

Texas Register

Volume 17, Number 19, March 13, 1992

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- **Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



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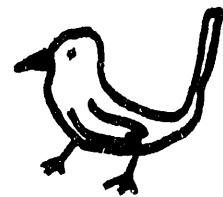
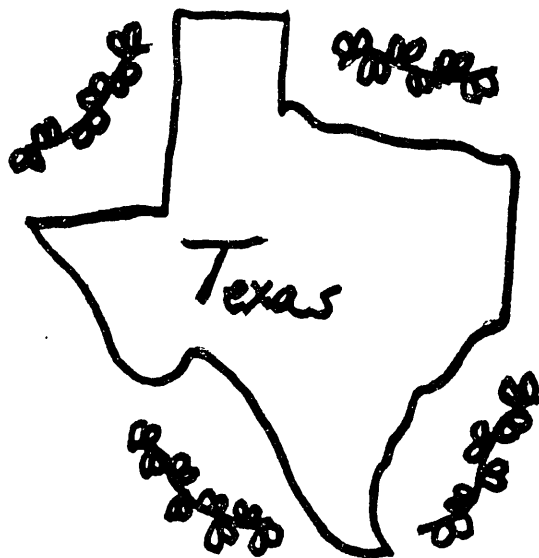
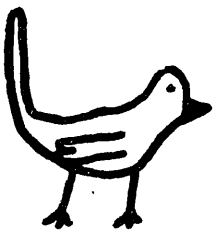
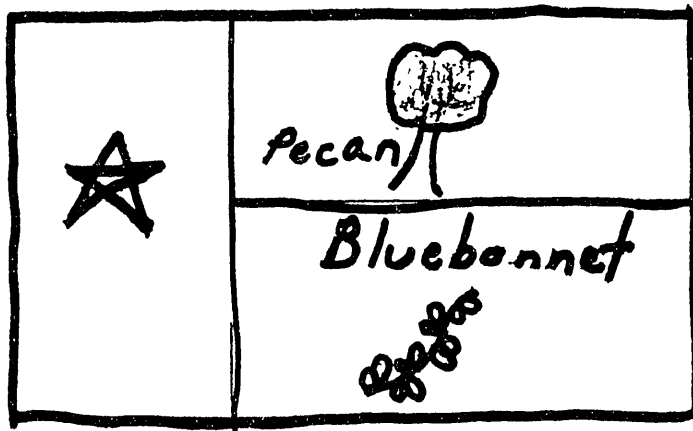
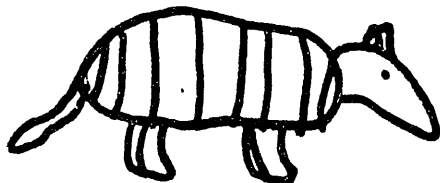
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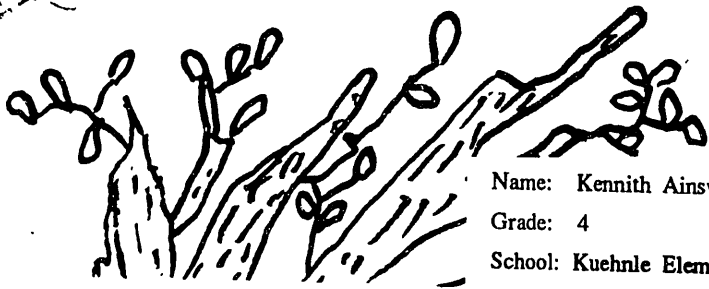
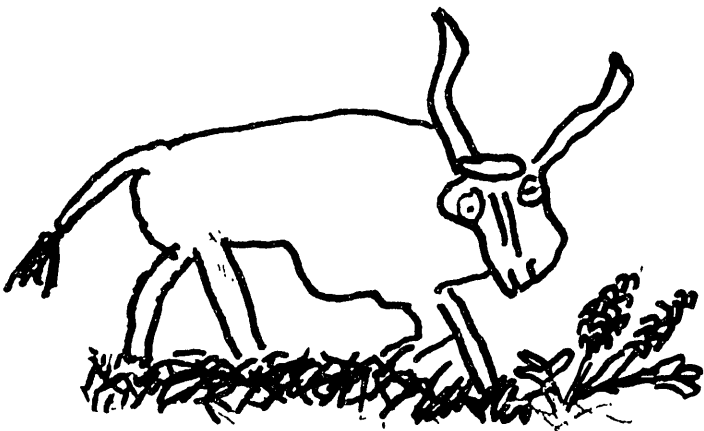
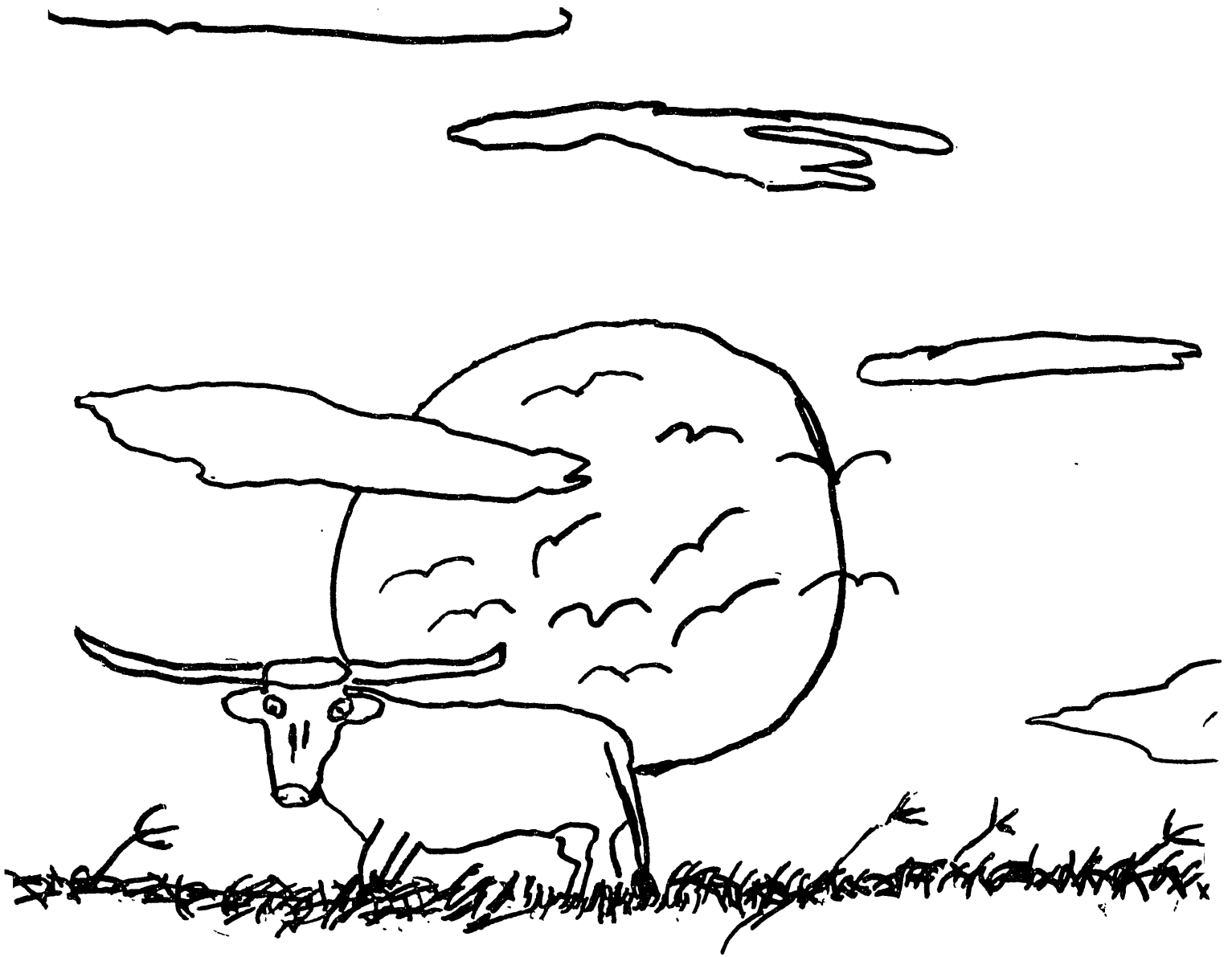
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Name: Tracey Leyendecker

