall provide and mark at least one "handicapped" parking space.

[(C) The facility shall provide wheelchair access into the building by use of ramps and curb breaks. Ramps shall slope no more than 1:12 (one unit of rise to 12 units of run).

[(D) Room identification signs or letters where needed shall be installed four feet six inches to five feet above finished floor and located on the corridor walls adjacent to the latch side of the door jamb. Letters or numbers on signs shall be raised at least 1/32 inch minimum. Characters shall be at least 5/8 inch in height and no higher than two inches.

[(E) Grab bars at toilet and bathing units shall be 1 1/4-inch to 1 1/2-inch in diameter.

[(F) Toilet facilities shall be of sufficient size to accommodate wheelchairs for clients.

[(G) Water closet seat height in toilet facilities shall be 17 to 19 inches from floor.

[(H) Mirrors and dispenser shall be no higher than 40 inches above the floor.

[(I) Drinking fountains or coolers shall meet ANSI A117.1. (i.e., up front spout and controls no more than 36 inches from floor maximum).

[(J) Public telephones, if provided, shall meet ANSI A117.1. The mounting height shall not exceed 48 inches to coin slot.

[(K) Public use toilet facilities shall be available in large facilities. An exception to this subsection is that small facilities are exempt from these requirements for persons with physical disabilities and/or mobility impairments unless the facility houses such clients.]

(m)-(q) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201224

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512)
458-7709

Subchapter Q. Planning and Construction for Nursing Homes

• 25 TAC §145.273

The amendment is proposed under the Health and Safety Code, §242.037, which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001, which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

§145.273. General Considerations.

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

(g) Accessibility for individuals with disabilities. The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102. [Provisions for handicapped. Facilities shall be available and accessible to the physically handicapped (public and residents), in accordance with the ANSI A117.1, unless otherwise determined by the licensing agency. Reference also the requirements of the State Purchasing and General Services Commission for handicapped or disabled citizens, including submission of documentation for General Services Commission approval.]

(h) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201225

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512)
458-7709

Subchapter S. Minimum Li- censing Standards for Per- sonal Care Homes

• 25 TAC §145.334

The amendment is proposed under the Health and Safety Code, §242.037, which provides the Texas Board of Health with authority to adopt rules concerning minimum standards for long term care facilities; and §12.001, which provides the board with authority to adopt rules to implement its statutory duties. The amendments will affect the Health and Safety Code, Chapter 242.

§145.334. Building Construction.

(a) (No change.)

(b) Applicability of requirements for construction and life safety.

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

(9) The facility shall meet the provisions and requirements concerning accessibility for individuals with disabilities in the following laws: the Americans with Disabilities Act of 1990 (Public Law 101-336; Title 42, United States Code, Chapter 126); Title 28, Code of Federal Regulations, Part 35; Texas Civil Statutes, Article 9102; and Title 16, Texas Administrative Code, Chapter 68. Plans for new construction, substantial renovations, modifications, and alterations shall be submitted to the Texas Department of Licensing and Regulation (Attn: Elimination of Architectural Barriers Program) for accessibility approval under Article 9102.

(c) Basic NFPA 101 requirements.

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

(11) Accessibility provisions [(handicap requirements)].

(A) The physical plant of all large facilities and all other facilities housing residents [shall be designed for persons] with physical disabilities and/or mobility impairments [and] must comply with applicable federal, state, and local requirements for persons with disabilities. [Basic accessibility provisions (handicap requirements) are as follows.]

[(i) A minimum of 5.0% of the resident living units shall have accessibility provisions (handicap accessible).

[(ii) The facility shall provide and mark at least one parking space.

[(iii) The facility shall provide wheelchair access into the building

by use of ramps and curb breaks. Ramps shall slope no more than 1:12 (one unit of raise to 12 units of run).

[(iv) Room identification signs or letters in public spaces shall be installed four feet six inches to five feet above finished floor and located on the corridor walls adjacent to the latch side of the door jamb. Letters or numbers on signs shall be raised at least 1/32 inch minimum. Characters shall be at least 5/8 inch in height and no higher than two inches.

[(v) Grab bars at toilet and bathing units shall be 1 1/4-inch to 1 1/2-inch in diameter.

[(vi) Toilet facilities shall be of sufficient size to accommodate wheelchairs for residents.

[(vii) Water closet seat height in toilet facilities shall be 17 to 19 inches from floor.

[(viii) Mirrors and dispensers shall be no higher than 40 inches above the floor.

[(ix) Drinking fountains or coolers shall meet American National Standard Institute (ANSI) A117.1 (i.e., up front spout and controls no more than 36 inches from floor maximum).

[(x) Public telephones, if provided, shall meet ANSI A117.1. The mounting height shall not exceed 48 inches to coin slot.

[(xi) Public use toilet facilities shall be available in large facilities. An exception to this subsection is that small facilities are exempt from these requirements for persons with physical disabilities and/or mobility impairments unless the facility houses such residents.]

(B) A minimum of 5.0% of the resident living units of large facilities shall meet the accessibility provisions.

(12) (No change.)

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201226

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: April 25, 1992

For further information, please call: (512)
458-7709

TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

Chapter 110. General
Provisions-Required Notices
of Coverage

Subchapter B. Employer No-
tices

• 28 TAC §110.102

The Texas Workers' Compensation Commission proposes an amendment to §110.102, concerning notices required to be provided by employers.

The amendment requires an employer with workers' compensation insurance to post in the workplace a notice concerning the commission's Ombudsman program, prescribes the text for this notice, and reiterates the Class C administrative violation for noncompliance established by law. This is required by Texas Civil Statutes, Article 8308-5.41(c), which requires the commission to prescribe the manner for employers to provide this no-

tice. To better assist employees in contacting the commission, the amendment also changes the text of the required notice of coverage by substituting the commission's actual toll-free number for the phrase referring to that number. Finally, to better ensure that the notices will reach employees, the amendment clarifies that the notices must be posted in English and Spanish, but may be additionally translated into any other language appropriate to the workplace.

Andrew Thigpen, associate director, Financial Management, has determined that for each year of the first five-year period the amended section is in effect, there will be fiscal implications as a result of administering or enforcing the amended section. The state and local governments, in their capacity as employers, will incur the minimal cost of posting the Ombudsman program notice in each workplace. There will be no impact on employment, locally or statewide, as a result of implementing the amendment.

Mr. Thigpen also has determined that for each of the first five amended section is in effect the public benefit anticipated as a result of enforcing the amended section will be implementation of the Texas Workers' Compensation Act, and improved transmission of information about the workers' compensation system to employees. The cost of compliance

for a small business will be the minimal cost of posting the Ombudsman Program notice in the workplace. The impact on small businesses compared to large businesses should be proportionately the same, based on market share. There is no anticipated cost to persons who are required to comply with the amended section as proposed.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8308-5.41(c), which requires the commission to prescribe the manner for employers to notify their employees of the Ombudsman Program, and Article 8308-2.09(a), which authorizes the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

*§110.102. Employer' Notices to Be Posted
in the Workplace.*

(a) An employer who has workers' compensation insurance coverage shall post the following notice in the workplace:

"[Name of employer] has workers'
compensation insurance coverage from [name of
insurance carrier] to protect you. You can
get more information about your workers'
compensation rights from any office of the
Texas Workers' Compensation Commission, or by
calling [the commission's assigned toll free
number] 1-800-252-7031."

[Spanish translation here]

(b) (No change).

(c) An employer who has workers' compensation insurance coverage shall post the following notice in the workplace:

Have you been injured on the job?

The OMBUDSMAN Program

at Texas Workers' Compensation Commission

provides free information

about how to file a workers' compensation claim

when a worker is injured or killed on the job.

The OMBUDSMAN explains worker rights and responsibilities

under the Texas Workers' Compensation Act

and responds to complaints about claims.

For information, call the OMBUDSMAN at the

Texas Workers' Compensation Commission local Field Office

or call 1-800-252-7031.

[Spanish translation here]

(d)[(c)] The notices required by this section shall be:

(1) prominently displayed in the employer's personnel office, if any;

(2) located about the workplace in such a way that each employee is likely to see the notice on a regular basis;

(3) printed in at least 24 point bold type; [and]

(4) limited to the wording [language] required by this rule; no additional wording [language] shall appear on the notices; and

(5) posted in both English and Spanish, and may be translated into any other language appropriate to the employer's workplace.

(e)[(d)] The notice shall be revised whenever the information it contains is revised.

(f)[(e)] An employer who does not comply with subsections (d) and (a) or (b) of this section may be assessed an administrative penalty, not to exceed \$500, under the Texas Workers' Compensation Act, §3.24(f).

(g) An employer who does not comply with subsections (c) and (d) of

this section may be assessed an administrative penalty, not to exceed \$1,000, under the Texas Workers' Compensation Act. §5. 41(c).

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201288

Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 440-3972

◆ ◆ ◆
Chapter 133. Medical Benefits-
General Medical Provisions

Subchapter E. Compelling Pro-
duction of Documents

• 28 TAC §§133.401-133.403

The Texas Workers' Compensation Commission proposes new §§133.401-133.403, concerning orders compelling the production of documents relating to any matter within the authority of the Division of Medical Review.

These sections are mandated by Texas Civil Statutes, Article 8308-8.21(b)(7), which requires the adoption of rules necessary to enable the commission to compel the production of documents.

Section 133.401 reiterates the authority to issue an order compelling the production of documents, describes the scope of the order, and sets out the procedure and requirements for commission staff to request the order.

Section 133.402 describes the manner of service of the order, and provides details for compliance with the order.

Section 133.403 establishes that the consequences of noncompliance with the order may be two-fold: an administrative penalty, and enforcement of the order by a Travis County district court.

Andrew Thigpen, associate director, Financial Management, has determined that for the first five-year period the sections are in effect there will be fiscal implications for the state as a result of enforcing or administering the sections. As provided by §133.402 the state will incur postage costs of \$2.29 for each order delivered by certified mail. There are no fiscal implications for local government. There is no anticipated impact on employment, locally or statewide, as a result of implementing the new sections.

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

mentation of the Texas Workers' Compensation Act There will be no effect on small businesses. The only anticipated cost to persons required to comply with the sections as proposed may arise from §133.402, if the individual chooses to comply with the order by providing reproduced copies of the documents ordered to be produced.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8308-8.21(b) (7), which requires the adoption of rules necessary to enable the commission to compel the production of documents, and Article 8308-2.09(a), which authorizes the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§133.401. Orders for Production of Documents.

(a) The executive director or designee may issue an order for the production of documents upon the written request of an employee of the medical review division which establishes good cause for issuance.

(b) The request for issuance of an order for the production of documents shall be sufficient to establish good cause if it contains:

- (1) a description of the documents sought with adequate particularity;
- (2) the name of the person believed to be in possession of the documents and the address or location where the documents are believed to be; and
- (3) a statement that such documents are needed in an identified matter.

(c) An order for the production of documents may be issued at any time to obtain documents relating to a matter within the authority of the division of medical review.

§133.402. Delivery of Order; Compliance.

(a) Service shall be completed by delivery of a copy of the order to the individual named in the order, in person or by certified mail, return receipt requested.

(b) The individual served shall comply with the order on or before the time and date stated in the order by producing the described documents to the designated agency employee. Copies of such documents may be substituted for originals for the convenience of the person served.

§133.403. Noncompliance; Enforcement.

(a) Noncompliance with an order for the production of documents is punish-

able as an administrative violation under Texas Civil Statutes, Article 8308-10.21(b)(3), with a penalty not to exceed \$10,000.

(b) In addition to initiation of administrative violation proceedings, compliance with an order for the production of documents may be enforced by means of a civil proceeding filed in a district court in Travis County.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201290 Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 440-3972

◆ ◆ ◆
Chapter 152. Representation of Parties Before the Agency-Attorney's Fees

• **28 TAC §152.3**

The Texas Worker's Compensation Commission proposes an amendment to §152.3, concerning approval of attorney fees by the commission. The proposed amendment replaces the list of information to be submitted by an attorney seeking a fee with a specific reference to the number and title of the commission-prescribed form, which had not been developed when the section was originally adopted; and reduces the time from 14 days to five days for a carrier to comply with a fee order, to expedite and better ensure payment of the fee. Finally, the proposed amendment synchronizes the time limit for requesting appeals panel review of an attorney fee ordered by a hearing officer with that for requesting appeals panel review of all other hearing officer decisions and orders.

Andrew Thigpen, associated director, Financial Management, has determined that for each year of the first five-year period the amended section is in effect, there will be no fiscal implications as a result of administering or enforcing the amended section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the amendment.

Mr. Thigpen, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be implementation of the Texas Workers' Compensation Act, more efficient administration of the Act by the commission and insurance carriers, and consistency in the procedures for seeking appeals panel review of commission orders. There will be no effect on small businesses. The only anticipated cost to per-

son who are required to comply with the amended section as proposed is the minimal cost of duplicating the commission-prescribed form.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorizes the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§152.3. Approval of Fee by Commission.

(a) To claim a fee, an attorney representing any party shall submit written evidence of the attorney's time and expenses on form TWCC-1522, **Application and Order for Attorney's Fees**. [The written evidence shall be in the form of an affidavit that contains evidence of an hourly rate for attorneys, paralegals, and law clerks; time expended by attorneys, paralegals, and law clerks; an itemized list of allowable expenses; and the attorney's date of licensure, experience, and special qualifications or training. The affidavit shall be on a form, approved by the commission, that contains the following identifying information:

- [(1) the claimant's name, address, and social security number;
- [(2) the date of injury;
- [(3) the employer's name and address;
- [(4) the carrier's name and commission assigned identification number;
- [(5) the attorney's name, address, telephone number, federal tax identification number, and state bar identification number; and
- [(6) a statement indicating whether the attorney represents a claimant or carrier.]

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

(e) The carrier shall pay, pursuant to the order of the commission, an attorney's fee no later than five [14] days after receipt of approval by the commission. For purposes of this section, the date of payment is the date that the initial check for the attorney's fee is mailed, unless the order is contested by any party.

(f) Except as provided in subsection (g) of this section, an [An] attorney, claimant, or carrier who contents the fee fixed and approved by the commission shall request a **benefit contested case hearing** [or, if the order was made by a hearings officer, review by the appeals panel]] by certified mail, return receipt requested, no later than

seven days after the date of the commission's order. The contesting party shall send a copy of the request, by certified mail, return receipt requested, to the carrier and, by regular mail to the other parties, including the claimant. Notice of a contest shall relieve the carrier of the obligation to pay, according to the commission's order, until such time that the commission enters a subsequent order.

(g) An attorney, claimant, or carrier who contests the fee ordered by a hearing officer after a benefit contested case hearing shall request review by the appeals panel pursuant to the provisions of §143.3 of this title (relating to Requesting the Appeals Panel to Review the Decision of the Hearing Officer).

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

Issued in Austin, Texas, on January 26, 1992.

TRD-9201289 Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: March 6, 1992

For further information, please call: (512) 440-3971

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

Food Distribution Program

The Texas Department of Human Services (DHS) proposes amendments to §§11.112, 11.6004, and 11.6007, concerning civil rights, applicant rights, and responsibilities of contracted agencies in its Food Distribution and Processing chapter. The amendments expand the current Special Nutrition Program's nondiscrimination statements beyond the current federal statutory reference in order to add state civil rights nondiscrimination requirements.

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

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

the expanded nondiscrimination statement. There will be no effect on small businesses. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Marianne McDonald at (512) 450-3437 in DHS's Special Nutrition Programs. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-020, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §11.112

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§11.112. *Civil Rights.* Agencies involved in distribution of donated foods must not discriminate against any eligible program participant because of race, color, national origin, sex, age, disability, religion, or political beliefs. Agencies must also comply with the nondiscrimination requirements in 7 Code of Federal Regulations, §250.21 and 7 Code of Federal Regulations Parts 15, 15(a), and 15(b) [comply with civil rights provisions according to 7 Code of Federal Regulations, §250.21].

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201276 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

Emergency Food Assistance Program

• 40 TAC §11.6004, §11.6007

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§11.6004. *Applicant Rights.* If eligible and commodities are available, all persons have the right to apply and receive emergency food assistance without regard to race, color, national origin, sex, age, disability, religion, or political beliefs [religion, sex, political beliefs, age, national origin, or

handicap]. They also have the right to appeal the eligibility decision.

§11.6007. *Responsibilities of Contracted Agencies.* To qualify as a contractor for the Emergency Food Assistance Program, contractors must fulfill the following requirements:

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

(9) serve all applicants in the contracted service area without regard to race, color, national origin, sex, age, disability, religion, or political beliefs [religion, national origin, creed, sex, political beliefs, age, or handicap].

(10)-(18) (No change.)

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201277 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

Chapter 12. Child Nutrition Programs

Child Care Food Program

The Texas Department of Human Services (DHS) proposes amendments to §§12.12, 12.112, 12.207, 12.307, and 12.407, concerning civil rights and nondiscrimination, and contractor participation requirements in its Child Nutrition Programs chapter. The amendments expand the current Special Nutrition Programs nondiscrimination statements beyond the current federal statutory reference in order to add state civil rights nondiscrimination requirements.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the added protection from discrimination on the basis of the expanded nondiscrimination statement. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Nancy Hill at (512) 450-4152 in DHS's Special Nutrition Programs. Comments on the proposal may be

submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-020, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• **40 TAC §12.12**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.12. Civil Rights/Nondiscrimination. The benefits of the Child Care Food Program are available without discrimination on the basis of race, color, national origin, sex, age, disability, religion, or political beliefs; [age, sex, or handicap according to] and in compliance with additional nondiscrimination requirements of 7 Code of Federal Regulations, §§226.6, 226.22, and 226.23, and 7 Code of Federal Regulations Parts 15, 15(a), and 15(b).

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201278 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆
Summer Food Service Program

• **40 TAC §12.112**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.112. Civil Rights and Nondiscrimination. The benefits of the Summer Food Service Program are available without discrimination on the basis of race, color, national origin, sex, age, disability, religion, or political beliefs; [age, sex, or handicap according to] and in compliance with additional nondiscrimination requirements of 7 Code of Federal Regulations, §§225.3 and §225.7, and 7 Code of Federal Regulations Parts 15, 15(a), and 15(b).