Grade: 4

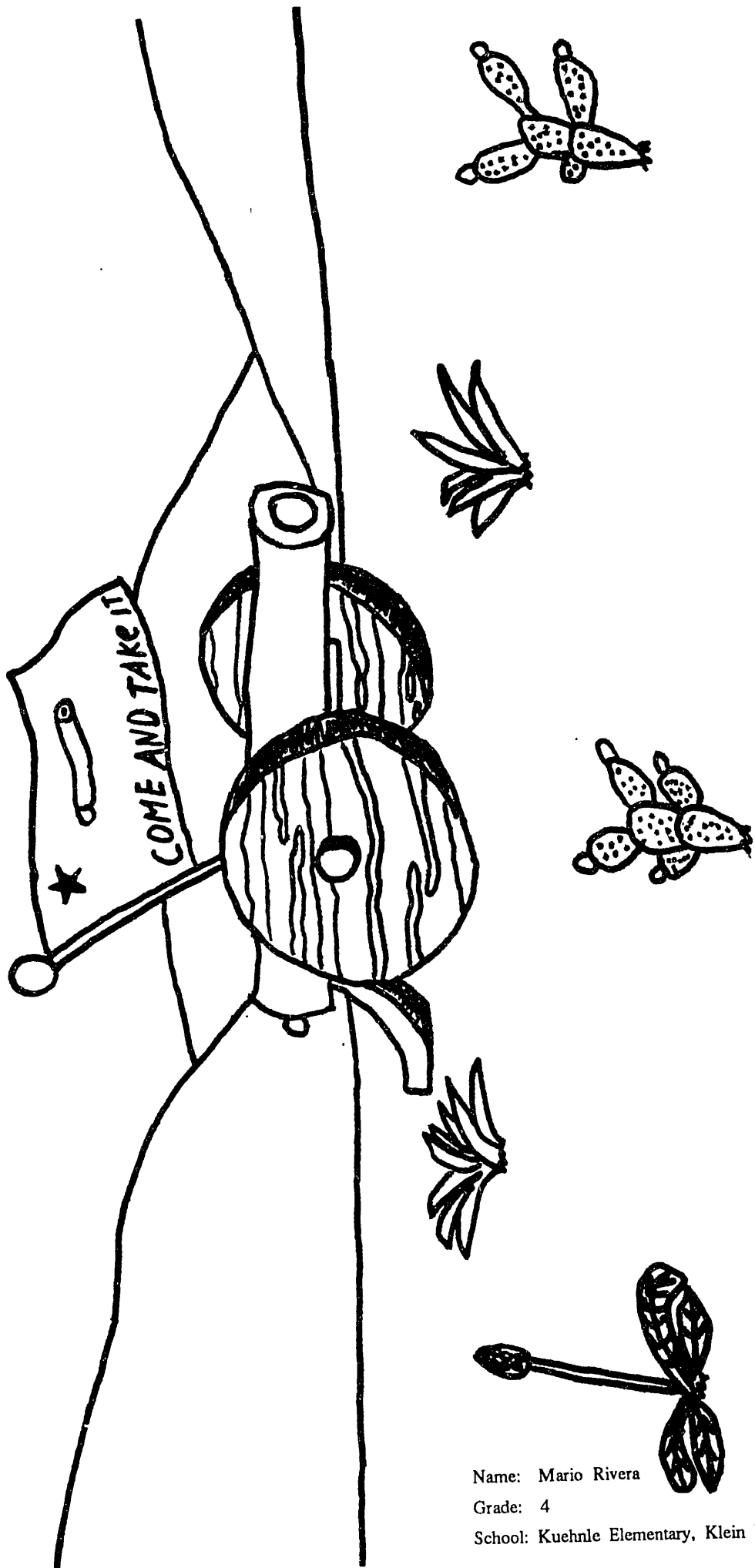
School: Kuehnle Elementary, Klein ISD



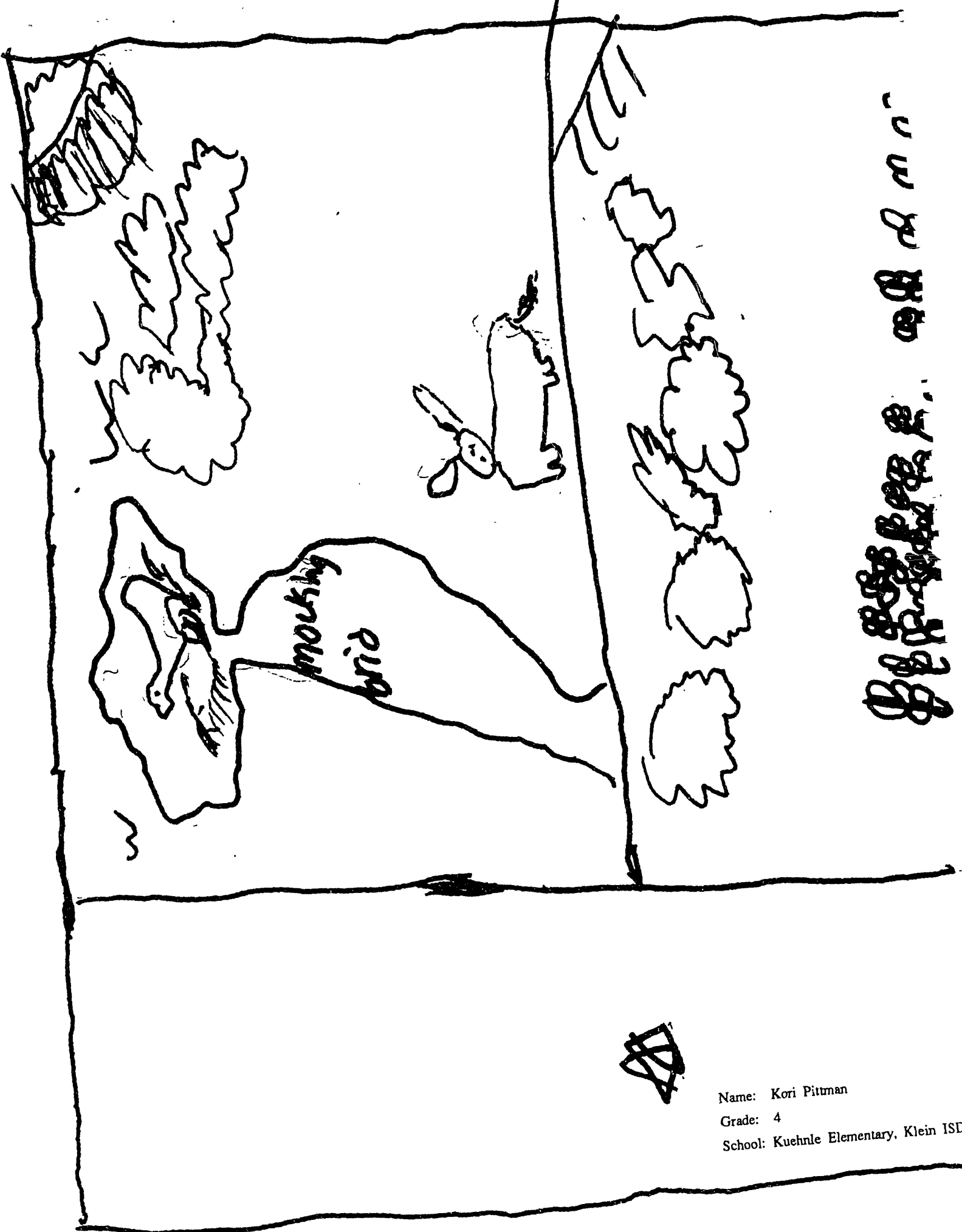
Name: Kenneth Ainsworth

Grade: 4

School: Kuehrle Elementary, Klein ISD



Name: Mario Rivera
Grade: 4
School: Kuehnle Elementary, Klein ISD



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Name: Kori Pittman
Grade: 4
School: Kuehne Elementary, Klein 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 27, 1992

To be a member of the **State Board of Nurse Examiners** for a term to expire January 31, 1997: Rose Marie Caballero, 4122 O'Day Parkway, Corpus Christi, Texas 78413. Ms. Caballero will be replacing Pauline Barnes of Texarkana whose term expired.

To be a member of the **State Board of Nurse Examiners** for a term to expire January 31, 1997: Pat Crowe, 3216 Fairview, Fort Worth, Texas 76111. Ms. Crowe will be replacing Patsy Sharpe of Fort Worth who is deceased.

Appointments Made March 3, 1992

To be a member of the **Governing Committee of the Workers' Compensation Insurance Facility** for a term to expire February 1, 1997: Richard J. Hoyer, 1207 South Harry, Monahans, Texas 79756. Mr. Hoyer is being appointed to a new position pursuant to House Bill Number 62, 72nd Legislature, Second Called Session.

To be a member of the **Texas Juvenile Probation Commission** for a term to expire August 31, 1997: Eric Andell, 4404 Basswood, Bellaire, Texas 77401. Judge Andell will be replacing Judge Scott D. Moore of Fort Worth whose term expired.

To be a member of the **Texas Juvenile Probation Commission** for a term to expire August 31, 1997: Arthur Beatrice Williams, 1223 Rosewood Street, Wichita Falls, Texas 76301. Judge Williams will be replacing Roy E. Turner, Sr. of Amarillo whose term expired.

To be a member of the **Role of the Family in Reducing Recidivism Advisory Committee** for a term at the pleasure of the governor: Dale Hanna, Route 3, Box 213, Cleburne, Texas 76031. Mr. Hanna will be replacing Ulysses McLester of Austin who resigned.

Appointments Made March 4, 1992

To be a member of the **District Three Review Committee, State Board of Medical Examiners** for a term to expire January 15, 1994: Thomas L. Marvelli, M.D., 1201 West Lancaster Avenue, Suite A, Fort Worth, Texas 76102. Dr. Marvelli will be filling the unexpired term of Dr. F. Warren Tingly of Arlington who resigned.

To be a member of the **Texas-Mexico Authority Advisory Board** for a term to expire February 1, 1997: Santiago G. Cantu, 1106 Lavaca, Austin, Texas 78711. Mr. Cantu is being appointed to a new position pursuant to House Bill Number 1029, 72nd Legislature.

To be a member of the **Governor's Drug Policy Advisory Board** for a term at the pleasure of the Governor: Jeffrey J. Jamar, 615 East Houston Street, San Antonio, Texas 78205. Mr. Jamar will be replacing Michael D. Wilson of San Antonio who resigned.

To be a members of the **Advisory Committee for the Elementary and Secondary Education Act** for terms at the pleasure of the governor. They will be replacing the current membership. Senator Gonzalo Barrientos, P.O. Box 12068, Austin, Texas 78711; Shirley Davis, 1809 Circle Drive, Marshall, Texas 75670; Representative Wilhelmina Delco, Box 2910, Austin, Texas 78769; Amelia Flores, 2807 Cessna, Dallas, Texas 75228; Rudy Kaye Gleason, 7118 Gainsborough Road, Amarillo, Texas 79106; Representative Ernestine Glossbrenner, Box 2910, Austin, Texas 78769; Angela Cay Hit, 2305 Wood Street, Texarkana, Texas 75501; Larry E. Kitchens, 624 Post Oak Drive, Hurst, Texas 76053; Bonnie Alexander Lesley, 3017 Chimney Hill, Waco, Texas 76708; Erma Daviss Lewis, 114 Belvedere Street, Conroe, Texas 77301; Carole Martin, 4115 Venetian Way, Pasadena, Texas 77503; Verna G. Brown Mitchell, 6845 Talbot Parkway, Dallas, Texas 75232; Dora R. Nisby, 4520 Corley Street, Beaumont, Texas 77707; Eddie Orum, 5563 Milaart, Houston, Texas 77021; Senator Carl Parker, Box 12068, Austin, Texas 78711; Jessica Friel Patti, 5816 Everglade Road, Dallas, Texas 75227;

Irene S. Rangel, 4208 Park Hill Drive, El Paso, Texas 79902; Ignacio Salinas, Jr., 505 South Victoria Street, San Diego, Texas 78384; Bobby J. Stinson, Route 12 Box 12125, Tyler, Texas 75708; Maria S. Valdez-Fisher, P.O. Box 6047, Brownsville, Texas 78523.

Appointments Made March 5, 1992

To be a member of the **Sam Houston Bicentennial Celebration Commission** for a term to expire December 31, 1993: Dr. James V. Reese, Stephen F. Austin State University, 1936 North Street, Nacogdoches, Texas 75962. Dr. Reese is being appointed to a new position pursuant to House Bill Number 1519, 72nd Legislature.

To be a member of the **Sam Houston Bicentennial Celebration Commission** for a term to expire December 31, 1993: Elizabeth Crook, 1111 West 12th Street, #106, Austin, Texas 78703. Ms. Crook is being appointed to a new position pursuant to House Bill Number 1519, 72nd Legislature.