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201279 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆
Special Milk Program

• **40 TAC §12.207**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.207. Contractor Participation Requirements. To participate in the program, the contractor must:

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

(4) prohibit the discrimination against any eligible program participant because of race, color, national origin, sex, age, disability, religion, or political beliefs; and comply with additional nondiscrimination requirements according to 7 Code of Federal Regulations, §§215.14 and §245.8, and 7 Code of Federal Regulations, Parts 15, 15(a), and 15(b);

(5)-(6) (No change.)

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201280 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆
School Breakfast Program

• **40 TAC §12.307**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.307. Contractor Participation Requirements. To participate in the program, the contractor must:

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

(7) prohibit the discrimination against any eligible program participant because of race, color, national origin, sex, age, disability, religion, or political beliefs; and comply with additional nondiscrimination requirements according to 7 Code of Federal Regulations,

§220.7 and §245.8, and 7 Code of Federal Regulations, Parts 15, 15(a), and 15(b);

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

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201281 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆
National School Lunch Program

• **49 TAC §12.407**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.407. Contractor Participation Requirements. To participate in the program, the contractor must:

(1)-(9) (No change.)

(10) prohibit the discrimination against any eligible program participant because of race, color, national origin, sex, age, disability, religion, or political beliefs; and comply with additional nondiscrimination requirements according to 7 Code of Federal Regulations, §§210.23(b), 245.8, and 245.13, and 7 Code of Federal Regulations, Parts 15, 15(a), and 15(b).

(11)-(12) (No change.)

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201282 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

Chapter 50. Day Activity and Health Services

Reimbursement Methodology for Day Activity and Health Services

• 40 TAC §50.6903, §50.6905

The Texas Department of Human Services proposes amendments to §50.6903 and §50.6905, concerning reimbursement methodology, in its Day Activity and Health Services chapter. The purpose of the amendments is to clarify and correct existing rule language.

Burton F. Raiford, interim commissioner, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect will be an estimated additional cost of \$298,928 in fiscal year (FY) 1992; \$801,531 in FY 1993; \$945,568 in FY 1994; \$1,103,400 in FY 1995; and \$1,271,339 in FY 1996.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the rules will better reflect the activities of the day activity and health services program. The proposed changes also help providers better understand the department's rules, thus resulting in better cost reporting. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Mary Anne Joseph at (512) 450-4050 in Provider Reimbursement. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-024, Texas Department of Human Services E-503, P.O. Box 149030, Austin,

Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer medical assistance programs.

§50.6903. Reimbursement Rate Determination. The Texas Department of Human Services (DHS) determines rate reimbursement in the following manner.

(1) (No change.)

(2) Cost areas. DHS combines reported costs into the following six cost areas:

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

(F) **direct programmatic expenses cost area. This area includes the costs of medical and activity supplies.** [other expenses cost area. This includes all other expenses such as training, educational, and activity supplies, building maintenance, and administration supplies.]

(3) Provider administration, transportation, [utilities,] and building expenses. Provider administration, transportation, [utilities,] and building expenses are adjusted to reflect per diem costs at the **average occupancy level during the cost reporting period [85% rate of occupancy]** for providers who operate with an occupancy rate of less than the **average occupancy level [85%]**.

(4)-(7) (No change.)

§50.6905. List of Allowable Costs. The following list of allowable costs is not com-

prehensive, but rather serves as a general guide, and serves to clarify certain key expense areas. The absence of a particular cost does not necessarily mean that it is not an allowable cost.

(1) Compensation of DAHS employees. Only those employees who provide services directly to day activity and health services participants, such as the director, social service activities coordinator, registered nurse, vocational nurse, attendant, driver, and food service personnel receive compensation, which includes:

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

(C) employee benefits. This includes employer paid health and life insurance premiums, **disability insurance for employees**, employer contributions to employee retirement accounts, uniform/clothing allowances, and **meals provided to employees as part of an employment contract.** [or automobile provided for personal use.]

(2)-(9) (No change.)

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

Issued in Austin, Texas, on January 28, 1992.

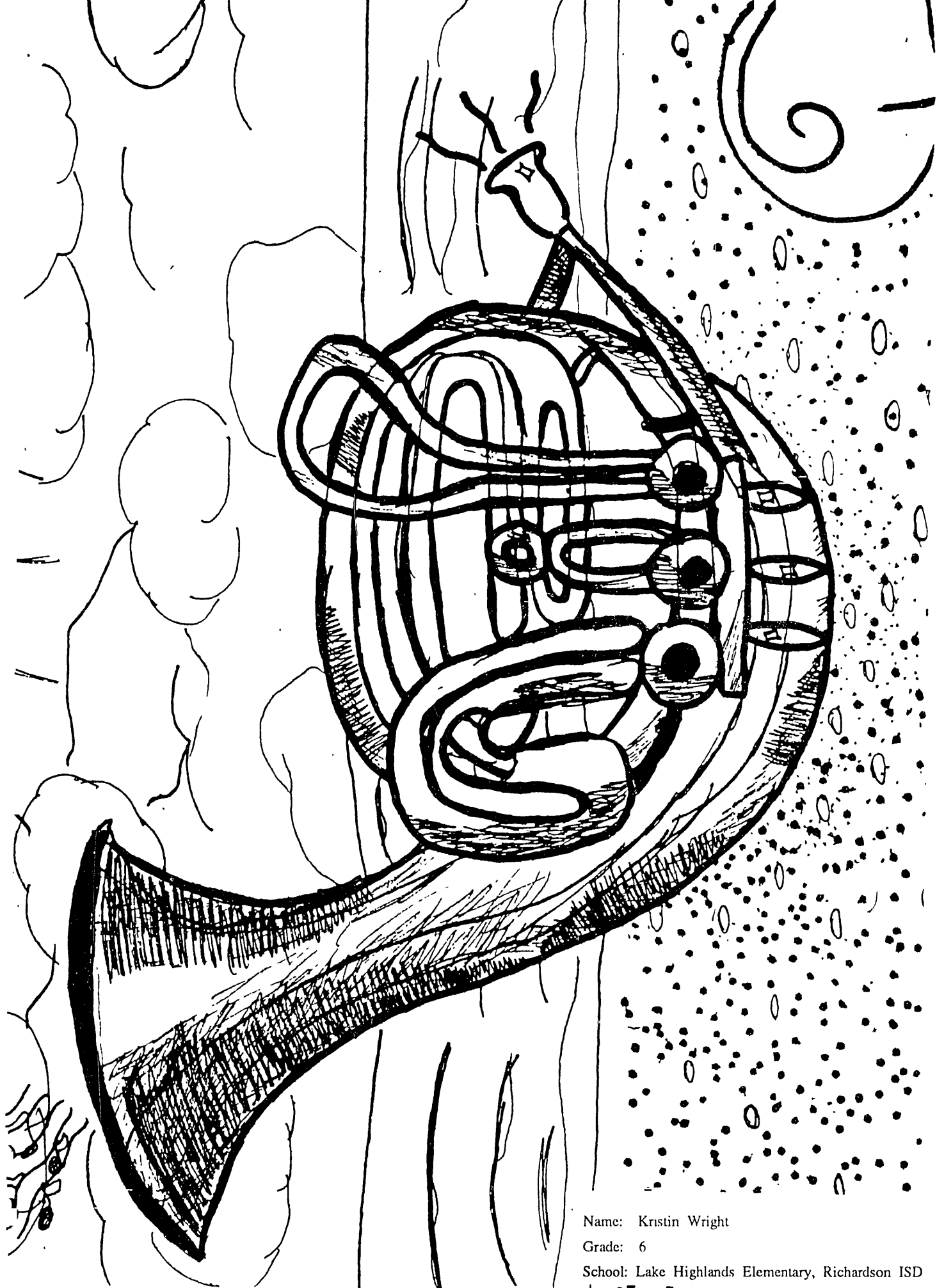
TRD-9201283

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: April 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆



Name: Kristin Wright

Grade: 6

School: Lake Highlands Elementary, Richardson ISD

Withdrawn Sections

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

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners

Chapter 71. Application and Applicants

• 22 TAC §71.10

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §71.10 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5046). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201334 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

Chapter 75. Rules of Practice

• 22 TAC §75.1, §75.6

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption proposed amendments to §75.1 and §75.6 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5047). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201335 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

• 22 TAC §75.7

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §75.7 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5047). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201333 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

Chapter 77. Advertising and Public Communication

• 22 TAC §77.3

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed new §77.3 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5048). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201332 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

• 22 TAC §77.5

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §77.5 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5049). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201331 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

Chapter 80. Practice of Chiropractic

• 22 TAC §80.1

The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption a proposed amendment to §80.1 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5019). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201329 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895

• 22 TAC §§81.4-80.9

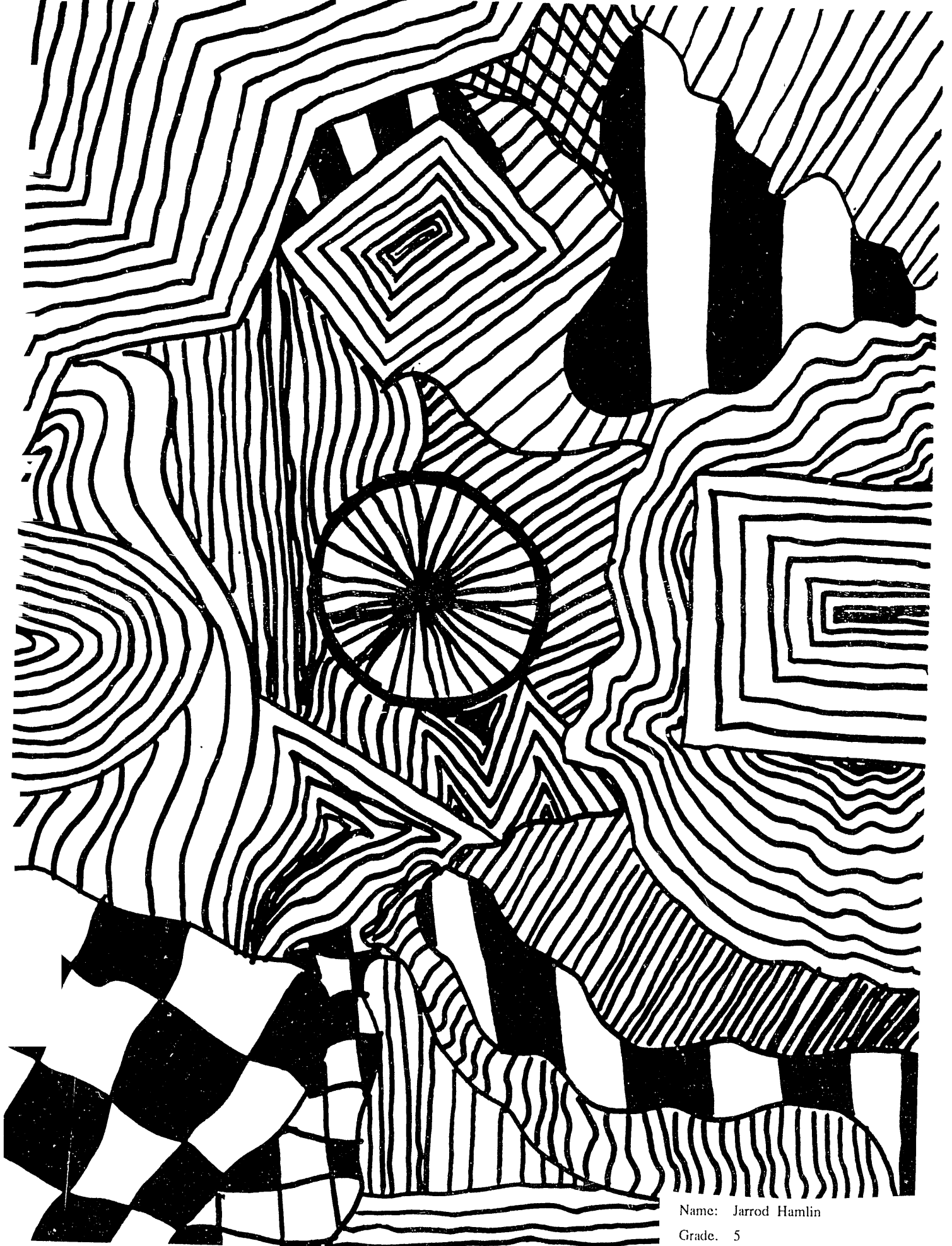
The Texas Board of Chiropractic Examiners has withdrawn from consideration for permanent adoption proposed new §§81.4-80.9 which appeared in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5049). The effective date of this withdrawal is January 28, 1992.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201330 Jennie Smetana
Executive Director
Texas Board of
Chiropractic Examiners

Effective date: January 28, 1992

For further information, please call: (512) 343-1895



Name: Jarrod Hamlin

Grade. 5

School: Christie Elementary. Plano ISD

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

• 16 TAC §3.68

The Railroad Commission of Texas adopts an amendment to §3.68, concerning conservation rules and regulations, with changes to the proposed text as published in the October 29, 1991, issue of the *Texas Register* (16 TexReg 6117). The amendments shall take effect on March 1, 1992.

Adoption of the amendment will both increase the efficiency of enforcement by the commission of its statutory authority regarding the regulation operations under its jurisdiction, and help ensure that operations connected with the production of oil, gas, and geothermal resources do not pose a threat of harm to natural resources. In addition, the commission finds that the provisions of Senate Bill 1103, 72nd Legislature, 1991, which took effect September 1, 1991, require adoption of some of the amendment. The amendment outlines procedures for shutting in and sealing wells, and cancelling certificates of compliance.

Several commenters stated that the 10-day compliance period set out in subsection (b) is too short. The commission disagrees. The 10-day period is a minimum compliance period. A 10-day period is necessary when there is a threat of pollution or other harm to natural resources. Longer compliance periods may be set out in the notification letter in cases where there is not a threat of pollution or other harm to natural resources.

One commenter suggested that the rule should be modified to focus on violations associated with wells and bringing wells into compliance. The commission disagrees. The obligation of the operator to comply with statutes and commission permits, rules, and orders is not confined to wells.

One commenter stated that "may" in subsection (b) should be changed to "shall" to conform with the provisions of Texas Natural Resources Code, §85.164 (Vernon Supplement 1992). The commission agrees.

One commenter stated that the rule should establish the availability of a hearing before action is taken by the commission or its delegate. The commission disagrees. The availability of a hearing is already prescribed by the commission's general rules of practice and procedure and the Administrative Procedure and Texas Register Act.

One commenter suggested that the rule should not provide for the delegation of the commission's authority under the rule. The commission disagrees. It is necessary for the commission to have the option to delegate its authority because of the large number of cases that may require action under this rule.

The following commenters opposed adoption of the amendment as originally proposed: Texas Independent Producers & Royalty Owners Association, Texas Mid-Continent Oil & Gas Association, and Permian Basin Petroleum Association.

The amendment is adopted under the Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, and 86.042, which provides the commission with the authority to adopt rules to govern and regulate persons and their operations under the jurisdiction of the commission.

§3.68. Pipeline Connection; Cancellation of Certificate of Compliance; Severance.

(a) (No change.)

(b) The commission may shut in and seal any well, and cancel any certificate of compliance if it appears that the operator of a well has violated or is violating, in connection with the operation of the well, any of the oil, gas, or geothermal resource conservation laws or any of the permits, rules, or orders of the commission made thereunder. Upon receipt of information that indicates operations are being conducted in violation of a state statute or a commission permit, rule, or order, the commission shall send a notice letter to the operator directing the operator to remedy the violation. The letter shall state the facts or conduct alleged to warrant the shut in and sealing of the well, and cancellation of the certificate of compliance. The letter shall give the operator an opportunity to show compliance with state statutes and commission permits, rules, and orders. The letter shall be sent by registered or certified mail, and shall indicate the time within which compliance must be demonstrated or achieved. The time period allowed for the operator to achieve

compliance shall not be less than 10 days from the date the notice letter, or any extension thereto, is sent.

(c) Within the time period set out in the notice letter, the operator shall either demonstrate compliance or remedy the violation, and notify the commission of its action.

(d) If the violation is not remedied within the time period set out in the notice letter, the commission, or the commission's delegate, may direct the appropriate commission personnel to shut in and seal the well, and cancel the certificate of compliance.

(e) If a certificate of compliance has been cancelled, the commission may not issue a new certificate of compliance until the owner or operator of the property covered by the certificate of compliance submits to the commission a reissuance fee as required by §3.76 of this title (relating to Fees, Performance Bonds, and Alternate Forms of Financial Security Required to be Filed) (Statewide Rule 78); and

(1) the property covered by the certificate is brought into compliance with all oil, gas, and geothermal resource conservation laws, and the permits, rules, and orders of the commission made thereunder; or

(2) the commission determines that there are just and equitable grounds for reissuing the certificate.

(f) Upon notice from the commission to any pipeline or other carrier connected to any oil, gas, or geothermal resource well that the certificate of compliance applicable to the well has been cancelled by the commission, the pipeline or other carrier shall disconnect from the well, and it shall be unlawful for the pipeline or other carrier to transport any oil or gas produced therefrom until a new certificate of compliance has been issued by the commission.

(g) Upon notice from the commission that a certificate of compliance as to any oil, gas, or geothermal resource well has been cancelled by it as provided in this section, it shall be unlawful for the operator of such well to produce oil, gas, or geothermal resources therefrom until a new certificate of compliance with respect to the well

has been issued by the commission as provided in this section.

(h) The provisions of this section are cumulative of other commission actions and procedures relating to violations of state statutes or commission permits, rules, and orders, including the authority of the commission or the commission's delegate to immediately shut in a well or lease, or to direct the operator to shut in a well or lease, when an emergency exists due to pollution or an imminent threat of harm to people or property.

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 January 27, 1992

TRD-9201352 Nolan Ward
Hearings Examiner,
General Law, Legal
Division
Railroad Commission of
Texas

Effective date: March 1, 1992

Proposal publication date: October 29, 1991

For further information, please call: (512) 463-6864



Chapter 5. Transportation Division

Conservation Rules and Regulations

• 16 TAC §§5.534, 5.535, 5.537

The Railroad Commission of Texas adopts the repeal of §§5.534, 5.535, and 5.537, new §5.534 and §5.535, and amendments to §5.536 and §5.538, concerning scope of exemption under House Bill 593, definitions of key terms relating to agricultural commodities exemptions, and grace period for holders of seasonal agricultural permits; scope of exemption and definitions of key terms relating to agricultural commodities exemption; and procedures for obtaining agricultural permits and enforcement of regulations under an agricultural permit. The repeals, new sections, and amendments are adopted without changes to the proposed text as published in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6253).