To be a member of the **Sam Houston Bicentennial Celebration Commission** for a term to expire December 31, 1993: Houston Daniel, P.O. Box 1, Liberty, Texas 77575. Mr. Daniel is being appointed to a new position pursuant to House Bill 1519, 72nd Legislature.

To be a member of the **Sam Houston Bicentennial Celebration Commission** for a term to expire December 31, 1993: Norma Fink, 1702 Gardien Street, Gonzales, Texas 78629. Ms. Fink is being appointed to a new position pursuant to House Bill 1519, 72nd Legislature.

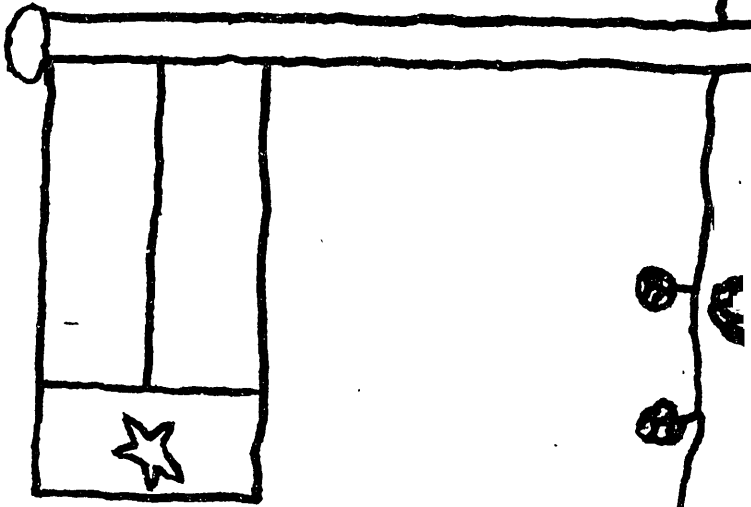
To be a member of the **Sam Houston Bicentennial Celebration Commission** for a term to expire December 31, 1993: James D. Patton, 1100 University Avenue, Huntsville, Texas 77340. Mr. Patton is being appointed to a new position pursuant to House Bill Number 1519, 72nd Legislature.

Issued in Austin, Texas, on March 6, 1992.

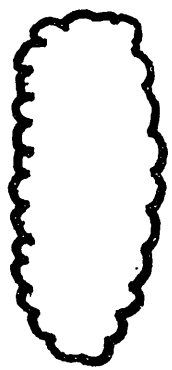
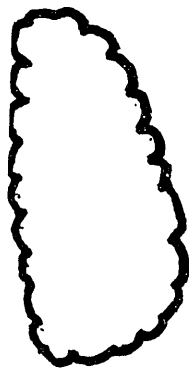
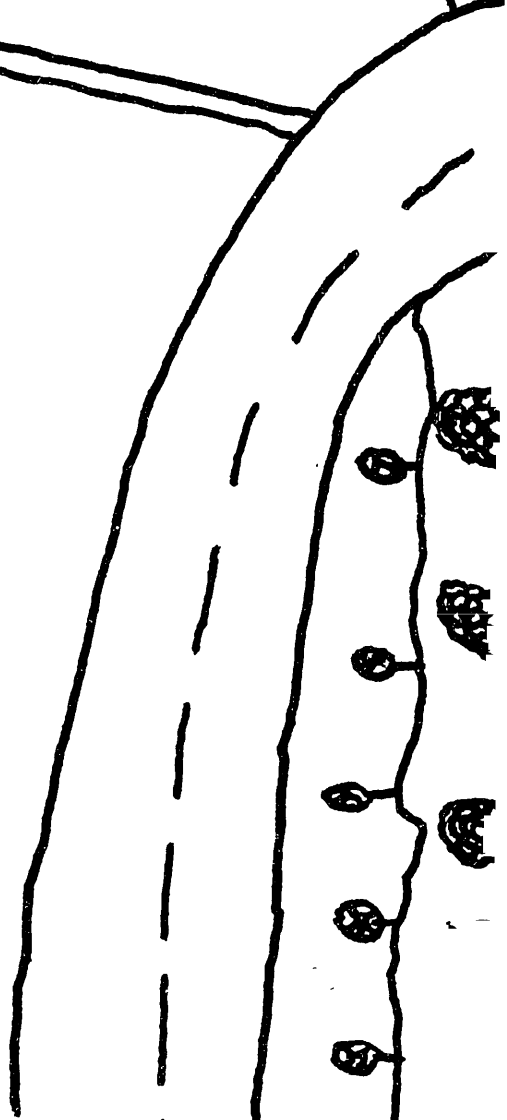
TRD-9203360

Ann W. Richards
Governor of Texas





Capital
Austin
1 mile
Ahead



Name: Courtney Tisius
Grade: 4
School: Kuehnle Elementary, Klein 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 1. ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Crime Victims Assistance

• 1 TAC §§3.603, 3.608, 3.609, 3.625

The Criminal Justice Division (CJD) of the Office of the Governor adopts on an emergency basis amendments to §§3.603, 3.608, 3.609, and 3.625, concerning Crime Victims Assistance Program rules. The CJD is now in the process of developing applications for federal funds that are available under the federal Victims of Crime Act of 1984 (VOCA). The amendments are being adopted on an emergency basis to ensure that the applicants for VOCA funds have complete and accurate information essential for the development and implementation of their grant and are fully aware of statutory and administrative requirements that may affect their proposed projects.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), §6(a)(11), which provide CJD with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

§3.603. *Compliance; Adoption by Reference.* Grantee/applicants shall comply with all applicable state and federal statutes, rules, regulations, and guidelines. The Criminal Justice Division (CJD) adopts by reference the following documents and forms. Information regarding these adoptions by reference may be obtained from the Criminal Justice Division, Attention: Crime Victims Assistance Section, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

(1) (No change.)

(2) The annual *Criminal Justice Plan for Texas* [Catalog of Program Information.]

(3) Crime Victims Assistance Program: Application Kit and Grant Administration.

[(4) *Crime Victims Assistance Program: Grant Administration Guidelines.*]

(4)[(5)] U.S. Department of Justice, Final Program Guidelines for the Victims of Crime Act Victims Assistance Grant Program, *Federal Register*, Volume 54, Number 95, May 18, 1989 pages 21499-21508 .

(5)[(6)] Office of Justice Programs, *OJP Guideline Manual, OJP M7100.1d [M71001c] Financial and Administrative Guide for Grants.*

(6)[(7)] Audit guidelines:

(A) United States General Accounting Office, *Standards for Audit for Governmental Organizations, Programs, Activities, and Functions;*

(B) United States General Accounting Office, *Guidelines for Financial and Compliance Audits of Federally Assisted Programs;*

(C) Office of Management and Budget, *Circular A-128, Audits of State and Local Government;*

(D) Office of Management and Budget, *Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Organizations.*

(7)[(8)] *Uniform Grant and Contract Management Standards* developed under directive of the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413(g).