The repeals, new sections, and amendments harmonize the rules with the Motor Carrier Act as amended, and recodify the agricultural permit rules to make them more clear and simple.

The changes broaden the agricultural permit exemption in accordance with recent legislative actions, and facilitate enforcement and interpretation of the rules.

No comments were received in support of the proposed rules. Comments in opposition were received from nine carriers. All of the carrier comments are against the proposed changes as they relate to peanuts, cotton-

seed hulls, and cottonseed meal. The argument is that the thrust of the new legislation is to ensure that cattle moving from feedlots to slaughtering houses are within the agricultural permit regulations. The rule should not, therefore, apply to the commodities they transport.

The Texas Cottonseed Crushers Association also commented in opposition to the proposed rules. It requests the addition of cottonseed oil mills to the list of persons entitled to the benefit of the exemption.

The commission disagrees with the commenters in opposition to the proposed rules. The rules have been drafted in accordance with legislative action. There is no basis to infer that the changes should affect some agricultural commodities and not others. Adding cottonseed oil mills to the list of persons entitled to the benefit of the exemption requires additional legislative action.

The repeals are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §5b, which authorizes the commission to issue agricultural permits for the transportation of eligible agricultural commodities.

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 January 27, 1992.

TRD-9201309 Nolan Ward
Hearings Examiner,
General Law, Legal
Division
Railroad Commission of
Texas

Effective date: November 5, 1991

Proposal publication date: February 18, 1992

For further information, please call: (512) 463-7096



• 16 TAC §§5.534, 5.535, 5.536, 5.538

The new sections and amendments are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §5b, which authorizes the commission to issue agricultural permits for the transportation of eligible agricultural commodities.

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 January 27, 1992.

TRD-9201310 Nolan Ward
Hearings Examiner,
General Law, Legal
Division
Railroad Commission of
Texas

Effective date: February 18, 1992

Proposal publication date: November 5, 1991

For further information, please call: (512) 463-7096



Part VIII. Texas Racing Commission

Chapter 313. Officials and Rule of Horse Racing

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.112

The Texas Racing Commission adopts an amendment to §313.112, concerning official workouts, without changes to the proposed text as published in the November 8, 1991, issue of the *Texas Register* (16 TexReg 6354).

The amendment is adopted to ensure that pari-mutuel racetracks are operated with utmost integrity.

The amendment limits the number of workouts a horse may receive on any one day.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with pari-mutuel wagering and for administering the Texas Racing Act and §3.021, which authorize the commission to adopt rules relating to the regulation of workouts.

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 January 17, 1992.

TRD-9201237 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: February 17, 1992

Proposal publication date: November 8, 1991

For further information, please call: (512) 794-8461

TITLE 22. EXAMINING BOARDS

Part XVI. Texas State Board of Physical Therapy Examiners

Chapter 337. Display of License

• 22 TAC §337.2

The Texas State Board of Physical Therapy Examiners adopts an amendment §337.2 concerning the consumer information sign, without changes to the proposed text as published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7622).

The amendment is necessary because the agency has moved to a new location.

This rule change will necessitate licensees to change the signs in their offices which indicate to what address compliants may be forwarded.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

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

Issued in Austin, Texas, on January 27, 1991.

TRD-9201265
Sherry L. Lee
Executive Director
Texas State Board of
Physical Therapy
Examiners

Effective date: February 18, 1992

Proposal publication date: December 24, 1992

For further information, please call: (512) 443-8202

◆ ◆ ◆
**Part XXI. Texas State
Board of Examiners of
Psychologists**
Chapter 473. Fees.

• 22 TAC §473.3

The Texas State Board of Examiners of Psychologists adopts an amendment to §473.3 concerning fees, without changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6900).

The 72nd Legislature required the board to raise an additional \$17,756 during each year of the biennium in order for the agency to use the monies appropriated to them. Since doctoral level persons' renewals are being assessed the additional \$200 professional fee required by the legislature, the board felt each psychological associate's renewal fee should be increased by \$20 to meet this need.

The amendment will collect fees necessary to provide credentials review and monitoring of those persons wanting to be certified as a psychological associate.

The increase in psychological associate renewal fees at this time may detrimentally affect the board's membership and receivable fees in the long run. If psychological associates do not perceive that they are being supported during the Sunset period they may seek to follow other alternatives.

Commenting against the amendment were the Psychological Associates Division and the Texas Psychological Association.

The agency regrets having to impose an additional fee on anyone during these difficult economic times. However, the agency felt that the doctoral level persons have already been asked to pay an additional \$200 profes-

sional fee and should not be assessed more. The earning power of licensed psychologists is recognized as being greater than that of psychological associates. However, the board did not feel it was 10 times greater than that of a psychological associate (\$200 for doctoral level versus \$20 for masters level).

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

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201321
Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: February 18, 1992

Proposal publication date: November 29, 1991

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

◆ ◆ ◆
**Part XXII. Texas State
Board of Public
Accountancy**

Chapter 515. Licenses

• 22 TAC §515.10

The Texas State Board of Public Accountancy adopts new §515.10, concerning licenses for certificate holders who default on student loans, without changes to the proposed text as published in the October 18, 1991, issue of the *Texas Register* (16 TexReg 5813).

The rule is necessary in order to ensure that professionals make payments on their student loan obligations.

Certificate and registration holders in default must demonstrate compliance with the rule in order to renew their licenses.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to licensing, and is proposed pursuant to the Texas Education Code, §57.491.

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 January 27, 1992.

TRD-9201294
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: October 18, 1991

For further information, please call: (512) 450-7066

◆ ◆ ◆
**Chapter 519. Practice and
Procedures**

• 22 TAC §519.27

The Texas State Board of Public Accountancy adopts an amendment to §519.27, concerning hearings in disciplinary actions, without changes to the proposed text as published in the October 25, 1991, issue of the *Texas Register* (16 TexReg 6025).

The amendment is necessary in order to ensure that administrative costs will be paid by the individuals and firms that incur the costs.

The amendment will allow the agency to recover administrative costs.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding hearings in disciplinary actions.

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 January 27, 1992.

TRD-9201295
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: October 25, 1991

For further information, please call: (512) 450-7066

◆ ◆ ◆
• 22 TAC §519.29

The Texas State Board of Public Accountancy adopts amendments to §519.29, concerning publication of disciplinary/administrative sanctions, without changes to the proposed text as published in the October 25, 1991, issue of the *Texas Register* (16 TexReg 6025).

The rule is necessary in order to ensure that certificate and registration holders will be deterred from committing violations of the Act and the rules of professional conduct.

The rule will define the circumstances in which the names of the violators will be published.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to publication of disciplinary/administrative sanctions.

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 January 27, 1992.

TRD-9201296 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: October 25, 1991

For further information, please call: (512) 450-7066

Chapter 521. Fee Schedule

• 22 TAC §521.1

The Texas State Board of Public Accountancy adopts an amendment to §521.1, concerning license fee, without changes to the proposed text as published in the October 29, 1991, issue of the *Texas Register* (16 TexReg 6122).

The amendment is necessary to ensure that the persons benefiting from licensure will bear the costs associated with their licenses.

This amendment will increase license fees and will institute the collection of fees on a biennial schedule.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to fee schedule.

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 January 27, 1992.

TRD-9201297 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: October 29, 1991

For further information, please call: (512) 450-7066

Chapter 527. Quality Review

• 22 TAC §527.7

The Texas State Board of Public Accountancy adopts an amendment to §527.7, concerning retention of documents relating to quality reviews, without changes to the proposed text as published in the October 29, 1991, issue of the *Texas Register* (16 TexReg 6123).

The rule is necessary in order to ensure that the board will be able to review records so that quality review standards are met.

The rule will establish guidelines for the retention of records relating to quality reviews.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to quality review.

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 January 27, 1992.

TRD-9201298 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: October 25, 1991

For further information, please call: (512) 450-7066

• 22 TAC §527.8

The Texas State Board of Public Accountancy adopts new §527.8, concerning oversight procedures to be followed by the Quality Review Oversight Board, without changes to the proposed text as published in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6256).

The rule is necessary in order to ensure that the responsibilities of the Quality Review Oversight Board will be clarified.

The proposed rule will set forth the responsibilities of the Quality Review Oversight Board.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the Quality Review Program.

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

Issued in Austin, Texas, on January 27, 1992.

TRD-9201299 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 18, 1992

Proposal publication date: November 5, 1991

For further information, please call: (512) 450-7066

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 97. Communicable Diseases

Consent for Immunization

• 25 TAC §97.91, §97.92

The Texas Department of Health adopts new §97.91 and §97.92, concerning consent for immunization, without changes to the proposed text as published in the July 26, 1991, issue of the *Texas Register* (16 TexReg 4054).

The new sections implement the provisions of Senate Bill 345, 72nd Legislature, 1991, concerning the delegation of consent for immunization. Section 97.91 covers the delegation of authority to give informed consent for immunizations of a minor. Section 97.92 covers recommendations for documentation of the reason or reasons a parent or guardian could not be contacted.

Several comments were received concerning implementation of and procedures related to the new sections. No comments were received concerning the text of the sections themselves.

No agencies, groups, or associations commented on the proposed sections. The commenters were individuals (public health nurses and immunization program administrators).

The new sections are adopted under Senate Bill 345, §2, 72nd Legislature, 1991, which provides the Board of Health with authority to adopt rules covering the information contained in the written delegation of authority to consent for immunization of a minor; Health and Safety Code, §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law on the board, the Texas Department of Health, and the commissioner of health.

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 January 27, 1992.

TRD-9201219 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: February 17, 1992

Proposal publication date: July 26, 1991

For further information, please call: (512) 458-7455

Chapter 157. Emergency Medical Care

Emergency Medical Services- Part A

• 25 TAC §157.2

The Texas Department of Health (department) adopts the amendment to §157.2 and new rules §§157.121-157.129. The amendment to §157.2 and new §§157.121, 157.123-157.125 are adopted with changes to the proposed text as published in the September 10, 1991 issue of the *Texas Register* (16 TexReg 4921). Section 157.122 and §§157.126-157.129 are adopted without changes and will not be republished.

The amendment and new sections implement the provisions of the Health and Safety Code, Chapter 773, Subchapter D, concerning emergency medical services (EMS) and trauma care systems. The amendment adds definitions concerning EMS trauma systems and the new sections establish the procedures and standards for the implementation of a statewide EMS trauma system.

Comments received concerning the proposed sections and the department's responses are as follows.

Concerning §157.2, a commenter said that the definitions of "basic trauma facility" and "general trauma facility" refer to transfer of patients to a higher level trauma facility. The commenter recommended that the department formulate a standard plan for patient transfers for individual hospitals. The department disagrees because the federal government and the department's hospital licensing program already have established standards for patient transfers.

Concerning §157.2, as regards the definition of "bypass," a commenter requested that "direct" medical control be changed to "on-line" medical control because the language would be more appropriate. The department agrees only in part because "direct" is the term used in the rules of the Texas State Board of Medical Examiners (BME) in Title 22, Texas Administrative Code, §197.2. The department will add "on-line" after "direct" to avoid confusion.

Concerning §157.2, a commenter requested that the definition of "facility triage" be changed to read, "The process of assigning patients to an appropriate trauma facility based on injury severity and trauma facility availability." The department agrees and has changed the language as recommended.

Concerning §157.2, a commenter requested that the last sentence in the definition of "lead trauma facility", which refers to shared responsibilities, be deleted so that the position of those hospitals willing to take the extra effort will not be weakened. Another commenter supports the concept of shared responsibilities. The department disagrees with the first comment that sharing educational and outreach programs will weaken a hospital's position in its community.

Concerning §157.2, a commenter requested that the definition of "medical control" be

changed to follow the definition of "direct medical control" which has been adopted by the BME in its rules in Title 22, Texas Administrative Code, §197.2. The department disagrees because not all health care facilities will have access to the BME rules.

Concerning §157.2, as regards the definition of "pediatric trauma facility," a commenter wanted to add the phrase "or other" after the word "pediatric" as used in the definition. The department agrees and has changed the language accordingly.

Concerning §157.2, as regards the definition of "Regional medical control," two commenters stated that it was unclear if regional medical control would supersede the medical control physician for the various pre-hospital care providers in a trauma service area (TSA). In response, the department has clarified that on-line medical control supersedes off-line medical policies and procedures.

Concerning §157.2, a commenter questioned why the definition of "trauma" includes the category of burn injuries but omits the additional categories of poisoning, near drowning, and suffocations, other than those due to external forces. The department disagrees with changing the definition to include additional categories because the language used in the definition is nationally accepted.

Concerning §157.2, as regards the definition of "Trauma facility," a commenter asked for clarification of the term "comprehensive." The commenter stated that a basic trauma facility will not qualify as a trauma facility using this definition. The department disagrees because the definition comes directly from legislation and cannot be changed in the rules.

Concerning the publication titled, "Texas Trauma Facility Criteria," which is adopted by reference in §157.121(b), the following comments were received regarding the publication.

1. Concerning the criteria marked "E" (essential), one commenter asked if hospitals are only responsible for (the criteria marked "E" (essential)), for developing their trauma program. Another commenter asked who would the hospital notify if Level II status could not be maintained and how much advance notice would be required. The department's response to the first comment is that hospitals are only required to meet the criteria marked "E". The department's response to the second comment is addressed in §157.125.

2. Concerning paragraph (4)(A), as regards surgical specialties availability, one commenter requested that the orthopedic surgery requirement in footnote #5 be changed to permit only an orthopedic surgeon or senior level orthopedic resident to fulfill this specialty requirement. The department disagrees because it believes that the current requirement is sufficient.

3. Concerning subsection (b)(1)(a)(3), as regards nurse staffing, one commenter asked if reimbursement is available to hospitals for nursing staff who complete the advanced cardiac life support course (ACLS) and the pediatric advanced life support course (PALS) training, and for hospitals that become

trauma nurse core course (TNCC) verified providers. The department's response is that such reimbursement is not available at this time.

4. Concerning paragraph (10)(B), as regards rehabilitative medicine, one commenter said there is confusion with the subsection (a) or (b) requirement for rehabilitation medicine for Level I facilities and suggested that either subsection (a) or (b) be acceptable to meet the criteria. In response, the department has clarified the requirement by stating that Level I trauma facilities must meet the requirement listed in subsection (a) while Level II and Level III trauma facilities must meet the requirement listed in subsection (b).

5. Concerning paragraph (3)(C), as regards morbidity and mortality review, one commenter asked who would be responsible for the criteria used in the morbidity and mortality review. The department's response is that whoever the hospital selects is responsible.

6. Concerning paragraph (5)(C), as regards medical nursing audit utilization review/tissue review, one commenter requested that "tissue review" be defined and its relevance to the proposed requirements explained. The department's response is that the tissue committee of each hospital should define what types of tissue it will review.

7. Concerning paragraph (6)(C), as regards the trauma registry, one commenter asked if reimbursement is available for hospitals to support the trauma registry. The department's response is that there is no such reimbursement available.

8. Concerning paragraph (8)(C), as regards the published on-call schedule, one commenter asked where the on-call schedule is expected to be published. In response, the department has clarified this requirement by saying that the on-call schedule should be readily available to those who need the information.

9. Concerning paragraph (10)(C), as regards quality management personnel, one commenter requested that the phrase, "dedicated quality management personnel for the trauma program" be defined and asked what resources the hospitals are expected to provide. The department's response is that the hospital should decide who meets the requirement before assigning them to the trauma program. Also, the hospitals should provide all resources necessary to provide trauma care at the designation level it desires.

Concerning the publication titled, "Pediatric Trauma Care," which is adopted by reference in §157.121(b), one commenter suggested that footnote #2 in Table 1 (Adult Trauma Facility with Pediatric Commitment) be changed to the pediatric surgeon requirement of "being available at all times in the adult trauma facility" to being "on-call." The department agrees in part and will make a footnote change for Level I trauma facilities with pediatric commitment to read: "A pediatric surgeon must be available at the hospital on short notice. Local criteria may be established that allow the pediatric surgeon to take call

from outside of the hospital, but with the clear commitment on the part of the hospital and the surgical staff, that the pediatric surgeon will be present in the emergency department at the time of arrival of the pediatric trauma patient and be available to care for pediatric trauma patients in the ICU. The adult trauma surgeon must have special interest in and commitment to care of the injured child."

Concerning the publication titled, "Qualifications of Texas Trauma Care Personnel," which is adopted by reference of §157.121(b), one commenter expressed strong opposition concerning a part of the provision on specific qualifications for nonsurgical specialists (emergency physicians). The commenter strongly opposed the use of certificates in short courses, i.e., Advanced Trauma Life Support (ATLS), to determine qualifications relating to emergency medicine. The department's response is that the ATLS requirement for emergency physicians is still being considered by the department.

Concerning §157.122(b)(2), a commenter said that the phrase, "lead general trauma facility," as used in the paragraph is ambiguous. The department disagrees because a general trauma facility could also be a "lead trauma facility" in its TSA.

Concerning §157.122(b)(3) and (c)(3), a commenter asked if a TSA could end up with fewer than the three county minimum if counties in a designated TSA aligned with an adjacent TSA. Another commenter supports the multi-county composition. Several commenters asked that changes be made to a currently defined TSA to maintain established patient referral lines. The department's response to the first comment is that the rules will not permit a TSA to have fewer than three counties. The department agrees with the second comment. The department disagrees with the third comment because this rule does not restrict patient referrals and allows for realignment of counties.

Concerning §157.123, one commenter requested that the regional advisory council's (RAC) authority and responsibilities be defined and detailed. The department's response is that proposed §157.124 addresses responsibilities and each RAC is permitted to expand its role as needed for its TSA. Section 157.124 allows for flexibility.

Concerning §157.123(a), one commenter asked if there is a contingency plan if a RAC is not established. The department's response is that a RAC is totally voluntary.

Concerning §157.123(b), one commenter said that a RAC would become unmanageable if all participating health care entities were represented and suggested that only participating hospitals be allowed on a RAC while other health care entities be on an advisory group to the RAC. Another commenter suggested that the RAC's role, composition, term length, method of appointment and goals be defined and by-laws approved by the department's Bureau of Emergency Management (bureau) be added to the subsection. The department disagrees with the first commenter on the basis that a trauma system is made up of more than just hospitals and other health care entities, such as EMS, must

have input into the planning process. The department disagrees with the second comment because each RAC is given flexibility to make internal decisions on its composition, length of term, etc.

Concerning §157.123(c), one commenter questioned the need for a RAC if final decisions are left to the bureau. The department disagrees because the RAC, not the bureau, will make the final decisions for trauma system planning and implementation.

Concerning §157.123(e), two commenters said that a RAC made up of volunteers would need financial support from the state to operate. The department agrees that this might be the case for some RACs; however, funds have not been made available by the legislature.

Concerning §157.124, one commenter asked who would educate the public about the system and if funds are available for this purpose. Another commenter asked what the bureau's role would be to coordinate each system plan. The department's response is that the department, the RACs, and the trauma facilities would educate the public and that funds are not available at this time. The department said the bureau's role is to recognize official RACs, review all system plans, designate trauma facilities and provide technical assistance.

Concerning §157.124(a), four commenters asked how the cost will be paid for in establishing a trauma plan in the application phase. The department's response is that trauma system planning is voluntary and those involved will assume their own expenses.

Concerning §157.124(b), three commenters asked how the application will be structured and if the applications will be uniform for all TSAs. The department's response is that the application structure will be outlined in the "Texas Trauma System Manual" and will be made available when completed. The department assures that the applications will be uniform.

Concerning §157.124(c), one commenter asked if the participating health care entities would be defining their community's standard of care if not all health care entities participated in system planning. The department agrees that this might be the case; however, this is true with many types of planning and is the reason that all participating entities should participate in the planning process.

Concerning §157.124(c)(3), several commenters asked the following questions: if the physician responsible for medical oversight would be reimbursed and what procedures are being considered; what is available to ensure transport protocols comply with state and federal laws; who is responsible to identify patients for transfer and what guidelines are available; who would develop a system-wide quality management program; and what rules are in place to guarantee confidentiality for peer review evaluation. The department's response is that physician reimbursement for services to a TSA or RAC would be decided by a RAC and that no state funding is available; EMS providers and agencies must comply with EMS laws for

patient transport; the physician is responsible for patient transfers and should use protocols approved by medical-legal authority; and finally, each RAC will develop a system-wide quality management program.

Concerning §157.124(d), one commenter expressed fear that a hospital may not be deemed eligible for funds if a RAC is not organized or functioning. The department's is that if RAC formation has not begun or has not been organized, a mechanism for the bureau to grant an exception is provided in §157.125.

Concerning §157.125(a), one commenter stated that the American College of Surgeons (ACS) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) defined the levels of hospitals differently and the proposed trauma level designation would be confusing. A second commenter stated that every 40-bed hospital would qualify for Level III designation; however, no recognition is given to a hospital providing 98% of the Level II criteria. Another commenter wanted to know what would happen if Level I and Level II services were not volunteered in a TSA. The department disagrees with the first comment because the trauma facility designation levels, which are outlined in the Health and Safety Code, Chapter 773, are nationally accepted. The department disagrees with the second comment because many 40-bed hospitals will not be able to meet the requirements and standards for Level III designation. The department's reply to the third comment is that trauma facility designation is a voluntary process and a TSA might not have a designated trauma facility at all or the highest level of designation may be a Level III. TSAs were established to ensure that there is a hospital with the potential to achieve a Level III designation.

Concerning §157.125(b), one commenter applauded on-site surveys before trauma designation is awarded. The department appreciates this support.

Concerning §157.125(e), one commenter asked if local assistance for planning and development was considered and will the bureau use its regional staff or hire new staff. The department's response is that local assistance was not considered and money is not available to hire additional staff. Regional staff members cannot be diverted from their primary responsibility.

Concerning §157.125(g)(1), one commenter suggested that survey physicians be board certified in their respective discipline and that survey nurses have either critical care or certified emergency nurse (CEN) certification. A second commenter would like to add an EMS representative to the survey team. The department disagrees with the first comment stating that the requirements for survey team members are sufficient. The department disagrees with the second comment because the team composition is similar to the survey team composition in other states and larger teams are more costly.

Concerning §157.126(a), two commenters requested that the hospital's application fee be deleted since the other health care entities don't have to submit a fee and suggested that

the department develop a grant program to replace the application cost. The department disagrees because the application fee for trauma designation is defined in accordance with the Health and Safety Code, Chapter 773. Additionally, other health care entities are paying for their licensing and certification.

Concerning §157.127(a), two commenters said that a RAC should take an active role in handling a complaint or dispute before the state intervenes and not be left out of the process. The department agrees that RACs should be involved in the complaint process and encourages their support in complaint resolution. No change in the language in the subsection is necessary.

Concerning §157.129, two commenters said there will be additional costs to a hospital for reporting data and revising the existing collection forms. One commenter suggested a grant under House Bill 18, §5.02, 71st Legislature, 1989 (House Bill 18), be used to offset the cost. One commenter said the Texas Medical Records Association would like to be included in the body charged with state registry formation. The department agrees with the first comment that there will be additional costs; however, the grant program provided by House Bill 18 has not been funded by the legislature. The department disagrees with the last commenter because it is the bureau's responsibility to develop the trauma registry; however, all interested organizations will be kept apprised of the concerns and direction taken by the registry.

Concerning §157.129(a)(2), one commenter would like the word "expenditures" changed to "costs" for meaningful comparisons. The department disagrees because "expenditures" is used in House Bill 18 and cannot be changed in the rules.

Concerning §157.129(b), one commenter requested that data collection be compatible with current methods to defray costs. A second commenter wanted to know the reimbursement procedure, and another commenter suggested that the use of ICD-9-CM E-Codes be consistent between hospital and ambulance reporting. The department agrees with the first comment and will provide the software free of charge to each participating health care entity. In response to the second comment, the department said that there is no money available to defray costs. The department agrees with the third comment and believes that the subsection as written implements this intent.

Concerning §157.129(c), one commenter wanted to know which health care entity collects and reports the data when more than one entity is owned by a hospital. Another commenter wanted a reasonable time frame for submitting the quarterly report, recommended that 60-90 days after the close of each quarter be allowed, and that the trauma registry be delayed until data collection is uniform, consistent, accurate, and meaningful. Concerning the first comment, the department's response is that each hospital can decide which of its entities will collect and report data to the bureau. Concerning the second comment, the department's response is that data, including incomplete data, be reported at the specified time and follow-up

data submitted the following quarter. The department disagrees with the third comment because the Health and Safety Code, Chapter 773 requires the bureau to collect and report data.

Concerning §157.129(e), one commenter asked what rules or requirements, other than the provisions in the Texas Open Records Act, are used to maintain the confidentiality of records. Another commenter was concerned that blood alcohol levels could become public information under the Open Records Act. The department's response to the first comment is that the records will be held confidential to the extent authorized by the Health and Safety Code, Chapter 773, Subchapter D, relating to confidential communications. The department's response to the second comment is that Chapter 773, Subchapter C also applies since laboratory reports are included in a patient's medical record.

In addition to changes made as a result of comments received, the department made editorial changes to §157.121, §157.123, §157.124, and §157.125 for the purpose of clarification.

General comments received by the department, including the department's responses, are as follows.

One commenter thought that the purpose of the trauma legislation in the Health and Safety Code, Chapter 773, was only to create enabling legislation to fund uncompensated trauma care from EMS to rehabilitation services. The department disagrees because Chapter 773 contains very specific language regarding the duties of the Bureau (§773.083) and rules for the Texas Board of Health to adopt (§773.082). The proposed sections were written according to the mandates in Chapter 773.

One commenter stated that, "the act calls for all providers in a catchment area to participate in evaluating their services and coordinate delivery through a regional plan. In essence, the act favors grassroots decision-making in a "bottom-up" rather than "top down" approach." The department agrees, but believes that the rules as written implement this intent.

One commenter stated that, "The one caveat was that this was Texas and not Maryland; the size and diversity of Texas warranted slight modification of ACS guidelines to include even the smallest of the rural hospital into the trauma system. The trauma system was to be inclusive rather than exclusive." The department agrees, but believes that the rules as written implement this intent.

One commenter stated that, "The major problem faced in 1987 was the lack of credible data to support the development of trauma systems. Here, in 1991, over two years after the legislation became law, there is still no trauma registry. I suggest that the committee recommend that the registry be implemented to accumulate the mortality and morbidity data essential to prove that trauma systems will save lives in Texas." The department's response is that it intends to implement a trauma registry. Funding was obtained in support of a Texas trauma study by legislative

mandate; however, funding for a full registry has not been made available by the legislature.

One commenter stated that, "the legislative intent was to establish the advisory committee to advise the Texas Board of Health on technical medical matters only; the committee was not a general advisory committee that would recommend policy." The department's response is that the language in the Health and Safety Code, Chapter 773, seems to give the advisory committee some responsibility to recommend policy in addition to being advisory. Section 773.082 provides that the Board of Health shall adopt rules on trauma system policies that reflect advisory committee recommendations. Also, §773.088 authorizes the advisory committee to review and comment on hospital administrative and operational considerations related to rules adopted under Chapter 773.

The amendment is adopted under Health and Safety Code, Chapter 773, as amended by Senate Bill 18, 71st Legislature, 1989, which provides the Texas Board of Health (board) with the authority to adopt rules covering minimum standards and objectives for EM/trauma systems; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

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

Basic trauma facility—A hospital designated by the department as having met the criteria for a Level IV trauma facility as described in the publication titled "Texas Trauma Facility Criteria" which is adopted by reference in §157.121 of this title (relating to Purpose). Basic trauma facilities provide resuscitation, stabilization, and arrange for appropriate transfer of all major and severe trauma patients to a higher level trauma facility.

Bypass—Direction given to a prehospital emergency medical services unit, by director-line medical control or predetermined triage criteria, to pass the nearest hospital.

Comprehensive trauma facility—A hospital designated by the department as having met the criteria for a Level I trauma facility as described in the publication titled "Texas Trauma Facility Criteria" which is adopted by reference in §157.121. Comprehensive trauma facilities manage major and severe trauma patients, provide educational opportunities in trauma related topics for health care professionals, and conduct trauma research.

Critically injured person—A person suffering major or severe trauma, with severe multisystem injuries or major unisystem injury; the extent of the injury may be difficult to ascertain, but which has

the potential of producing mortality or major disability.

Designation—A formal recognition by the department of a hospital's trauma care capabilities and commitment.

Diversion—A procedure put into effect by a trauma facility to insure appropriate patient care when that facility is unable to provide the level of care demanded by a trauma patient's injuries or when the facility has temporarily exhausted its resources.

Emergency medical services and trauma care system—An arrangement of available resources that are coordinated for the effective delivery of emergency health care services in geographical regions consistent with planning and management standards.

Facility triage—The process of assigning patients to an appropriate trauma facility based on injury severity and facility availability.

General trauma facility—A hospital designated by the department as having met the criteria for a Level III trauma facility as described in the publication titled "Texas Trauma Facility Criteria" which is adopted by reference in §157.121. General trauma facilities provide resuscitation, stabilization, and assessment of injury victims and either provide treatment or arrange for appropriate transfer to a higher level trauma facility.

Health care entity—A prehospital provider, physician, nurse, hospital, designated trauma facility or a rehabilitation program.

Health care facility—A licensed hospital.

Lead trauma facility—A trauma facility that has made an additional commitment to its trauma service area. This commitment, which usually is offered by the highest level of trauma facility in a given trauma service area, includes outreach and increased educational activities. The responsibilities may be shared by trauma facilities.

Major trauma facility—A hospital designated by the department as having met the criteria for a Level II trauma facility as described in the "Texas Trauma Facility Criteria" which is adopted by reference in §157.121. Major trauma facilities provide similar services to the Level I trauma facility although research and some medical specialty areas are not required for Level II facilities.

Major trauma injury victim—A person with injuries severe enough to benefit from treatment at a trauma facility, whose revised trauma score (RTS) is less than 11, and/or whose injury severity score (ISS) is nine or above.

Medical control—The supervision of prehospital emergency medical service providers by a licensed physician through voice communication. Medical control is also referred to as on-line medical supervision.

Medical oversight—The assistance given to the Regional Advisory Council

(RAC) and/or regional health care entities in system planning by a physician or group of physicians designated by the RAC to provide technical assistance.

Pediatric trauma facility—A pediatric or other hospital designated by the department as having met the criteria as described in the publication titled "Pediatric Trauma Care," which is adopted by reference in §157.121.

Prehospital triage—The process of identifying injury severity so that the appropriate care level can be readily accessed according to patient care guidelines.

Quality management—Quality assurance and quality improvement activities.

Regional EMSTrauma system—An emergency medical services and trauma care system that has been developed by a RAC in a multi-county area and has been recognized by the bureau.

Regional medical control—Direct on-line physician communication for prehospital providers in a given trauma service area. Regional medical control is usually based at the lead trauma facility.

Severe trauma injury victim—A person with injuries severe enough to require care at a comprehensive or major trauma facility, whose RTS is less than 11, and whose ISS is 16 or above.

Site survey—An on-site review of a trauma facility applicant to determine if it meets the criteria for a particular level of designation.

Specialty centers—Entities that care for specific types of trauma patients such as pediatric hospitals and burn units.

Trauma—An injury or wound to a living body caused by the application of an external force or violence. Burn injuries are to be included in this definition, and poisonings, near-drownings and suffocations, other than those due to external forces, are to be excluded from this definition.

Trauma facility—A health care facility that is capable of comprehensive treatment of seriously injured persons and is part of an emergency medical services (EMS)trauma system.

Trauma nurse—A registered nurse with demonstrated interest and experience in trauma care.

Trauma patient—Any critically injured person who has been evaluated by a physician, a registered nurse, or emergency medical services personnel; and found to require medical care in a trauma facility.

Trauma registry—A statewide database which documents and integrates medical and system information related to the provision of trauma care by health care entities.

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 January 27, 1992.

TRD-9201241

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: February 17, 1992

Proposal publication date: September 10, 1991

For further information, please call: (512) 458-7550

Emergency Medical Services Trauma Systems

• 25 TAC §§157.121-157.129

The new sections are adopted under the Health and Safety Code, Chapter 773, as amended by Senate Bill 18, 71st Legislature, 1989, which provides the Texas Board of Health (board) with the authority to adopt rules covering minimum standards and objectives for EMSTrauma systems; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§157.121. Purpose.

(a) The purpose of these sections is to establish the procedures and standards for the implementation of a comprehensive statewide emergency medical services (EMS)trauma system (system) as mandated in the Health and Safety Code, Chapter 773, §§773.081-773.090, in order to decrease morbidity and mortality which results from trauma.

(b) The Texas Department of Health adopts by reference the following publications developed by the Trauma Technical Advisory Committee (TTAC) titled: "Texas Trauma Facility Criteria," "Pediatric Trauma Care," "Qualifications of Texas Trauma Care Personnel," "Prehospital Triage Protocol," "Facility Triage Criteria and Decision Guidelines for Transfer," "Facility Diversion," "Facility Bypass," "Medical Control Within EMSTrauma Systems Development," "Prehospital Standard Data Set" and "Hospital Standard Data Set."

(1) The publications are based on documents titled "Resources for Optimal Care of the Injured Patient" published by the American College of Surgeons in 1990 and "Guidelines for Trauma Care Systems" published by the American College of Emergency Physicians in 1987.

(2) Copies of the publications may be viewed during normal business hours at the Texas Department of Health, Bureau of Emergency Management, Room M-528, 1100 West 49th Street, Austin, Texas 78756-3199.

(c) The Bureau of Emergency Management and the TTAC shall review these sections every three years.

§157.123. Regional Advisory Councils.

(a) A regional advisory council (RAC) shall be established if a trauma service area (TSA) is to reach regional emergency medical services (EMS)trauma system (system) status.

(b) All participating health care entities should have representation on the RAC.

(1) Membership status for hospitals for the first six months shall be provisional.

(2) Continuing or renewed membership status for hospitals will be dependent upon a commitment to trauma care, as demonstrated by trauma facility designation or involvement in the designation process as described in §157.125 of this title (relating to Requirements for Trauma Facility Designation).

(c) The bureau shall recognize only one official RAC for a TSA or a group of TSAs.

(d) The RAC shall develop a system plan based on standard guidelines for comprehensive system development. The system plan is subject to approval by the Bureau of Emergency Management (bureau).

(e) The RAC is a voluntary entity which functions without the expectation of state funding.

(f) RACs may request technical assistance from the bureau at any time.

§157.124. Regional EMSTrauma Systems.

(a) The Bureau of Emergency Management (bureau) shall recognize the establishment of a regional emergency medical services (EMS)trauma system (system) within a trauma service area (TSA) as described in §157.122 of this title (relating to Trauma Service Areas).

(b) For a TSA to be recognized as a system, a RAC, organized as described in §157.123 of this title (relating to Regional Advisory Councils), shall submit a system plan (plan) to the bureau, which includes the organizational structure of the RAC.

(c) The bureau shall review the plan to assure that:

(1) all counties within the TSA have been included unless a specific county, or portion thereof, has been named within an adjacent system;

(2) all health care entities and interested specialty centers have been given

an opportunity to participate in the planning process; and

(3) the following have been addressed:

(A) access to the system;

(B) communications;

(C) medical oversight;

(D) prehospital triage criteria;

(E) diversion policies;

(F) bypass protocols;

(G) regional medical control;

(H) facility triage criteria;

(I) inter-hospital transfers;

(J) planning for the designation of trauma facilities, including the identification of the lead facility(ies); and

(K) a quality management program that evaluates outcome from a system perspective.

(d) Bureau approval of the completed plan shall qualify health care entities participating in the system to receive state funding for trauma care when funding is made available.

(e) Annually, on a form provided by the bureau, the RAC shall file a report with the bureau which describes progress toward system development and includes evidence that members of the RAC are currently involved in trauma care.

§157.125. Requirements for Trauma Facility Designation.

(a) The Bureau of Emergency Management (bureau) shall recommend to the commissioner of health (commissioner) the designation of trauma facilities by levels of care capability as defined by the publications titled "Texas Trauma Facility Criteria" (criteria), "Qualifications of Texas Trauma Care Personnel" and/or "Pediatric Trauma Care" which the Texas Department of Health (department) adopts by reference in §157.121 of this title (relating to Purpose). The levels are as follows:

(1) Level I—comprehensive trauma facility;

(2) Level II—major trauma facility;

(3) Level III—general trauma facility; and

(4) Level IV—basic trauma facility.

(b) The designation process shall consist of three phases.