(8)[(9)] Criminal Justice Division forms for crime victims assistance projects:

(A) statement of grant award;

(B) grantee acceptance notice;

(C) grantee's request for funds;

(D) grant adjustment notice;

(E) performance report;

(F) report of expenditure and status of funds.[:]

[(G) property inventory;]

§3.608 *Grant Applications.*

(a) (No change.)

(b) Grant applications may not request more than **\$35,000** [\$50, 000] for each proposed project.

(c) (No change.)

§3.609. *Review of Grant Applications.*

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

(d) Recommendations shall be based on applicable statutory requirements, rules, guidelines, fiscal constraints, administrative policies, comments provided under the Texas Review and Comment System (TRACS), merit of the project, and quality of the grant application. Merit of the project shall include consideration of how well the applicant and the victim assistance program conform to the requirements and intent of governing directives. Specifically, the following factors will be included for consideration:

(1) (No change.)

(2) To what extent is the victim assistance program a separate, self-contained unit, established exclusively to provide services directly to victims of crime (if the entire applicant organization is not dedicated exclusively to that purpose).

(3) How well does the program design assure that assistance is given in seeking victim compensation benefits?

[(4) To what extent does the program provide service to victims of all types of crimes.]

(4)[(5)] How fully are the activities of this program coordinated with other service providers in the community so that the best interests of the victims are served and interagency communication enhanced? Is there a structured meeting schedule between efforts of apprehension, prosecution, adjudication, and social service entities? Does the board of directors (where one exists) represent a cross-section of the community, including law enforcement, prosecution, adjudication, and citizens?

(5)[(6)] Is there an affirmative program of assistance in coordination with prosecuting authorities for transportation and availability of the victim-witness?

(6)[(7)] Is there any planned media or public service announcement campaign which advertises the availability of services to victims? Are services to all victims emphasized?

(7)[(8)] Where an applicant proposes expansion of an existing program, does an analysis of activities and financial history show that it achieves its intended results in a cost-effective manner? Can it meet the test of having not less than one completed year of effective services to victims of crime—a principal criterion in qualifying for a grant?

(e) (No change.)

§3.625. *Financial and[,] Performance [, and Inventory] Reports.* Each grantee shall submit financial and [,] performance [, and inventory] reports in accordance with the instructions provided by the Criminal Justice Division (CJD). All reports shall be submitted in accordance with the prescribed CJD forms for such reports. Financial [and inventory] reports must be signed by the financial officer. Performance reports must be signed by the project director. [Inventory reports are to accompany the final financial report.]

Issued in Austin, Texas, on March 6, 1992.

TRD-9203348 David A. Talbot, Jr.
General Counsel
Office of the Governor

Effective date: March 6, 1992

Expiration date: July 4, 1992

For further information, please call: (512) 463-1788



TITLE 16. ECONOMIC REGULATION Part VIII. Texas Racing Commission

Chapter 309. Operation of Racetracks

Subchapter B. Horse Race- tracks

Operations

• 16 TAC §309.194

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

The amendment is adopted on an emergency basis to ensure the safety of individuals riding on horses at pari-mutuel racetracks.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorizes the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorizes 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.

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

TRD-9203331 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 6, 1992

Expiration date: July 4, 1992

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



Chapter 313. Officials and Rules of Horse Racing

Subchapter B. Entries, Declara- tions, and Allowances

Entries

• 16 TAC §313.103

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

The amendment is adopted on an emergency basis to ensure that horses participating in pari-mutuel races are fit and ready to run in

races currently being conducted. The failure of a horse to be fit and ready to run could result in accidents endangering the safety of jockeys, horses, and other participants in racing.

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

§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 later 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.

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

TRD-9203329 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 6, 1992

Expiration date: July 4, 1992

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

◆ ◆ ◆
• 16 TAC §313.111

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

The amendment is adopted on an emergency basis to ensure that horses participating in pari-mutuel races are fit and ready to run in races currently being conducted. The failure of a horse to be fit and ready to run could result in accidents endangering the safety of jockeys, horses, and other participants in racing.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorizes the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks

§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.)

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

TRD-9203328 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 6, 1992

Expiration date: July 4, 1992

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

◆ ◆ ◆
Subchapter C. Claiming Races

• 16 TAC §313.303

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

The amendment is adopted on an emergency basis to ensure that pari-mutuel claiming races are conducted fairly and honestly, to avoid defrauding the wagering public

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

§313.303. Effective Time of Claim.

(a) A person who has a valid claim to a horse becomes the owner of the horse when [the stall door of the starting gate opens 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.)

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

TRD-9203330 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 6, 1992

Expiration date: July 4, 1992

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

◆ ◆ ◆
TITLE 22. EXAMINING
BOARDS

Part XXII. Texas State
Board of Public
Accountancy

Chapter 501. Professional
Conduct

Advertising and Soliciting

• 22 TAC §501.46

The Texas State Board of Public Accountancy adopts on an emergency basis an

amendment to §501.46, concerning form of practice. The amendment specifically allows certificate and registration holders to practice public accountancy through limited liability companies and limited liability partnerships. This amendment is necessary in order to implement the recently enacted amendments to the Public Accountancy Act of 1991.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act

§501.46. Form of Practice. A certificate or registration holder may practice public accountancy only in a proprietorship, a partnership, a limited liability company, a registered limited liability partnership, or a professional corporation organized in accordance with the Texas Professional Corporation Act, or as an employee of one of these entities.

Issued in Austin, Texas, on March 6, 1992

TRD-9203375 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

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Chapter 505. The Board

• 22 TAC §505.10

The Texas State Board of Public Accountancy adopts on an emergency an amendment to §505.10, concerning the responsibilities of the committees of the board. This amendment is necessary in order to enable the board to manage major cases and to ensure compliance with state and federal laws and regulations.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§505.10. Board Committees.

(a) Committee appointments. Appointments to standing committees and ad hoc committees shall be made annually by the board chairman to assist in carrying out the functions of the board under the provisions of the Public Accountancy Act of 1991 [1979, as amended] (the Act). The board chairman shall be an ex officio member of each standing committee and ad hoc committee and chairman of the executive committee.

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

(e) Standing committee structure and charge to committees. The standing

committees shall consist of the following individuals and shall be charged with the following responsibilities.

(1) The Executive Committee shall comprise the board chairman, vice - chairman, secretary, treasurer, **immediate past chairman of the board if still serving on the board**, and [also may include, as an ex officio member, any] **one other officer** [board member] **elected** [appointed] by the board [chairman]. The functions of the Executive Committee shall be to advise, consult with, and make recommendations to the board concerning matters requested by the board chairman, litigation, and/or proposed changes in the board rules of professional conduct (the rules). The Executive Committee may act on behalf of the full board in matters of urgency, or when a meeting of the board is not feasible; the Executive Committee's actions are subject to full board ratification at its next regularly scheduled meeting.

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

(9) The **Quality** [Report] Review Committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall:

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

(C) make recommendations to the board with regard to proposed changes in board rules, opinions, and policies relating to the **quality** [report] review program.

(10)-(11) (No change.)