(1) The first phase is the application phase which begins with completing and submitting to the bureau an application and non-refundable fee as described in §157.126 (relating to Fees) for designation as a trauma facility and ends when the bureau recommends a site survey (survey);

(2) The second phase is the review phase which begins with the survey and ends with a bureau recommendation to the commissioner to designate the hospital;

(3) The third phase is the final phase which begins with the commissioner reviewing the recommendation and ends with his/her final decision. This phase also includes an appeal procedure for the denial of a designation application in accordance with the department formal hearing procedures as described in Chapter 1 of this title (relating to Texas Board of Health).

(c) A secondary review shall be utilized in the event the bureau recommendation (of whether or not) to designate differs from the findings of the survey team. A secondary review shall also be used when a hospital does not agree with a bureau request for specific corrective action prior to recommending designation.

(d) The bureau may provide technical assistance to all hospitals throughout the three phases of the designation process for the purpose of answering questions and clarifying the process.

(e) The bureau's analysis of submitted application materials, which may result in recommendations for corrective action when deficiencies are noted, shall include a review of:

(1) the evidence of participation in system planning;

(2) the completeness of the application materials submitted; and

(3) the hospital's self-study for comparison with the criteria.

(f) When the application phase results in a bureau recommendation for a survey, the bureau shall notify the hospital to contract for the survey, as follows.

(1) A hospital may choose to request a survey by an American College of Surgeons survey team, may request the bureau to approve an alternate survey team assembled by a bureau-approved organization, or may request the bureau to select individual survey team members.

(2) The hospital shall notify the bureau of the date of the planned survey and the composition of the survey team.

(3) The hospital shall be responsible for any costs associated with the survey.

(4) The bureau may appoint an observer to accompany the survey team. In this event, the cost for the observer shall be borne by the bureau.

(g) The survey team composition shall be as follows.

(1) A survey team for a comprehensive, major, or lead general trauma facility applicant, shall be multidisciplinary and include at a minimum: a general surgeon, an emergency physician, and a trauma nurse all active in the management of trauma patients. The inclusion of a neurosurgeon on the survey team for a potential comprehensive or major trauma facility is recommended.

(2) Other general trauma facility applicants shall be surveyed by a survey team consisting of a nurse and a surgeon both active in the management of trauma patients and a bureau representative.

(3) Basic trauma facility applicants shall be surveyed by a bureau representative or a bureau approved consultant.

(4) It is recommended that a pediatric trauma surgeon and/or pediatric trauma nurse be a member of the survey team for review of a pediatric trauma facility applicant.

(5) Any member of the survey team should come from a public health region outside the hospital's location and at least 100 miles from the applicant hospital.

(h) When an applicant hospital is notified of the survey team composition, it has 15 postmark days to alert the bureau of potential conflict of interest concerns.

(i) From the date the survey team is selected and prior to the survey, the applicant's administration, faculty, medical staff, employees, and representatives are prohibited from having any discussions regarding the upcoming survey with any survey team member except as directed by the bureau. A violation of this provision may be grounds for delaying the survey and reorganizing the composition of the survey team.

(j) The survey team shall evaluate the quality of each hospital's compliance with the requirements set forth in the criteria, by:

(1) reviewing medical records, staff rosters and schedules, quality management committee meeting minutes, and other documents relevant to trauma care;

(2) reviewing equipment and the physical plant; and

(3) conducting interviews with hospital personnel.

(k) Findings of the survey team shall be forwarded to the bureau within 90 days.

(1) The bureau shall review the findings for compliance with the criteria. If a hospital does not meet the criteria for the level of designation for which it applied, the bureau may discuss designation at a lower level with the hospital.

(2) A recommendation for designation shall be made to the commissioner based on compliance with the criteria.

(3) In the event there is a problem area in which a hospital does not comply with the criteria, the bureau shall notify the hospital of deficiencies and recommend corrective action.

(A) The hospital shall submit a report to the bureau which outlines the corrective action taken. If the report substantiates action that brings the hospital into compliance with the criteria, the bureau shall recommend designation to the commissioner.

(B) If the hospital disagrees that there is need for corrective action, the bureau shall refer the complete file to the trauma technical advisory committee (TTAC) for review.

(C) If TTAC disagrees with the bureau recommendation for corrective action, the records shall be referred to the deputy commissioner of health for review.

(l) The bureau shall provide a copy of the survey report and results to the applicant hospital.

(m) At the end of the secondary review and final phases of the designation process, if a hospital disagrees with the bureau recommendations, opportunity for an appeal in accordance with the department formal hearing procedures as described in Chapter 1 shall be offered.

(n) The bureau may grant an exception to this section if it finds that compliance with this section would not be in the best interests of the persons served in the affected local system.

(o) The applicant hospital shall have the right to withdraw its application at any time prior to being awarded trauma facility designation by the bureau.

(p) If the commissioner concurs with the bureau recommendation, a letter of notification shall be forwarded to the hospital. If the decision is to designate, the hospital shall receive a certificate of designation for three years.

(q) When a facility has been designated for a period of three years, it shall be necessary to repeat the designation process as described in this section.

(r) A designated trauma facility shall:

(1) notify the bureau and the regional advisory council (RAC) within five days if temporarily unable to comply with designation standards;

(2) notify the bureau and the RAC if it chooses to no longer provide trauma services commensurate with its designation level, as follows.

(A) If the trauma facility chooses to apply for a lower level of designation, it may do so at any time; however, it shall be necessary to repeat the designation process as described in subsections

(b)-(e) of this section. There shall be a paper review by the bureau to determine if a full survey shall be required.

(B) If the trauma facility chooses to permanently relinquish its designation, it shall provide at least 30 days' notice to the RAC and the bureau.

(3) comply with the provisions within these sections, all current state and system standards as described in this chapter, and all policies, protocols, and procedures as set forth in the system plan;

(4) continue its commitment to provide the resources, personnel, equipment, and response as required by its designation level; and

(5) participate in the state trauma registry as described in §157.129 of this title (relating to State Trauma Registry).

(s) After September 1, 1993, a hospital may not use the terms "trauma facility," "trauma hospital," "trauma center" or similar terminology in its signs or advertisements or in the printed materials and information it provides to the public unless the hospital has been designated as a trauma facility according to the process described in this section. This subsection also applies to hospitals whose designation has lapsed.

(t) A trauma facility shall not advertise or publicly assert in any manner that its trauma facility designation affects its care capabilities for non-trauma patients or that its trauma facility designation should influence the referral of non-trauma patients.

(u) The bureau shall have the right to review, inspect, evaluate, and audit all trauma patient records, trauma quality management committee minutes, and other documents relevant to trauma care in any

designated trauma facility at any time to verify compliance with criteria. The bureau shall maintain confidentiality of such records to the extent authorized by the Open Records Act, Texas Civil Statutes, Article 6252-17a. Such inspections shall be scheduled by the bureau when appropriate.

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 January 27, 1992.

TRD-9201242

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: February 17, 1992

Proposal publication date: September 10, 1991

For further information, please call: (512) 458-7550

◆ ◆ ◆
TITLE 28. INSURANCE
Part II. Texas Workers'
Compensation
Commission

Chapter 142. Dispute
Resolution-Benefit Contested
Case Hearing

◆ ◆ ◆
• 28 TAC §142.13

The Texas Workers' Compensation Commission adopts an amendment to §142.13, concerning discovery prior to a benefit contested case hearing, without changes to the proposed text as published in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6270).

The amendment adds a new subsection (g), providing that the notice setting an expedited hearing, or a hearing held without a prior benefit review conference, shall include time limits for conducting prehearing discovery. The amendment is necessary to inform parties of this exception to the usual time limits for prehearing discovery set out in the Texas Workers' Compensation Act and this section.

No comments were received regarding adoption of the amendment.

The amended section is adopted under Texas Civil Statutes, Article 8308-66, 31(d), which requires the commission to adopt rules governing procedures under which contested case hearings are conducted, and Article 8308-2.09(a), which authorized the commission to adopt rules necessary to implement and enforce the Texas Workers' Compensation Act.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201287

Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Effective date: February 18, 1992

Proposal publication date: November 5, 1991

For further information, please call: (512) 440-3971

◆ ◆ ◆
TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS

Part III. Texas Youth
Commission

Chapter 119. Agreements With
Other Agency

Memorandums of Understand-
ing

◆ ◆ ◆
• 37 TAC §119.5

The Texas Youth Commission (TYC) adopts amendments to §119.5 concerning service contract for dysfunctional families, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7721).

The amendment to the section ensures dysfunctional families that they will continue receiving coordinated services when the agencies have sufficient funding to enter into joint contracts.

The amendment will require TYC, the Texas Department of Human Services (DHS), and the Texas Juvenile Probation Commission (TJPC) to continue complying with the Human Resources Code, (HRC), §71.011(A), as passed by the 71st Texas Legislature. The agencies initially comply with the law by adopting §72.901 in 1990. The amendment also allows the agencies to continue applying the section without having to amend it every year. Finally, the amendment clarifies that the MOU is operative only in those years when the stat appropriations are sufficient for the agencies to allocate funds for joint contracts for services dysfunctional families.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §71.011(a), which provides Texas Youth Commission with the authority to enter into a memorandum of understanding with the DHS and TJPC regarding service delivery to dysfunctional families.

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 January 27, 1992.

TRD-9201212

Ron Jackson
General Counsel
Texas Youth Commission

Effective date: February 17, 1992

Proposal publication date: December 27, 1991

For further information, please call: (512) 483-5244

◆ ◆ ◆
Part VI. Texas Department
of Criminal Justice

Chapter 195. Parole

Terms and Conditions of Pa-
role

◆ ◆ ◆
• 37 TAC §195.61

The Texas Department of Criminal Justice adopts an amendment to 37 TAC §195.61 concerning terms and conditions of paroles, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7167). Notice of the extension of these emergency rules was published in the January 14, 1992, issue of the *Texas Register* (17 TexReg 293).

The amendment is being adopted to comply with the mandate of Texas Civil Statutes, Article 6252-13c, as amended by the 72nd Legislature.

The amendment requires that all sex offenders register with appropriate law enforcement authorities within seven days of their arrival in any municipality or county. This requirement will be added to the required terms and conditions of parole of all such offenders.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which authorizes the Texas Department of Criminal Justice to adopt reasonable rules with respect to terms and conditions of parole.

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 January 29, 1992.

TRD-9201357

Jackee Cox
General Counsel
Texas Department of
Criminal Justice

Effective date: February 19, 1992

Proposal publication date: December 13, 1991

For further information, please call: (512) 463-9988

◆ ◆ ◆
Chapter 197. Mandatory
Supervision

Rules and Conditions of Man-
datory Supervision

◆ ◆ ◆
• 37 TAC §197.21

The Texas Department of Criminal Justice adopts an amendment to 37 TAC §197.21

concerning mandatory supervision, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7167). Notice of the extension of these emergency rules was published in the January 14, 1992, issue of the *Texas Register* (17 TexReg 293).

The amendment is being adopted to comply with the mandate of Texas Civil Statutes, Article 6252-13c, as amended by the 72nd Legislature.

The amendment requires that all sex offenders register with appropriate law enforcement authorities within seven days of their arrival in any municipality or county. This requirement will be added to the required terms and conditions of mandatory supervision for all such offenders.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which authorizes the Texas Department of Criminal Justice to adopt reasonable rules with respect to terms and conditions of parole.

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 January 29, 1992.

TRD-9201355 Jackee Cox
 General Counsel
 Texas Department of
 Criminal Justice

Effective date: February 19, 1992

Proposal publication date: December 13, 1991

For further information, please call: (512) 463-9988

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter G. Resources

The Texas Department of Human Services (DHS) adopts amendments to §3.704 and §3.902, concerning resources. Section 3.704 is adopted with changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7722). Section 3.902 is adopted without changes and will not be republished.

The justification for the amendments is to comply with federal regulations that specify income and resources that are exempted by federal law for Native Americans who receive aid to families with dependent children (AFDC) and/or Food Stamp Program benefits.

The amendments will function by stating food stamp policy that is in compliance with federal regulations.

No comments were received regarding adoption of the amendments. DHS is, however, adopting §3.704(b)(10)(D) with a change to correct the spelling of the name Maliseet.

• 40 TAC §3.704

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public assistance and financial assistance programs.

§3.704. Types.

(a) (No change.)

(b) Aid to families with dependent children. Exclusions from resources in AFDC are:

(1)-(9) (No change.)

(10) resources exempted by federal law. DHS exempts government payments by the Individual and Family Grant Program or the Small Business Administration provided to rebuild a home or replace personal possessions damaged in a disaster, if the household is subject to legal sanction if the funds are not used as intended. DHS exempts payments made under the following acts:

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

(D) Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians received according to the Maine Indian Claims Settlement Act of 1980;

(E)-(I) (No change.)

(11)-(12) (No change.)

(c)-(d) (No change.)

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201311 Nancy Murphy
 Agency liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Effective date: April 1, 1992

Proposal publication date: December 27, 1991

For further information, please call: (512) 450-3765

Subchapter I. Income

• 40 TAC §3.902

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and

31, which provides the department with the authority to administer public assistance and financial assistance programs.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201312 Nancy Murphy
 Agency liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Effective date: April 1, 1992

Proposal publication date: December 27, 1991

For further information, please call: (512) 450-3765

Chapter 15. Medicaid Eligibility

Subchapter D. Resources

• 40 TAC §15.430

The Texas Department of Human Services adopts new §15.430, concerning client participation in transfers, in its Medicaid Eligibility chapter. The amendment is adopted without changes to the proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7325).

The new section is justified because it provides for a uniform, state-wide application of the transfer policy.

The new section will function by clarifying the effects of client knowledge and consent in the transfer of resources policy and by identifying cases of possible financial exploitation for referral to adult protective services staff.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer medical assistance programs.

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

Issued in Austin, Texas, on January 28, 1992.

TRD-9201284 Nancy Murphy
 Agency liaison, Policy and
 Document Support
 Texas Department of
 Human Services

Effective date: March 1, 1992

Proposal publication date: December 17, 1991

For further information, please call: (512) 450-3765

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

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin.)

The State Board of Insurance adopted amendments to the Texas Automobile Rules and Rating Manual (the Manual) and the Standard Provisions for Automobile Insurance Policies (the Standard Provisions) in regard to installments for premium payments for personal auto policies.

In order to make auto insurance more affordable, the board has required the addition of Rule 14 to the Manual, which rule will read as set forth follow.

14. INSTALLMENTS FOR PREMIUM PAYMENTS

A. All insurers writing personal auto insurance policies shall make available to the applicant or policyholder, at his or her option, an installment payment plan. The insurer may make the installment payment plan available either itself, through an affiliate or through an entity approved to make loans for insurance premiums, including but not limited to lending institutions and premium finance companies. The installment payment plan must meet the following requirements:

1. A down payment may be required if the down payment is no greater than 25% of the total premium for twelve-month policies and no greater than 40% of the total premium for six-month policies.

2. For twelve-month policies, the remaining balance must be payable in no less than eight equal monthly installments beginning with the second month of coverage; provided, however, that the equal monthly installments may include an amount such that at the end of the policy term there would remain a specified advanced minimum deposit of no greater than 25% of the total premium for such a policy if the plan permits a minimum of eleven equal monthly installment payments.

3. For six-month policies, the remaining balance must be payable in no less than three equal monthly installments beginning with the second month of coverage; provided, however, that the equal monthly installments may include an amount such that at the end of the policy term there would remain a specified advanced minimum deposit of no greater than 40% of the total premium for such a policy if the plan permits a minimum of five equal monthly installment payments.

4. An insurer who provides the installment plan itself or through an affiliate may charge a monthly service charge of no more than three dollars for providing the installment payment plan. The monthly service fee may be increased by \$.50 for each \$250 or fraction thereof by which the annual premium exceeds \$500.

B. Whatever payment options an insurer offers, it shall not offer or refuse to offer a particular payment option on any basis, including whether the customer did or did not have previous automobile insurance; except that insurers shall not be required to make available an installment payment plan to those insureds who, within the last two years,

have defaulted in the payment of premiums to an insurer and caused a lapse in the policy.

C. Nothing in this rule shall prohibit an insurer from offering other payment options to an applicant in addition to those described above.

The Board has amended the Standard Provisions by requiring that the Special Instructions for the Personal Auto Policy be expanded to include a new instruction, titled "Installment Payments" and numbered "12", and reading: "Each insurance company must either print on, stamp on, or attach to the declarations page the following statement: 'We agree to make available to you an installment plan as described in Rule 14 of the Texas Automobile Rules and Rating Manual.'"

The amendments to the Manual and Standard Provisions have been adopted for policies that become effective on and after 12:01 a.m., March 1, 1992.

This notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

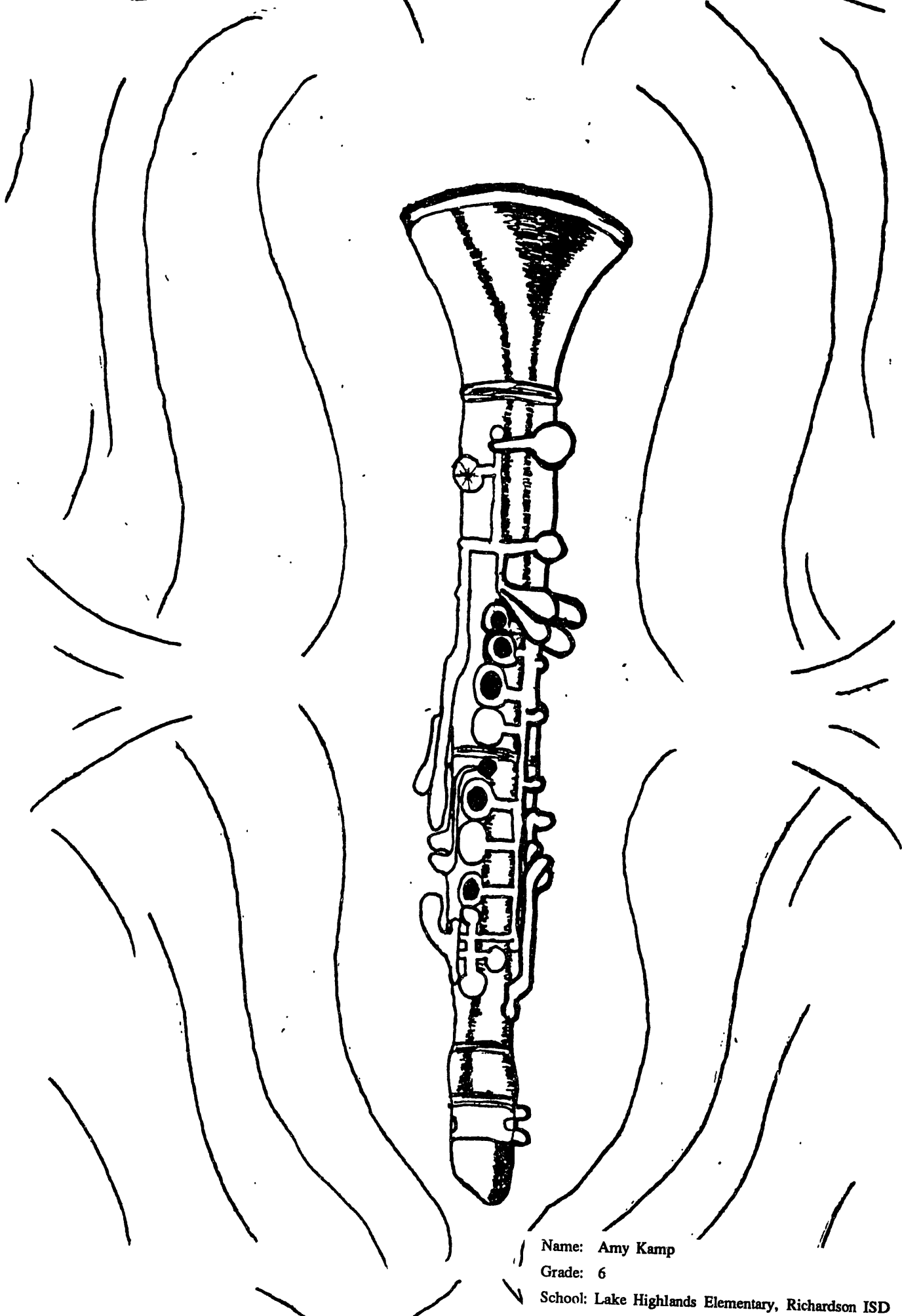
Issued in Austin, Texas, on January 29, 1992.

TRD-9201350 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: January 29, 1992

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





Name: Amy Kamp

Grade: 6

School: Lake Highlands Elementary, Richardson ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department on Aging

Wednesday, February 12, 1992, 1 p.m. The Texas Board on Aging's Funding Formulas and Area Agency on Aging (AAA) Operations Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; develop time lines for the committee's work plan; review TDoA's personnel manager's suggestions concerning the Office of the State Auditor's recommendations regarding employee reclassifications; and adjourn.

Contact: Jose Camacho, 4214 Medical Parkway, Suite 201, Austin, Texas 78756, (512) 454-4583.

Filed: January 29, 1992, 1:43 p.m.
TRD-9201370

Tuesday, February 18, 1992, 9 a.m. The Task Force on Area Plan Development Process of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room, Austin. According to the complete agenda, the task force will call the meeting to order; develop process for development of area plans that will be used to formulate TDoA's State Plan and six year strategic plan; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 29, 1992, 1:42 p.m.
TRD-9201367

Thursday, February 20, 1992, 1 p.m. The Texas Board on Aging's Health Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; review information received from organizations/associations which could assist TDoA in efforts to improve health pro-

motion and disease prevention activities in rural areas; review information received relating to House Rules 90; schedule next meeting and establish agenda; and adjourn.

Contact: J. Kenneth Huff, Sr., 2507 Evelyn Road, Whitesboro, Texas 76273, (903) 564-6375.

Filed: January 29, 1992, 1:43 p.m.
TRD-9201369

Monday, March 2, 1992, 1 p.m. The Texas Board on Aging's Networking/Advocacy/Legislation Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; develop a strategy to reach potential advocates; develop state and national legislature priorities; review area agency on aging (AAA) promotional literature; and adjourn.

Contact: J. Kenneth Huff, Sr., 2507 Evelyn Street, Whitesboro, Texas 76273, (903) 564-6375.

Filed: January 29, 1992, 1:43 p.m.
TRD-9201372

Wednesday, March 11, 1992, 1:30 p.m. The Board on Aging's Business Advisory Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; investigate developing ways to increase business participation in TDoA's programs; expand and work on goals and objectives; and adjourn.

Contact: Jan Patterson, 9854 Estate Lane, Dallas, Texas 75238, (214) 341-6225.

Filed: January 29, 1992, 1:43 p.m.
TRD-9201371

◆ ◆ ◆

Texas Department of Agriculture

Wednesday, February 5, 1992, 8:30 a.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the board will deliberate and act on Docket Numbers 89-90-APA, 90-90-APA and 92-90-APA, Paradise Produce Company, respondent; discuss and act on produce recovery fund balance; and on proposed rules.

Contact: Margaret Alvarez, P.O. Box 12847, Austin, Texas 78711, (512) 463-7604.

Filed: January 28, 1992, 3:36 p.m.
TRD-9201318

Monday, February 10, 1992, 9 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the board will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001 et seq. (Vernon) by Jeanette Maler doing business as Farmland Produce Company as petitioned by David Salinas.

Contact: Ivry J. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: January 28, 1992, 10:42 a.m.
TRD-9201262

Tuesday, February 11, 1992, 10 a.m. (re-scheduled from January 28, 1992). The Texas Department of Agriculture will meet at the Texas Department of Agriculture, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. (Vernon) by Charles A. Rogers and Sons, Inc. as peti-

tioned by South Texas Peach Growers Co-op.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: January 28, 1992, 10:43 a.m.

TRD-9201263

◆ ◆ ◆
Advisory Board of Athletic Trainers

Sunday, February 9, 1992, 8:30 a.m. The Advisory Board of Athletic Trainers will meet at the Double Tree Hotel, Sixth Floor Board Room, Austin. According to the complete agenda, the board will hold a worksession concerning qualifications for athletic trainers, continuing education requirements, needed statutory changes, scope of practice of athletic trainers, and future agenda items.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7236.

Filed: January 29, 1992, 3:56 p.m.

TRD-9201403

Sunday, February 9, 1992, 10:30 a.m. The Advisory Board of Athletic Trainers will meet at the Double Tree Hotel, Sixth Floor Board Room, Austin. According to the complete agenda, the board will approve minutes of September 15, 1991 meeting; consider and possibly act on reports of chairman, executive secretary, program administrator, and continuing education and test committee; individual appeals regarding apprenticeship requirements (Joe R. Martinez-Houston Baptist University; Sharon Walker-Stephen F. Austin State University); application of Kathlene Elizabeth Metzger; violations of Texas Civil Statutes, Article 4512d by unlicensed person(s); board policies test results to employers and HIV/AIDS workplace guidelines; and hear announcements and comments.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7236.

Filed: January 29, 1992, 3:57 p.m.

TRD-9201405

◆ ◆ ◆
Texas Department of Commerce

Wednesday, January 29, 1992, 10 a.m. The Business Development Division of the Texas Department of Commerce held an emergency meeting at the First City Centre Building, 11th Floor Board Room, 816 Congress Avenue, Austin. According to the agenda summary, the division was sched-

uled to make introductions; discuss: community perspective; county perspective; Texas commitment (Texas plan and Texas commitment); the dealers' perspective; discussion; and closing. The emergency status was necessary as key participants/speakers were confirmed at the last minute.

Contact: Mike Regan, Suite 1100, 816 Congress Avenue, Austin, Texas 78701, (512) 320-9611.

Filed: January 29, 1992, 8:58 a.m.

TRD-9201345

◆ ◆ ◆
Daughters of the Republic of Texas, Inc.

Friday, February 7, 1992, 9 a.m. The Board of Management of the Daughters of the Republic of Texas, Inc. will meet at the Howard Johnson North-Plaza Hotel, 7800 North IH-35, Austin. According to the agenda summary, the board will call the meeting to order; hold public session; give invocation; pledge to flags; open meeting, public session-state property; recess to closed/executive session; open meeting, public session-motions arising from closed/executive session-motions; and adjourn.

Contact: Betty F. Burr, 613 Bostwick, Nacogdoches, Texas 75961, (409) 564-7478.

Filed: January 28, 1992, 2:15 p.m.

TRD-9201301

◆ ◆ ◆
Texas Commission for the Deaf and Hearing Impaired

Wednesday-Thursday, February 5-6, 1992, 8:30 a.m. The Service Providers Workshop and Strategic Planning Work Session of the Texas Commission for the Deaf and Hearing Impaired will meet at the Quality Inn, 2200 South IH-35, Austin. According to the complete agenda, on Wednesday, the commission will have participants register, hear speakers from Governor's office, MHMR TDH and TCDHI, with opportunity to network together in afternoon. On Thursday morning, the commission will offer speakers on obtaining monies from government agencies; business ventures for non-profit groups and fundraising. The afternoons will be small group discussions of TCDHI strategic plan, with final draft suggestions offered to the planning committee to incorporate in their recommendations to the commission at meeting on Friday.

Contact: Carla Stephenson, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: January 28, 1992, 3:17 p.m.

TRD-9201315

Friday, February 7, 1992, 9:30 a.m. The Board of Commissioners of the Texas Commission for the Deaf and Hearing Impaired will meet at the Quality Inn, 2200 South IH-35, Ballroom, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of minutes; hear chairperson's report (strategic plan, symposium assignments, resignation of Commissioner Butler, staff progress report); executive director's report (financial report, Camp Sign site, out-of-town meeting site); BEI report (calendar changes, new board members, BEI rules, certification reinstatements); discuss old business (out-of-town meeting site, new BEI evaluator), discuss new business (Camp Site, BEI calendar, new BEI board member, adoption of new BEI rules, certification reinstatements); announcements; and adjourn.

Contact: Carla Stephenson, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: January 28, 1992, 3:17 p.m.

TRD-9201314

◆ ◆ ◆
Texas Education Agency

Wednesday, February 5, 1992, 9 a.m. The Task Force on High School Education of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the task force will hear opening remarks of chairman; discuss work plan; discussion of today's high schools; tomorrow's high schools, Part 1 and Part 2.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 28, 1992, 4:09 p.m.

TRD-9201338

Wednesday, February 5, 1992, 2:30 p.m. The Joint Meeting of the Task Force on High School Education and Ad Hoc Committee on Student Outcome Goals of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the committee will hear presentations from community and business leaders on expected outcomes of public education.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 28, 1992, 4:09 p.m.

TRD-9201336

Wednesday, February 5, 1992, 5:30 p.m. The State Board of Education (SBOE) Ad Hoc Committee on Textbooks of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-110, Austin. According to the complete agenda, the committee will determine if sufficient progress has been made in identifying any additional errors in history textbooks and to review the overall process of textbook selection and make recommendations to the full SBOE on improvement of the process. The committee will also present a recommendation to the SBOE regarding adoption of U. S. history textbook and will report results of any additional editorial review of the textbook and verification of accuracy provided by the publishing company.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 28, 1992, 4:09 p.m.

TRD-9201337

Thursday, February 6, 1992, 8:30 a.m., 10:30 a.m., and 1 p.m. respectively. The State Board of Education (SBOE) Committee of the Whole of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hold a public hearing on regulation of commercial access to students (8:30 a.m.-10:30 a.m.); public hearing on 1992 proclamation of the SBOE advertising for bids on textbooks (10:30 a.m.-noon); hear public testimony; commissioner's overview of February SBOE meeting; waivers and exemptions; academic excellence indicator system; proposed changes in student assessment system; and discussion of pending litigation. The discussion of pending litigation will be held in executive session in accordance with Article 6252-17, §2(e), Vernon's Texas Civil Statutes in Room 1-103.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:51 p.m.

TRD-9201414

Thursday, February 6, 1992, 2:30 p.m. The State Board of Education (SBOE) Committee on Students of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the agenda summary, the committee will hear public testimony; discuss grading and reporting requirements and extracurricular activities; well-balanced elementary curriculum; proposed amendments to University Interscholastic League 1991-1992 and 1992-1993 constitution and contest rules; remedial and compensatory instruction; so-

cial studies recommendations for grades 1-12; discussion of proposed new 19 TAC Chapter 101, Assessment; alternatives for spelling instruction; 1992 proclamation of the SBOE advertising for bids on textbooks; and status of the Texas Children's Mental Health Plan.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:50 p.m.

TRD-9201411

Thursday, February 6, 1992, 2:30 p.m. The State Board of Education (SBOE) Committee on School Finance of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; discuss state textbook program; proprietary schools and veterans education; driver training schools; school facilities; petition for rule change to recognize out-of-state part-time service for salary increment purposes; responses to Texas Council on Vocational Education recommendations relating to criteria to measure performance of high school graduates in the workplace; remedial and compensatory instruction; appointments and reappointments to Apprenticeship and Training Advisory Committee; Texas state plan for federal adult education funding for 1990-1993; 1992 proclamation of the SBOE advertising for bids on textbooks; school district comment on excessive administrative costs in school districts.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:50 p.m.

TRD-9201412

Thursday, February 6, 1992, 2:30 p.m. The State Board of Education (SBOE) Committee on Personnel will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the agenda summary, the committee will hear public testimony; discuss planning and accreditation; teacher appraisal procedures; advanced academic training; bilingual education endorsements; student absences for extracurricular activities and competitive athletics during the school day; discussion of centers for professional development and technology; and status report on the accreditation of school districts.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:52 p.m.

TRD-9201415

Friday, February 7, 1992, 8:30 a.m. The State Board of Education (SBOE) Committee on the Permanent School Fund (PSF) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will hear public testimony; recommended PSF investment program for February and funds available for the program; recommended appointments to Investment Advisory Committee on the PSF; review of PSF securities transactions and the investment portfolio; and report of the PSF manager.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:51 p.m.

TRD-9201413

Friday, February 7, 1992, 8:30 a.m. The State Board of Education (SBOE) Committee on Long-Range Planning of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; discuss the preschool education program; expert session on changing demographics of the Texas population; report of high school education task force; report of the student outcome goals task force; potential legal options concerning the regulation of commercial access to students; SBOE participation in National Association of State Boards of Education and pending federal legislation.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:49 p.m.

TRD-9201409

Friday, February 7, 1992, 1:30 p.m. The State Board of Education (SBOE) will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the board will hear public testimony; resolutions of SBOE; approval of consent agenda; recommendation regarding adoption of U.S. history textbook; waivers and exemptions; academic excellence indicator system; planning and accreditation; teacher appraisal procedures; advanced academic training; bilingual education endorsements; grading and reporting requirements/extracurricular activities; well-balanced elementary curriculum; University Interscholastic League constitution/contest rules for 1991-1992/1992-1993; state textbook program; proprietary schools and veterans education; driver training schools; school facilities; petition for rule change for out-of-state part-time service for salary increment purposes; responses to Texas Council on Vocational

Education recommendations relating to criteria to measure performance of high school graduates in the workplace; recommended Permanent School Fund investment program for February; information on agenda administration; 1992 SBOE meeting dates; and National Association of State Boards of Education and pending federal legislation.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: January 29, 1992, 4:49 p.m.

TRD-9201410

Texas Employment Commission

Monday, February 3, 1992, 8:30 a.m. The Texas Employment Commission met at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the emergency revised agenda summary, the commission heard staff reports; considered and possibly approved bid for caulking and waterproofing joints in concrete sidewalk and parking lot surfaces at Paris agency-owned building; and considered and possibly approved bid for interior renovation at Eagle Pass agency-owned building. The emergency status was necessary as inclement weather and resulting erosion of parking lot required immediate attention; and necessity of meeting bid deadlines for renovation.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: January 28, 1992, 3:03 p.m.

TRD-9201308

Texas Commission on Fire Protection

Thursday-Friday, January 30-31, 1992, 1 p.m. The Fire Protection Personnel Advisory Council of the Texas Commission on Fire Protection was scheduled to meet at the Howard Johnson Plaza Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the council considered and possibly approved recommendation to the commission for adoption of rule on an emergency basis relating to adoption by reference of National Fire Protection Association Standard relating to self-contained breathing apparatus. The emergency status was necessary to set a minimum standard on air packs (self-contained breathing apparatus) which meets a nationally recognized standard.

Contact: Andrew F. Mehl, P.O. Box 2286, Austin, Texas 78768-2286, (512) 322-3550.

Filed: January 30, 1992, 9:24 a.m.

TRD-9201421

Friday-Saturday, February 28-29, 1992, 9 a.m. The Volunteer Fire Fighter Advisory Committee of the Texas Commission on Fire Protection will meet at the Howard Johnson Plaza North, 7800 North IH-35 at 183, Austin. According to the agenda summary, the committee will discuss approval of December 11-12, 1991 minutes; discuss proposed rules relating to voluntary certification and regulation program for volunteer firefighters and fire departments; existing/proposed fire service training and certification programs; matters from the public, commission or committee members; and discussion/possible action on future meeting dates/locations.

Contact: Jack Woods, P.O. Box 2286, Austin, Texas 78768-2286, (512) 322-3550.

Filed: January 29, 1992, 7:50 a.m.

TRD-9201342

Texas Department of Health

Saturday, February 8, 1992, 1 p.m. The Texas Board of Health of the Texas Department of Health will meet at the Parkland Memorial Hospital Board Room, First Floor, 5201 Harry Hines Boulevard, Dallas. According to the complete agenda, the board will discuss in executive session selection and duties of the Commissioner of Health, and discuss and possibly act on in open session selection of Commissioner of Health.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 29, 1992, 3:57 p.m.

TRD-9201406

Texas Historical Commission

Sunday, February 2, 1992, 1 p.m. (re-scheduled from 2 p.m.). The Archeological Planning and Review Committee of the Texas Historical Commission held an emergency meeting at the St. Anthony Hotel Cafe, 300 East Travis Street, San Antonio. According to the complete agenda, the committee reviewed and discussed office reorganization; change in office personnel; section 106 activity; and possible purchase of new phone system. The emergency status was necessary as time of meeting conflicted with another meeting.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: January 29, 1992, 3:41 p.m.

TRD-9201402

Texas Department of Human Services

Friday, February 7, 1992, 10:30 a.m. The State Advisory Committee on Child Care Programs of the Texas Department of Human Services will meet at the Joe C. Thompson Conference Center, University of Texas, 26th at Red River Street, Room 2.102, Austin. According to the agenda summary, the committee will discuss approval of minutes of January 8, 1992 meeting; staff reports; information items; committee action items; committee member reports; information items; and scheduling of next meeting.

Contact: Mary Beth O'Hanlon, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4169.

Filed: January 29, 1992, 9:03 a.m.