(12) **The Committee on Board** [Substantive] Rule Changes shall comprise at least one board member, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding **board** [substantive] rules defined by the board chairman as requiring action.

(13) **The Regulatory Compliance Committee** shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding legislative oversight, including, but not limited to, budget, performance measures, proposed changes in legislation affecting the board, and computer utilization.

(14) The Major Case Enforcement Committee shall comprise at least two board members, one of whom shall serve as

chairman. At least one committee member shall be a public member of the board. The committee shall make recommendations to the board regarding legal matters on litigation or potential litigation, and other major cases to which the board is a party. The committee shall have the authority to act on behalf of the board in instances where disclosure of facts to the full board could cause the board's objectivity to be jeopardized, subject to final approval by the board. The board shall have sole authority to determine whether cases shall be heard by the Major Case Enforcement Committee or other enforcement committee.

(f)-(g) (No change.)

(h) Policy guidelines. All advisory committee members performing any duties utilizing board facilities and/or who have access to board records, shall conform and adhere to the standards, **board** [substantive] rules, and personnel policies of the board as described in its **personnel manual** [administrative guidelines] and to the laws of the State of Texas governing state employees.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203374

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

Chapter 513. Registration Registration of Partnerships • 22 TAC §513.31

The Texas State Board of Public Accountancy adopts on an emergency basis new §513.31, concerning registration of limited liability companies with the board. This amendment is necessary in order to implement the recently enacted amendments to the Public Accountancy Act of 1991.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§513.31. General Rule. Every limited liability company (L.L.C.) engaged or to be engaged in the practice of public accountancy whose articles of organization are approved by the secretary of state and which meet the requirements of the Texas Professional Corporation Act and the Public Accountancy Act of 1991 shall register with the board.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203376

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

• 22 TAC §513.32

The Texas State Board of Public Accountancy adopts on an emergency basis new §513.32, concerning application for registration of a limited liability company with the board. This amendment is necessary in order to implement the recently enacted amendments to the Public Accountancy Act of 1991.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§513.32. Application for Registration of a Limited Liability Company.

(a) Application for registration of a limited liability company (L.L.C.) must be made upon a form prescribed by the board and must be submitted to the executive director. Application must be made upon the affidavit of an officer or manager of the L.L.C. and must set out:

- (1) the L.L.C. name;
- (2) the post office address within the state;
- (3) the address of the principal office of the L.L.C.;
- (4) the principal office's phone number;
- (5) the name of the person to contact regarding firm registration and license renewal;
- (6) complete listing of addresses and resident managers of offices including the principal office located within Texas;
- (7) date(s) firm organized and commenced practicing in Texas;
- (8) any previous names of the firm;
- (9) whether or not the firm has had an application for license denied, suspended, or revoked by any state or federal agency; whether the firm or any manager, officer, or member has been convicted of any felony or misdemeanor involving fraud or deceit not previously reported to the board; or whether the firm or any individual within the firm has been a party to legal proceedings as described in §513.47 of this title (relating to Affidavit of Firm);
- (10) a copy of the letterhead currently used by the firm;
- (11) articles of organization which must be attached;

(12) a statement which identifies the purpose of the firm; and

(13) affidavit that all statements are true and correct.

(b) Each manager, member, and officer must hold a current license to practice public accountancy in Texas.

(c) Texas franchise taxes must be current for any L.L.C. authorized to engage in the practice of public accountancy in this state.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203377

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

◆ ◆ ◆
• 22 TAC §513.33

The Texas State Board of Public Accountancy adopts on an emergency basis new §513.33, concerning sections and statutory requirements that apply to limited liability companies. This amendment is necessary in order to implement the recently enacted amendments to the Public Accountancy Act of 1991.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 414a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§513.33. *Partnership Rules Apply.*

(a) All sections and statutory requirements applying to public accounting partnerships shall also apply to limited liability companies (L.L.C.) engaged in the practice of public accountancy.

(b) All sections and statutory requirements applying to partners of public accounting partnerships shall also apply to managers, officers, and member of L.L.Cs engaged in the practice of public accountancy.

(c) All sections and statutory requirements governing employees or agents of public accounting partnerships shall also apply to employees or agents of L.L. Cs engaged in the practice of public accountancy.

(d) An L.L.C. of certified public accountants of this state in good standing may be a partner in a partnership.

Issued in Austin, Texas, on March 6, 1992

TRD-9203378

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

◆ ◆ ◆
• 22 TAC §513.34

The Texas State Board of Public Accountancy adopts on an emergency basis new §513.34, concerning the name of a limited liability company. This amendment is necessary in order to implement the recently enacted amendments to the Public Accountancy Act of 1991.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 414a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act.

§513.34. *Limited Liability Company.*

(a) In addition to other requirements of these sections with respect to the name of a limited liability company (L.L.C.) engaged in the practice of public accountancy, the name of each L.L.C. registered with this board must include one of the following designations:

- (1) "Limited";
- (2) "Ltd.";
- (3) "L.C.";
- (4) "L.L.C."; or
- (5) Limited Liability Company.

(b) If only one licensee is involved in the practice of the L.L.C. it cannot use the term "and company," "and associates," or any other term which is misleading to the general public as a part of the name. However, the term "and company" or "and associates" may be used as long as the names of the employees licensed by this board are shown on page three of the application.

(c) The words "limited liability company" or "L.L.C." must appear in or with the firm name each time it is used.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203379

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call. (512) 450-7066

◆ ◆ ◆
• 22 TAC §513.35

The Texas State Board of Public Accountancy adopts on an emergency basis new §513.35, concerning the certification of franchise tax status upon license application. This amendment is necessary in order to imple-

ment the recently enacted amendments to the Public Accountancy Act of 1991.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 414a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules to effectuate the Act

§513.35. *Certification of Franchise Tax Status.*

(a) Each limited liability company authorized to engage in the practice of public accountancy in this state shall certify, as prescribed by the board, upon application for registration, that the company's Texas franchise taxes are current.

(b) The making of a false statement as to company franchise tax status on any license application or renewal is grounds for suspension or revocation of the license.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203380

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: March 9, 1992

Expiration date: July 7, 1992

For further information, please call: (512) 450-7066

◆ ◆ ◆
TITLE 25. Health Services
Part I. Texas Department
of Health

Chapter 97. Communicable
Diseases

Control of Communicable Dis-
eases

• 25 TAC §97.16

The Texas Department of Health (department) adopts on an emergency basis the repeal of existing §97.16, concerning the Texas HIV Medication Program. The text of the section is being modified, restructured, and moved to Chapter 98 of this title, where it becomes new §§98.101 - 98.111. This action is also being proposed for permanent adoption in this issue of the *Texas Register*.

The department repeals §97.16 on an emergency basis for the following reasons: By modifying, restructuring, and moving the text of §97.16 to new §§98.101-98.111, the department will be able to more expeditiously provide medications to HIV infected individuals. It is imperative that the department be able to improve its ability to address this serious and imminent threat to public health and safety by providing approved medications as soon as possible to HIV infected individuals.

The repeal is adopted on an emergency basis under the Health and Safety Code, §85 063, which provides the Board of Health with au-

thority to adopt rules covering procedures and guidelines for the HIV Medication Program; §12.001, which provides the board with authority to adopt rules to implement every duty imposed by law on the board, the department and the Commissioner of Health; and Texas Civil Statutes, Article 6252-13a, §5, which provides the board with authority to adopt emergency rules.

§97.16. Texas HIV Medication Program.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203353 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: March 6, 1992

Expiration date: July 4, 1992

For further information, please call:(512)
458-7357

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §§98.101-98.111

The Texas Department of Health (department) adopts on an emergency basis new §§98.101-98.111 concerning the Texas HIV Medication Program. The new sections replace the existing §97.16 in Title 25 of the Texas Administrative Code which is being repealed on an emergency basis in this issue of the Texas Register. The new sections restructure and modify the repealed section and implement the provisions of the Communicable Disease Prevention and Control Act, Health and Safety Code, Chapter 85, concerning the establishment of an HIV medication program in Texas. The program assists hospital districts, local health departments, public or non-profit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the section covers eligibility for participation; medication coverage; priority of treatment; application process; confidentiality; payment for approved medications; participating pharmacies; and an appeal procedure to resolve any eligibility or funding disputes. The new sections also clarify the language, simplify structure, and expand the formulary to include Fluconazole, Didanosine, and Erythropoietin for eligible participants.

New §§98.101-98.111 are adopted on an emergency basis for the following reasons. By restructuring, modifying, and moving the text of the repealed §97.16 to the new sections in Chapter 98, the department will be able to provide medications more expeditiously to HIV-infected individuals. This will enable the department to improve its ability to address this serious and imminent threat to

public health and safety. Also, the addition of the drug Didanosine to the list of available drugs on an emergency basis will help inhibit HIV-1 because Didanosine is the only alternative therapy for persons who are intolerant of Zidovudine or who have demonstrated significant clinical or immunological deterioration during Zidovudine therapy. The drug Erythropoietin is being added on an emergency basis because it significantly reduces hospitalization by offering an alternative to otherwise transfusion dependent persons on Zidovudine. The drug Fluconazole is being added on an emergency basis because it will assist hospitals, clinics, and individuals in funding treatment for cryptococcal infection. It is imperative that these drugs be made available as soon as possible to HIV-infected individuals through emergency adoption of the new sections.

The new sections are adopted on an emergency basis under the Health and Safety Code, §§85.066, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; §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; and Texas Civil Statutes, Article 6252-13a, §5, which provides the board with authority to adopt emergency rules.

§98.101. Purpose and Scope.

(a) Purpose. These sections will implement the provisions of the Texas HIV Medication Program (program) as authorized by the Communicable Disease Prevention and Control Act, Health and Safety Code, §§85.061-85.066. The program shall assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in obtaining medications indicated by the Food and Drug Administration for the treatment of HIV-related conditions and approved by the Texas Board of Health for program coverage.

(b) Scope. These sections cover eligibility, criteria for financial eligibility, priority, application process, appeal procedures, confidentiality, procedures for obtaining the application materials, payment for approved medications, and participating pharmacies.

§98.102. Eligibility. A Texas resident is eligible to participate in the Texas HIV Medication Program (program) if he or she:

(1) is diagnosed with HIV infection and meets the drug specific eligibility criteria;

(2) is under the care of a licensed physician who prescribes the medication(s); and

(3) meets the financial eligibility criteria of the program.

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

(1) is not covered for approved program medication(s) under the Texas Medicaid Program;

(2) does not qualify for any other state or federal program available for financing the purchase of approved program medication(s);

(3) is not covered for the medication(s) by any other third-party payer; and

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

§98.104. Medication Coverage.

(a) Zidovudine capsules must be provided in increments of 100 not to exceed 400 capsules per month. Zidovudine syrup must be provided in eight ounce bottles.

(b) Pentamidine for inhalation solution must be provided in one 300 mg. vial per month.

(c) Sulfamethoxazole-trimethoprim (DS) tablets must be provided in increments of 100 tablets for a maximum of 200 per month. Sulfamethoxazole-trimethoprim suspension must be provided in bottles of 480 ML.

(d) Didanosine tablets must be provided in increments of 60 tablets not to exceed 120 tablets per month.

(e) Fluconazole must be provided in increments of 30 tablets not to exceed 120 tablets in three months.

(f) Erythropoietin is provided through the Texas HIV Medication Program (program) for children younger than 18 years of age. Adults and children that meet the financial and drug specific criteria will be eligible to receive this drug under the Ortho Biotech Program.

(g) Immune Globulin Intravenous (Human) will be provided in 2.5 and 5 gm. vials.

(h) The program will reimburse the Texas Department of Health's Tuberculosis Elimination Division for the following listed drugs used to treat atypical mycobacterial infections in individuals that are HIV infected:

- (1) Amikacin-1 g vial;
- (2) Capreomycin-1 g vial;
- (3) Ciprofloxacin-750 mg. tablets;
- (4) Cycloserine-250 mg. capsules;
- (5) Ethambutol-100 mg. tablets;
- (6) Ethambutol-400 mg. tablets;
- (7) Ethionamide-250 mg. tablets;
- (8) Isoniazid (INH) syrup;
- (9) Isoniazid (INH)-100 mg. tablets;
- (10) Isoniazid (INH)-300 mg. tablets;
- (11) Kanamycin-1 g vial;
- (12) Pyrazinamide-500 mg. tablets;
- (13) Pyridoxine (Vit.B-6)-50 mg. tablets;
- (14) Rifampin-300 mg./Isoniazid (INH) 150 mg. capsules;
- (15) Rifampin-300 mg. capsules;
- (16) Sodium P.A.S. tablets; and
- (17) Streptomycin-5 g.

§98.105. *Drug Specific Eligibility Criteria.* A person is eligible for:

- (1) Zidovudine if he or she is younger than 18 years of age and has a diagnosis of HIV infection; or has a positive HIV antibody test and is classified in Group III or IV according to the Centers for Disease Control classification system, or pending available funding classified in Group I or II with a CD4 cell count of 500 or less;
- (2) Pentamidine for inhalation solution, sulfamethoxazole-trimethoprim (DS) tablets, and sulfamethoxazole-trimethoprim suspension if he or she is diagnosed with the HIV infection and a CD4 cell count of 200 or less and children under the age of 13 with the following clinical indicators:

(A) all children who have had a previous episode of Pneumocystis Carinii Pneumonia (PCP);

(B) all children less than 13 years of age who meet the Center for Dis-

ease Control (CDC) definitions of HIV infection in children and who have CD4+ counts less than 400/mm³;

(C) all children less than 15 months of age who have HIV isolated from blood, cerebrospinal fluid (CSF), or tissues; or P24 antigen detected in blood/plasma or CSF, regardless of CD4 count;

(D) all children less than 15 months of age who are HIV-seropositive and have symptoms as defined by CDC Class P2, regardless of CD4 count. Children will qualify in Class P2a if they have one symptom and persistent hypergammaglobulinemia (2 measurements, one month apart);

(3) Didanosine if he or she has advanced HIV infection and is intolerant of zidovudine therapy or who have demonstrated significant clinical or immunological deterioration during zidovudine therapy;

(4) Erythropoietin if he or she soon would be or is currently transfusion dependent, has a hematocrit less than or equal to 25% and has endogenous serum erythropoietin levels equal to or less than 500 mU/mL;

(5) Immune Globulin Intravenous (Human) if he or she is diagnosed with HIV infection and is younger than 18 years of age; and

(6) Fluconazole if he or she has an established cryptococcal infection and for prophylaxis after diagnosis.