TRD-9201346

Texas Department of Insurance

Thursday, February 6, 1992, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will review and discuss personnel; solvency matters; litigation; commissioner's orders; planning calendar; consider procedure to allow TDI staff to approve individual filings for commercial property and general liability rules and forms; consider request by TCPIA for permission to endorse existing policies to reflect any reduced premium; consider final adoption of the following: 28 TAC rules, §§1.702-1.705 concerning summary procedures; §15.3 concerning licensing of surplus lines agents; §§19.202, 19.302, 19.601, 19.706, and 19.1311 concerning licensing fees; and new §19.801 and §19.802 concerning licensing fees for various insurance agents; consider publication the following proposed 28 TAC rules; §7.83 concerning filing and adoption of examination reports; §§19.1501-19.1504 concerning fees for local recording agents; and consider petition to adopt rules for the operation of the Market Assistance Program. (Reference Number WC-1291-5).

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 28, 1992, 3:17 p.m.

TRD-9201317

Texas Board of Irrigators

Tuesday, February 11, 1992, 9 a.m. The Texas Board of Irrigators will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the complete agenda, the board will hear and consider: the complaint of Danny Denman against Charles D. Strain doing business as Wallace Irrigation; complaint of Jane McCarthy against Gary Don Hardin; discuss the emergency rules which were adopted pursuant to Senate Bill 544; consider approval of the minutes of the meeting held on December 11, 1991; consider the certification of the February 10, 1992 licensed irrigator examination results and the eligibility of those who passed the exam to register as licensed irrigators; certification of the February 10, 1992 licensed installer examination results and the eligibility of those who passed the exam to register and licensed installers; designate the site and dates for the next licensed irrigator and licensed installer examinations; and the chairman will report on various items of interest to the board.

Contact: Joyce Watson, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990.

Filed: January 29, 1992, 3:11 p.m.

TRD-9201398

Texas Commission on Law Enforcement

Wednesday, February 12, 1992, 10 a.m. The Officer Standards and Education Law Enforcement Management Institute of the Texas Commission on Law Enforcement will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the complete agenda, the commission will call the meeting to order; recognize visitors; introduction of newly appointed member(s); election of officers; consideration of minutes of the November 13, 1991 board of directors meeting; discussion of draft of strategic plan; staff activity report: schedule of meetings of House Committee on Public Safety; graduation ceremonies; contracts for fiscal year 1993; scheduling; and adjourn.

Contact: Jack L. Ryle, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: January 30, 1992, 9:36 a.m.

TRD-9201424

Wednesday-Thursday, February 19-20, 1992, 1:30 p.m. and 9 a.m. respectively. The Officer Standards and Education of the Texas Commission on Law Enforcement will meet at the Mayan Conference Center, Bandera. According to the agenda summary, the commission will call the meeting to order; elect officers; introduction of new

commissioners; recognize visitors; discuss approval of minutes of December 3-4, 1991 meetings; APTRA and the Open Meetings Act; progress reports on LEMI; basic peace officer course revision; POMAC project; emergency communications certification and accreditation; peace officer and instructor licensing examinations; career path; discussion and action on achievement awards; discussion of "master" peace officer certification; written and oral comments on proposed amendment to §211.98 and §211.107 Psychological rules; and on implementation of §415.0345 GC; report on waivers; staff activities; motion for rehearing; meet in executive session; and adjourn.

Contact: Johanna McCully-Bonner, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: January 30, 1992, 9:36 a.m.

TRD-9201425

Texas State Board of Medical Examiners

Friday, February 7, 1992, 9 a.m. The Hearings Division of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the division will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484, to include probationary appearances and a request for modification of probation.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 29, 1992, 3:19 p.m.

TRD-9201399

Texas Department of Mental Health and Mental Retardation

Thursday, February 6, 1992, 9:30 a.m. The Board Audit Committee of the Texas Department of Mental Health and Mental Retardation will meet at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; internal audit update; status report on goals and objectives of the internal audit division. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: January 28, 1992, 11:13 a.m.

TRD-9201272

Thursday, February 6, 1992, 10 a.m. The Board Human Resources Committee of the Texas Department of Mental Health and Mental Retardation will meet at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; human resources division update; consideration of appointment of new members to the Medical Advisory Committee; and appointment of the Deputy Commissioner of Human Resources. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: January 28, 1992, 11:13 a.m.

TRD-9201271

Thursday, February 6, 1992, 11 a.m. The Board Planning and Policy Development Committee of the Texas Department of Mental Health and Mental Retardation will meet at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; update on board policies and procedures manual revisions; update regarding House Bill 7 activities; consideration of recommendations regarding the Community Center Task Force report; consideration of adoption of repeal of Subchapter governing abuse, neglect, and exploitation of persons in boarding homes registered by mental health and mental retardation authorities; consideration of adoption of new rules governing licensure of private psychiatric hospitals and repeal of existing subchapter. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: January 28, 1992, 11:13 a.m.

TRD-9201273

Thursday, February 6, 1992, 1 p.m. The Board Business and Asset Management Committee of the Texas Department of Mental Health and Mental Retardation will meet at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; discussion regarding cost comparison between state schools and community centers; consideration of proposal to restructure funding for mental health authorities using Austin State Hospital; discussion regarding mental health incentive diversion program; consid-

eration of approval of FY 1992 operating budget adjustments; report on FY 1992 capital budget transfers; and consideration of items related to the West 38th Street Planned Unit Development lease. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: January 28, 1992, 11:12 a.m.

TRD-9201270

Friday, February 7, 1992, 9:30 a.m. The Board of the Texas Department of Mental Health and Mental Retardation will meet at the TXMHMR Central Office, 909 West 45th Street, Auditorium, Austin. According to the agenda summary, the board will call the meeting to order; hear citizens' comments (limited to three minutes); discuss approval of minutes of November 22, 1991 and January 10, 1992 meeting; and discuss other issues. If deaf interpreters required, notify TDMHMR (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756, (512) 465-4506.

Filed: January 28, 1992, 11:13 a.m.

TRD-9201274



State Preservation Board

Wednesday, February 12, 1992, 10 a.m. The Personnel Committee of the State Preservation Board will meet at One Capitol Square Building, Room 202, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; and order of business.

Contact: Dealey Herndon, 201 East 14th Street, Room 503, Austin, Texas 78701, (512) 463-5495.

Filed: January 28, 1992, 11:16 a.m.

TRD-9201275



Public Utility Commission of Texas

Wednesday, February 5, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 10465, 10223, 10045, 10092, 9863, 10395, 10587, 10140, 10141, 10161, 10602, 10527, P10543, 10432, 10110, 10097, 10334, P9942, P10469, P10629, P10805, P10866, P10780, P10842.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 28, 1992, 3:01 p.m.

TRD-9201304

Wednesday, February 5, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete revised agenda, the commission will consider P-10634 for publication an amendment to §23.21(d) (Cost of Service; Adjustment for House Bill 11, Acts of 72nd Legislature, First Called Special Session 1991).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 28, 1992, 5:02 p.m.

TRD-9201340

Wednesday, February 5, 1992, 9:05 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, there will be an administrative meeting to discuss: reports, discussion and action on budget and fiscal matters; presentation of monthly financial statements; presentation of Sunset process update; adjournment for executive session to consider litigation matters; discussion and decision regarding pending or threatened litigation including, but not limited to, the following in regard to El Paso Electric Company, United States Bankruptcy Court, Case Number 92-10148-11-FM; personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 28, 1992, 3 p.m.

TRD-9201303

Friday, February 7, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10881-application of New Era Electric Cooperative, Inc. for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 28, 1992, 3:02 p.m.

TRD-9201305

Tuesday, February 11, 1992, 9 a.m. The Hearings Division of the Public Utility

Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10584-application of GTE Southwest, Inc. to revise ancillary and miscellaneous service tariff.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 29, 1992, 3:37 p.m.

TRD-9201400

Tuesday, February 11, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10883-application of Brazos Electric Power Cooperative, Inc. for a certificate of convenience and necessity for proposed generating facilities.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 29, 1992, 3:37 p.m.

TRD-9201401

Thursday, February 20, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10381-Southwestern Bell Telephone Company's statement of intent to change and restructure the rates for directory assistance.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 28, 1992, 3:02 p.m.

TRD-9201306



Interagency Council on Sex Offender Treatment

Friday, January 31, 1992, 10:30 a.m. The Board of the Interagency Council on Sex Offender Treatment met at 1100 West 49th Street, #M-117, Austin. According to the complete emergency revised agenda, the board discussed and approved agency strategic plan. The emergency status was necessary as notice of due date of strategic plan was received too late to put on original agenda.

Contact: D. Michelle Yoscak, 9111 Jollyville Road, #202, Austin, Texas 78759, (512) 343-8520.

Filed: January 28, 1992, 10:43 a.m.

TRD-9201264

◆ ◆ ◆
**Teacher Retirement System
of Texas**

Thursday, February 6, 1992, 10 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the complete agenda, the board will discuss real estate investment policies and procedures; consider amendment to bylaws of the board relating to the provision on TRS Subsidiary Corporations; consider resolution regarding persons to serve as directors of subsidiary real estate title-holding corporations; consider addition of construction engineer position; appointments to nominations committee; and consider the TRS actuarial valuation report as of August 31, 1991.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: January 28, 1992, 2:43 p.m.

TRD-9201302

◆ ◆ ◆
**The Texas A&M University
System**

Wednesday, February 5, 1992, 10 a.m. The Board of Regents of the Texas A&M University System will hold a special telephonic meeting to consider bids for the Beef Cattle Center at Texas A&M University.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: January 29, 1992, 10:55 a.m.

TRD-9201361

◆ ◆ ◆
**University of Texas Health
Center at Tyler**

Thursday, February 6, 1992, 11:30 a.m. The Animal Research Committee of the University of Texas Health Center at Tyler will meet at the Biomedical Research Building, Room 116, Highways 155 and 271 North, Tyler. According to the complete agenda, the committee will discuss approval of minutes from December, 1991 meeting; hear chairman's report-Dr. Peterson; Veterinarian's report-Dr. Thedford; discuss old business-animal committee handbook; new protocols and addenda: addendum to protocol on use of sheep in lung research; isolation of lung cells from rats; and studies of ultrasound therapy in rats.

Contact: Barry Peterson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

Filed: January 29, 1992, 12:05 p.m.

TRD-9201364

◆ ◆ ◆
Texas Water Commission

Wednesday, February 5, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time. The emergency status is necessary due to unforeseeable circumstances this item must be set on agenda.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: January 29, 1992, 12:48 p.m.

TRD-9201366

Thursday, February 27, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will hold a hearing on the Texas Board of Irrigators' complaint against Cecil Floyd Henderson, a licensed irrigator holding Certificate of Registration Number 1056. The purpose of the hearing is to determine whether the commission should revoke Cecil Floyd Henderson's Certificate of Registration.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 28, 1992, 10:51 a.m.

TRD-9201267

Friday, February 28, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the commission will hold a hearing on Homestead Municipal Utility District's application for approval of standby fees.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 28, 1992, 10:51 a.m.

TRD-9201268

Wednesday, March 4, 1992, 10 a.m. The Texas Water Commission will meet at the

Stephen F. Austin Building, 1700 North Congress Avenue, Room 543, Austin. According to the agenda summary, the commission will hold a hearing on the creation of Fort Bend Municipal Utility District Number 112.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 28, 1992, 10:49 a.m.

TRD-9201266

Wednesday, March 18, 1992, 9 a.m. The Texas Water Commission Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing on Carl D. Meek's application Number 18-2001A to amend Certificate of Adjudication Number 18-2001. Applicant seeks to amend Certificate Number 18-2001 to increase: the authorized annual appropriation of water from the Guadalupe River, Guadalupe River Basin, from 41 to 141 acre-feet, and the acreage to be irrigated per year from 30 to 100 acres out of 263.38 acres of land in the D. Schauchard Survey Number 67, Abstract 299, and the William Watt Survey Number 66, Abstract Number 365. The property is located approximately 3 1/2 miles southeast of Kerrville, Kerr County. The applicant has a Subordination Agreement with the Guadalupe-Blanco River Authority dated September 25, 1991 for the diversion and use of 100 acre-feet per annum which extends for a term of 40 years from the execution date.

Contact: Mark Evans, P.O. Box 13087, Austin, Texas 78711, (512) 463-6389.

Filed: January 28, 1991, 10:51 a.m.

TRD-9201269

◆ ◆ ◆
Regional Meetings

**Meetings Filed January 28,
1992**

Brazos Valley Development

Council Bootstrap/Family Self-Sufficiency Coordinating Body held an emergency meeting at the Council's Office, 3006 East 29th Street, Door #2, Bryan, January 30, 1992, at 9 a.m. The emergency status was necessary as it was mailed on the 23rd and was not received until the 28th. Needed to apply for new appropriation per Federal Register and had to meet before January 3, 1992. Information may be obtained from Sandy Shumaker, P.O. Drawer 4128, Bryan, Texas

77805-4128, (409) 776-2277. TRD-9201293.

The Brazos Higher Education Authority, Inc. Executive Committee of the Board of Directors met at 2600 Washington Avenue, Waco, January 31, 1992, at 11:30 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9201286.

The Middle Rio Grande Development Council Board of Directors met at the Las Moras Restaurant, Ft. Clark Springs, Highway 90 West, Brackettville, January 29, 1992, at 1 p.m. The emergency revised agenda was necessary as agenda items needed to be approved in order to meet required deadlines. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9201300.

◆ ◆ ◆
Meetings Filed January 29,
1992

The Aqua Water Supply Corporation met at 305 Eskew, Bastrop, February 3, 1992, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer 9, Bastrop, Texas 78602, (512) 321-3943. TRD-9201416.

The Angelina and Neches River Authority Board of Directors will meet at the Fredonia Hotel, Angelina Room, 200 North Fredonia Street, Nacogdoches, February 4, 1992, at 9:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795. TRD-9201404.

The Bosque County Appraisal District Appraisal Review Board will meet at the Bosque County Appraisal District Office, 104 West Morgan Street, Meridian, February 6, 1992, at 9 a.m. Information may be obtained from Billye McGehee, P.O. Box 393, Meridian, Texas 76665, (812) 435-2305. TRD-9201407.

The Gulf Coast Quality Work Force Planning Committee Tech Force 2000, Inc. will meet at the Education Service Center, Region IV, 7145 Tidwell, Houston, February 4, 1992, at 10 a.m. Information may be obtained from Karen E. Baird, 250 North Sam Houston Parkway, Houston, Texas 77060, (713) 591-9306. TRD-9201358.

The Hood County Appraisal District Board of Directors will meet at 1902 West Pearl Street, District Office, Granbury, February 4, 1992, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9201365.

The Martin County Appraisal District Board of Directors will meet at 308 North St. Peter, Stanton, February 6, 1992, at 7 p.m. (rescheduled from January 30, 1992). Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823. TRD-9201359.

◆ ◆ ◆
Meetings Filed January 30,
1992

The Dawson County Central Appraisal District Board of Directors will meet at 920 North Dallas Avenue, Lamesa, February 5, 1992, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 972-7060. TRD-9201423.

The Kendall Appraisal District Appraisal Review Board met at 207 East San Antonio Street, Boerne, February 3, 1992, at 9 a.m. Information may be obtained from Ed W. Mergele, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9201419.

The Lavaca County Central Appraisal District Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, February 10, 1992, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9201422.

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Education Agency Public Hearing

The State Board of Education (SBOE) Committee of the Whole will hold a public hearing on Thursday, February 6, 1992, from 8:30 a.m. until 10:30 a.m., in Room 1-104 of the William B. Travis Building located at 1701 North Congress Avenue in Austin, to accept testimony concerning the regulation of commercial access to students. Individuals wishing to give testimony are limited to a three-minute presentation. Presenters will be required to give his/her name, organizational affiliation, if any, address, telephone number, indicate whether testimony will be for or against regulation of commercial access, and supply 25 copies of the written testimony. Individuals wishing to give testimony should contact Pam Harkins at (512) 463-9701 by noon, on Wednesday, February 5 to register. Individual who registered to offer public testimony at the January State Board of Education meeting but who were unable to testify due to time constraints, will be scheduled first for this hearing. Individuals who were afforded the opportunity to offer testimony at the January SBOE meeting will only be heard if time permits after the 30 registrant limit has been reached. In compliance with SBOE procedures for public comment to avoid unduly repetitive testimony and to assure that different members of the public with differing points of view have reasonable access to the committee, 15 individuals will be permitted to testify in support of an 15 individuals will be permitted to testify in opposition to the regulation of commercial access to students. Those individuals who attempt to register after the total is reached but want to shall their comments with the board should provide 25 copies of their testimony which will be distributed to the board. If time is available after 30 individuals scheduled have testified, additional testimony will be permitted based on the time order in which individuals register, on a first-come, first served basis.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201339 Lionel R. Meno
Commissioner of Education

Filed: January 28, 1992

For further information, please call: (512) 463-9701



General Land Office Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas General Land Office (GLO) invites qualified consultants to enter into contract with the state of Texas to design, develop, and implement the funds management information system (FMIS). FMIS will be an integrated software system with the purpose of providing

tools to facilitate the effective management of the debt and investments associated with the Veterans Land Board. The software will include modules for cash flow projections, cash management, debt issuance and management, and arbitrage and arbitrage rebate compliance.

All proposals must be sent to Tom Hazelton, Texas General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 810, Austin 78701-1495 and received no later than 5 p.m., central standard time, Tuesday, March 10, 1992. All proposals must be delivered or mailed in a sealed envelope plainly marked "Sealed Bid for Funds Management Information System".

For a detailed copy of the specifications, call Tom Hazelton at (512) 463-5120.

The proposal review and evaluation process will include attention to the extent to which the proposal responds to and accomplishes the purposes and specifications of the request for proposal (0-400 points); relevant experience and qualification of the offeror firm and all subcontractors (0-250 points); cost-effectiveness of the proposed solution (0-250 points); and the ability of the offeror to complete the project in a timely manner (0-250 points).

KPMG Peat Marwich (Peat Marwick) developed the requirements definition report for the FMIS. With this request for proposal, the Texas General Land Office is requesting proposals for the design, development, and implementation of the FMIS. The report developed by Peat Marwick and the errata included with the request for proposal package will serve as the foundation for the remaining stages of the FMIS project.

The team selected to develop FMIS will be engaged for the purpose of delivering a fully functioning, tested, and documented software system which provides the tools needed to manage the debt and investments associated with the Veterans Land Board as described in the requirements definition report and the errata, and agreed upon during final negotiations. The development team will also be responsible for training the target users and for providing support and maintenance services for a brief period after FMIS is installed as described in the requirements definition report.

Contingent upon contract negotiations with the selected development team, the project is expected to last approximately 12 months.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201291 Garry Mauro
Commissioner
General Land Office

Filed: January 28, 1992

For further information, please call: (512) 463-5394



Texas Department of Human Services Public Notice

The Child Protective Services Program and the Adult Protective Services Program will be opening a procurement resource library for the purpose of providing background information and technical information vendors may require to respond to a planned request for proposal, to be released in Fall 1992. The planned request for proposal will be an all inclusive hardware and software acquisition for the automation of both the Child Protective Services and Adult Protective Services Programs statewide.

Contact Person: The library will be available by appointment only. For an appointment, please contact Holly Jung, (512) 450-3725 or Jeanette Gifford (512) 450-4446, between the hours of 8:30-4. For a complete listing of the materials available for viewing, please contact either Ms. Jung or Ms. Gifford.

Requirements: All interested vendors are encouraged to visit the library. Materials cannot be removed from the library at any time. No more than four persons in the library per appointment. Vendors will be required to sign in and out when using the library. Failure to keep a scheduled appointment, without prior cancellation, will result in a cancellation of all scheduled appointments for that vendor. Copies of some of the materials may be requested through Ms. Jung. All copies will be made for a fee set by the Fiscal Division, to be paid by the requesting vendor.

Date Available: Appointments for the library will be taken effective immediately. The library will be open for viewing beginning February 5, 1992, from 9-3:30, Monday-Friday, excluding state holidays.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201313 Nancy Murphy
Agency liaison, Policy and Document
Support
Texas Department of Human Services

Filed: January 28, 1992

For further information, please call: (512) 450-3765

Public Notice Open Solicitation

Pursuant to Title 2, Chapters 22 and 32 of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg 5315), the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Duval County, County Number 066, Jim Hogg County, County Number 124 and Zapata County, County Number 253, identified in the July 16, 1991, issue of the *Texas Register* (16 TexReg 3962). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced areas must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Institutional Programs Section, Long Term Care Department, Mail Code W-519, P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on January 28, 1992.

TRD-9201285

Nancy Murphy
Agency liaison, Policy and Document
Support
Texas Department of Human Services

Filed: January 28, 1992

For further information, please call: (512) 450-3765

Department of Information Resources Announcement of the Advisory Committee on Service Delivery Alternatives

An Advisory Committee on Service Delivery Alternatives has been selected by the department to study issues pertaining to the implementation of policies, guidelines, and review procedures to properly evaluate the most cost-effective strategy for information resource service delivery alternatives. The committee, consisting of public and private sector representatives, will convene approximately monthly. An introductory information session will be held from 2 p. m. until 4 p.m. at the department's offices on February 4, 1992, at 300 West 15th Street, Suite 1300, Conference Room 1, Austin, Texas 78701. For further information concerning the committee, contact Debra Williams, Statewide Planning and Policy Division, (512) 475-4744.

Issued in Austin, Texas, on January 29, 1992.

TRD-9201344 John M. Hawkins
Executive Assistant
Department of Information Resources

Filed: January 29, 1992

For further information, please call: (512) 475-4714

Texas Department of Insurance Company Licensing

The following applications have been filed with the Texas Department of Insurance and are under consideration.

1. Application for name change in Texas for Ideal Life Insurance Company, a domestic life insurance company. The home office is in Austin, Texas. The proposed new name is Allied Financial Insurance Company.
2. Application for Admission to do business in Texas for American Insurance Administrators, Inc., a foreign third party administrator. The home office is in Columbus, Ohio.
3. Application for name change in Texas for Appalachian National Life Insurance Company, a domestic life insurance company. The home office is in Austin, Texas. The proposed new name is Lincoln Memorial Life Insurance Company.
4. Application for Incorporation in Texas for Alternative Benefit Services, Inc. (assumed name for Marine & Casualty Underwriters, Inc.) a domestic third party administrator. The home office is in Corpus Christi, Texas.
5. Application for Incorporation in Texas for Tucker & Clark Administrators, Inc., a domestic third party administrator. The home office is in Dallas, Texas.

Issued in Austin, Texas, on January 27, 1992.

Filed: January 29, 1992

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

◆ ◆ ◆

Texas Department of Mental Health and Mental Retardation

Request for Proposal

The Texas Department of Mental Health and Mental Retardation (TXMHMR) invites interested parties to submit contract proposals to provide home and community-based services. This is the same request for proposal as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7570). The purpose for republishing this notice is to announce that the date for receipt of written questions concerning this RFP is being extended to March 16, 1992, to announce that the closing date for receipt of proposals by TXMHMR is being extended to April 17, 1992, and that questions concerning this RFP must be submitted by March 16, 1992 in accordance with the stipulations indicated herein.

The Texas Department of Human Services (TDHS) and TXMHMR received approval from the Health Care Financing Administration (HCFA) for a waiver authorized by the Social Security Act, §1915(c), to provide home and community-based services. Home and community-based services (HCS) include the delivery of all of the following services: case management services; respite services; homemaker services; habilitation services; nursing services; occupational therapy services; physical therapy services; speech and audiology services; psychology services; social services; emergency medical services; and age appropriate, community-based day program services.

These waived services provide cost-effective alternatives to institutionalization for a limited number of eligible individuals who meet the intermediate care facilities for the mentally retarded level-of-care criteria. The waiver renewal, effective September 1, 1988, enables the program to provide home and community-based services to additional individuals through contracts awarded through this procurement. Contracts are limited to providing services to a maximum of 30 eligible individuals.

Awardees will be certified by TXMHMR on a staggered basis. Any potential contractor certified to provide services under the existing Home and Community-Based Service Waiver (0110.90) is eligible to apply as a provider of Home and Community-Based Services-OBRA on an open enrollment basis when contracting for that waiver occurs. Awards shall be made pending receipt by TXMHMR of appropriated legislative funds.

Copies of the request for proposal (RFP) are provided by certified mail upon receipt of a written request mailed to Robert (Bob) Shaw, HCS Community Support Coordinator, HCS Program Coordination Office, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668. Requests for an RFP packet received by any other means will be rejected. The TXMHMR HCS Program Coordination Office will dispense RFP packets only by return mail within approximately five calendar days of receipt of the written request.

All questions concerning this RFP must reference this RFP

and be submitted in writing, date-stamped, and received in the mail room of TXMHMR by March 16, 1992 by 4 p.m. as indicated on the clock of the TXMHMR Central Office mail room in Austin. Verbal responses to questions presented at the potential contractor's conference are not binding on this RFP process and do not preclude the printed information or requirements in the RFP packet.

The contact person for this RFP is Robert (Bob) Shaw, HCS Community Support Coordinator, who may be contacted by telephone at (512) 323-3211 or by STS 882-3211.

The closing date for receipt of proposals by TXMHMR is April 17, 1992. Offers must be date-stamped in the mail room of the TXMHMR Central Office by 4 p.m. on April 17, 1992, as indicated on the clock in the TXMHMR Central Office mail room in Austin. Proposals received by means other than stipulated in this notice or after the previously stated time will be rejected.

The TXMHMR will select providers on the basis of a review process established for that purpose. Recommendations for awards will be based on criteria for selection included in the RFP and the limited geographic service areas as defined in the RFP.

Issued in Austin, Texas, on January 27, 1992.

TRD-9201252

Dennis R. Jones, MSW, MBA
Commissioner
Texas Department of Mental Health and
Mental Retardation

Filed: January 27, 1992

For further information, please call: (512) 465-4591

◆ ◆ ◆

Public Utility Commission of Texas

Notices of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on December 6, 1991, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 18, 50, 52, and 54. A summary of the application follows.

Docket and Title Number: Application of Texas Alltel, Inc. to amend certificate of convenience and necessity within Erath County, Docket Number 10788, before the Public Utility Commission of Texas.

The Application: In Docket Number 10788, Texas Alltel, Inc., seeks approval of its application for a minor boundary change in order to accommodate a request for telephone service from a potential residential customer.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf within 15 days of the date this notice is published, or before February 17, 1992, whichever date is later.

Issued in Austin, Texas, on January 24, 1992.

TRD-9201245

Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 27, 1992

For further information, please call: (512) 458-0100

◆ ◆ ◆
Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 27, 1991, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 18, 50, 52, and 54. A summary of the application follows.

Docket and Title Number: Application of Southwestern Bell Telephone Company to amend certificate of convenience and necessity within Webb County, Docket Number 10772, before the Public Utility Commission of Texas.

The Application: In Docket Number 10772, Southwestern Bell Telephone Company seeks approval of its application for an exchange area boundary amendment in order to reflect the way service is presently being administered.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before March 26, 1992.

Issued in Austin, Texas, on January 27, 1992.

TRD-9201307 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: January 28, 1992

For further information, please call: (512) 458-0100

◆ ◆ ◆
Texas Water Commission
Meeting Notice

A meeting of the Scientific/Technical Advisory Committee (STAC) of the Galveston Bay National Estuary Program (GBNEP) is scheduled for: Thursday, February 6, 1992, 9 a.m., Forest Room-Bayou Building, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Houston.

During this month's meeting, STAC will continue development of technical characterization studies to be conducted by GBNEP during fiscal year 1993.

Issued in Houston, Texas, on January 24, 1992.

TRD-9201217 Frank S. Shpley, Ph.D.
Program Manager, Galveston Bay National
Estuary Program
Texas Water Commission

Filed: January 27, 1992

For further information, please call: (713) 332-9937

◆ ◆ ◆
**Notice of Application For Waste
Disposal Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 17-24, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any

such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

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.

B & B Sewer Company; wastewater treatment facilities; are at a point approximately 1/3 mile west of the intersection of a county road and Long Street Road, five miles west of the City of Willis and approximately 300 feet south of Lake Conroe in Montgomery County; renewal; 11419-01.

Brazos River Authority; Sugar Land Regional Wastewater Treatment Facilities; plant site is approximately two miles south of Sugar Land at the intersection of Beltz Road of U.S. Highway 59 in Fort Bend County; renewal; 11317-01.

Roy Curlee; wastewater treatment facilities; are on a county road, approximately 3/4 mile north of FM Road 726, approximately 2 1/4 miles east of the intersection of FM Road 726 and 1968 and on the south shoreline of Lake O'Pines in Marion County; renewal; 11260-01.

City of Danbury; wastewater treatment facilities; are on Avenue L between Seventh and Eighth Streets on the west side of Danbury in Brazoria County; renewal 10158-01.

Galveston Terminals, Inc., a petroleum bulk storage terminal; the plant site is southwest of the intersection of Pelican Island Boulevard and Bradner Street on Pelican Island in the City of Galveston, Galveston County; renewal; 02466.

Gulf Coast Trades Center, Inc., wastewater treatment facilities; are within the Gulf Coast Trades Center Complex, approximately 3.8 miles west of the intersection of Interstate Highway 45 and FM Road 1375 and northeast of Lake Conroe in Walker County; renewal; 12159-01.

City of Houston; Northeast Wastewater Treatment Facilities; the plant site is at 625 Maxey Road in the City of Houston in Harris County; renewal; 10495-77.

City of Huntington; wastewater treatment facilities; are approximately one mile southeast of the intersection of U.S. Highway 69 and FM Road 1669 between the Southern Pacific Railroad and Shawnee Creek in Angelina County; renewal 10191-01.

Kirby Forest Industries, Inc.; the applicant operates the Bon Weir Plant, which manufactures plywood; the plant site is at a point about one mile south of FM 363 and

about five miles west-southwest of the Town of Bon Weir, Newton County; amendment; 01789.

Lyssy Dairy, Inc.; a dairy; the dairy is on the west side of County Road 208 approximately three miles west of the intersection of County Road 204 and U.S. Highway 181 in Wilson County; new; 03394.

City of McKinney; the North McKinney Wastewater Treatment Facilities; the plant site is west of the Southern Pacific right-of-way and approximately one mile north of U.S. Highway 380 in Collin County; amendment; 10432-02.

Nitsch & Son Utility Co., Inc.; the Durkee Manor Wastewater Treatment Facilities; the plant site is approximately one mile east of U.S. Highway 75 (Interstate Highway 45) and 1/2 mile north of Canino Road in Harris County; renewal; 10419-01.

Redfish Bay Terminal, Inc.; a petroleum and marine supply and service terminal; the plant site is at the intersection of Ocean Drive and Mooney Street, south of the City of Arkansas Pass, San Patricio County; renewal; 02535.

Ronald L. Jordan Company; the wastewater treatment facilities; are at 6115 Will Clayton Parkway, approximately 0.6 mile west of the intersection of U.S. Highway 59 and Will Clayton Parkway in Harris County; renewal; 11069-01.

City of Savoy; the wastewater treatment facilities; are approximately 900 feet west of FM Road 1752, approximately 150 feet east of Brushy Creek, and north of Savoy in Fannin County; renewal; 10606-01.

Shirley Creek Corporation; the wastewater treatment facilities; are in Shirley Creek Park on the north shore of Sam Rayburn Reservoir and approximately 26 miles southeast of Nacogdoches in Nacogdoches County; renewal; 10947-01.

Texas Department of Transportation; IH-35 Northbound Comfort Station Wastewater Treatment Facilities; the plant site is within the northbound right-of-way of Interstate Highway 35, approximately 2.8 miles north of the intersection of Interstate Highway 35 and FM Road 922 in Cooke County; renewal; 11743-01.

Webb County; wastewater treatment facilities; the plant site is northeast of Laredo, approximately one mile northeast of the San Ygnacio Road Crossing of Chacon Creek in Webb County; amendment; 12271-01.

West Hardin County Consolidated Independence School District; the wastewater treatment facilities; are immediately south of the intersection of State Highway 105 and FM Road 770 and approximately 1,000 feet east of Pine Island Bayou in Hardin County; renewal; 11274-01.

Safety-Kleen Corporation; a Class I hazardous waste storage and processing facility; the facility is located at 5243 Sinclair Road, about one mile south of Gonzales Highway, just east of Highway 410, within the City of San Antonio City limits, in Bexar County; new; HW50246-001; 45 days.

Issued in Austin, Texas, on January 27, 1992.

TRD-9201341 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: January 28, 1992

For further information, please call: (512) 463-7906

◆ ◆ ◆
**Texas Workers' Compensation
Commission**

Correction of Error

The Texas Workers' Compensation Commission adopted new 28 TAC §130.8, concerning initiating payment of impairment income benefits. The rule was published in the January 28, 1992, *Texas Register* (17 TexReg 689).

Due to a proofreading error by the *Texas Register*, the second sentence in the preamble was omitted. The sentence should read as follows.

"The new section is necessary to clarify entitlement to impairment income benefits, and prescribe times for initiating payment."

◆ ◆ ◆
Discount Rate; Interest Rate

The Texas Workers' Compensation Commission has determined, pursuant to the authority and direction given under the Texas Workers' Compensation Act (the Act), Article 8308-1.04(b), that any interest or discount provided for in the Act shall be at the rate of 4.20%, a rate computed by taking the auction rate quoted at a discount basis for 52 week treasury bills, issued by the United States Treasury, as quoted on auction on December 19, 1991. The rate shall be effective January 1, 1992-March 31, 1992.

Issued in Austin, Texas, on January 24, 1992.

TRD-9201353 Todd K. Brown
Acting Executive Director
Texas Workers' Compensation Commission

Filed: January 29, 1992

For further information, please call: (512) 440-3807

◆ ◆ ◆

NEW! NEW! NEW! NEW! NEW! NEW! NEW! NEW!

The *Texas Register* has a variety of new services and publications now available for your convenience.

Electronic Subscription

In addition to the familiar printed version, the *Texas Register* is now available as ascii files on 5 1/4" diskette. At a cost of \$90 yearly or \$70 for a six-month subscription, you save \$5 off the cost of a printed subscription. (Cost for a printed subscription is \$95 yearly or \$75 for a six-month subscription.)

Credit Cards

You may now use your Mastercard or Visa to purchase a subscription to the *Texas Register*, back issues, or subscription services. Just call us at (512) 463-5561, and be sure to have your account number and expiration date ready. Note: All purchases made by credit card will be subject to an additional 1.9% service charge.

Subscription Services

For your convenience, the *Texas Register* now has booklets available for some of the most frequently requested rules. Booklets available include Chapter 334 and Chapter 335 of Title 31, Texas Administrative Code (Underground and Aboveground Storage Tanks and Industrial Solid Waste and Municipal Hazardous Waste, respectively). A booklet of selected Workers' Compensation rules is also available. Update services for these booklets also are available. Each time a change is proposed, withdrawn or adopted that affects one of the regulations in the booklet, subscribers to the update service will be mailed the change. Cost for the booklets is \$35 for 31 TAC 334 and \$25 for 31 TAC 335 or the Workers' Compensation booklet. Cost for the update services is \$15 annually for 31 TAC 334 or 31 TAC 335 and \$25 annually for the Workers' Compensation updates. The updates only also are available as ascii files on 5 1/4" diskette.

Ordering Information

To order any of the above publications, you may use the form provided on the back cover of each issue. You may also write to the *Texas Register* at P.O. Box 13824, Austin, Texas 78711-3824. To order by credit card or for further information, please call us at (512) 463-5561.

NEW! NEW! NEW! NEW! NEW! NEW! NEW! NEW!

1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

Change of Address

(Please print)

Back Issues Requested

(Please specify dates)



YES, I want to learn about the latest changes in Texas regulations that may affect the daily operation of my business. Please begin my subscription to the *Texas Register* today.

Name
Organization
Address
City, ST Zip

I would like my subscription to be the printed electronic version.

I'm enclosing payment for 1 year 6 months 7 week trial

7 week trial subscription not available for electronic subscriptions.

Bill me for 1 year 6 months

Cost of a subscription is \$90 yearly or \$70 for six months for the electronic version. Cost for the printed version is \$95 yearly or \$75 for six months. Trial subscriptions cost \$14. Please make checks payable to the Secretary of State. Subscription fees will not be refunded. Do not use this form to renew subscriptions. Return to *Texas Register*, P.O. Box 13824 Austin, TX 78711-3824. For more information, please call (512) 463-5561.

Second Class Postage

PAID

Austin, Texas

and additional entry offices

75365368 INTER-AGENCY
TEXAS STATE LIBRARY RM 307
PUBLICATIONS CLEARINGHOUSE
LIBRARY AND ARCHIVES BLDG
AUSTIN TX 78711