§98.106. *Priority.* The Texas HIV Medication Program will coordinate with the Texas Department of Health's Bureau of Chronically Ill and Disabled Children Services for the provision of HIV medication for all applicants under 18 years of age.

§98.107. *Application Process.* An application is made by the person by submitting completed financial eligibility and medical certification forms. Application documents must be mailed to the Division of Pharmacy, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. An application packet, containing instructions and all necessary forms may be requested by writing to the Division of Pharmacy at the previously cited address or by telephoning toll-free 1-800-255-1090.

§98.108. *Appeal Procedures.*

(a) This section establishes the appeal procedures that are available in the event of an eligibility or funding conflict in the Texas HIV Medication Program (program). To initiate the appeal process, a person must notify the Texas Department of

Health's (department) Division of Pharmacy that he/she wants to appeal a program decision concerning either eligibility or funding. The written notice must contain sufficient reasons for believing that an appeal is in order.

(b) A department review panel will hear the appeal. The panel consists of the Chief of the Bureau of HIV and STD Control, Director of the Pharmacy Division, and the HIV Medication Program Administrator. The appellants may appear in person to present their views. After hearing all testimony, the panel will issue a written decision which will be final.

§98.109. *Confidentiality.* No information that could identify an individual applicant will be released except as authorized by law. Applicants should realize that, in addition to the Texas Department of Health, their physicians and pharmacists will be aware of their diagnosis.

§98.110. *Payment for Approved Medication(s).* Payment will be made using specifications developed by the Texas Department of Health (department) and the General Services Commission. If a person is withdrawn from the Texas HIV Medication Program for any reason, the department will cease payment as of that date. The department will not pay for more than one month's issue of the medication(s) per month.

§98.111. *Participating Pharmacy.* The Texas HIV Medication Program will use approved pharmacies and will approve additional pharmacies if a hardship exists.

§98.112. *Prescription Fees.* A \$5.00 copayment may be collected by a participating pharmacy for each prescription in accordance with the existing contract with the Texas Department of Health.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203354

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: March 6, 1992

Expiration date: July 4, 1992

For further information, please call: (512) 458-7537

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 334. Underground and Aboveground Storage Tanks

Subchapter L. Overpayment Prevention

• 31 TAC §§334.501-334.506

The Texas Water Commission adopts on an emergency basis new §§334 501-334 506, concerning overpayment prevention in the petroleum storage tank reimbursement program.

These emergency sections create Subchapter L of 31 Texas Administrative Code, Chapter 334 relating to overpayment protection. The new sections are adopted to enhance the implementation of certain provisions of House Bill 1583 passed by the 71st Texas Legislature. That bill created the petroleum storage tank remediation fund for the purpose of cleaning up contamination from leaks of petroleum products and substances from underground or aboveground storage tanks. The amendments changed the process by which applications for reimbursement of clean up costs are processed by the Texas Water Commission.

House Bill 1588 allows owners of petroleum storage tanks to qualify under that bill to hire their own contractors for the purpose of cleaning up contamination from leaking storage tanks. After the contractor has performed the cleanup work and has been paid, the owner of the tank is eligible to submit an application for reimbursement of those cleanup costs to the commission. That application to date has been thoroughly reviewed to assure that the requested reimbursement does in fact reflect reasonable and allowable costs of cleanup only. To date the commission has attempted to make no payments until a thorough review of each application has occurred. In some cases the commission has allowed the eligible owner/operator to sign a subrogation agreement to facilitate faster reimbursement while providing a mechanism for cost recovery. The sections adopted herein change these procedures and provide commission rules whereby reimbursements may be made prior to a full examination of each application. In addition, a post-payment audit process is authorized by these sections. These sections would therefore allow agency staff to view applications for reimbursement before or after the payment is actually made.

In order to assure that inappropriate payments are not made, the agency has adopted a process of auditing payments after the payment has occurred to assure that costs which are reasonable and allowable are the only costs paid in the reimbursement. This change is coupled with another change that authorizes agency staff to recover overpayments to the contractors who do the work. Prior prac-

tice involved a relationship only between the agency and the owner of the tank. Because reimbursements are made after payment to the contractors has occurred, it is appropriate to look directly to the contractor for repayment of any reimbursement monies paid prior to full audit. In the event that an overpayment is made, an overpayment notice will be sent to the contractor and that contractor will have 30 days to submit a check to the agency in the amount of overpayment. If the contractor fails to submit that check within the 30 day time period, these sections provide that agency staff will file a petition with the commission seeking an order to compel payment. If, after hearing, an order is issued to compel payment and that order is not obeyed, then that order is enforceable by all authorities available in the Texas Water Code, Chapter 26. This includes the ability of the commissioners to levy a penalty of up to \$10,000 per day for each day of overdue payment. It also authorizes the commission to refer the matter to the Texas Attorney General for proper execution of a lawsuit. These sections also authorize agency staff to charge the cost of hearing to the contractor who has failed to return the overpayment if a hearing results in a finding by the commissioners that overpayment in fact did originally occur.

It should be pointed out that the agency is also preparing an additional subchapter of regulations which will require registration of petroleum storage tank remediation contractors and which will impose performance requirements for anyone who wishes to be registered as a contractor. At that point anyone who wishes to qualify for work eligible for reimbursement from the petroleum storage tank remediation fund will be required to have a registration. Once that program is in place, the agency will also use the remedy of suspension or revocation of contractor registrations to assure that overpayments are returned in a timely manner. The consequence of failing to return overpaid amounts will be the revocation or suspension of registration which will mean that the particular contractor would not qualify to do work for money paid from the petroleum storage tank remediation fund.

These sections also provide that contractors and owners of tanks must cooperate fully with agency staff whenever an audit or an investigation of potential overpayment is being conducted. Failure to cooperate with such an audit or investigation will also result in agency staff seeking an order from the commission to compel such cooperation. Again, if that order is not obeyed, it is subjected to the full enforcement authorizations provided by the Texas Water Code, Chapter 26.

These sections are adopted on an emergency basis because the agency has learned that owners of petroleum storage tanks are conducting their cleanups on a phased basis and seeking reimbursement after each phase. If the agency does not reimburse owners of tanks very quickly, the next phase of the cleanup cannot go forward. The consequence of this situation is that many petroleum contamination cleanups take extremely long to remediate, which makes it possible for the contamination to spread during the intervening period. This presents an unacceptable

situation for the environment and public health and safety.

Section 334 501 (relating to Purpose and Applicability of the Subchapter) lays out the purpose of these sections and establishes that the subchapter applies to all applications for reimbursement for monies in the petroleum storage tank remediation fund.

Section 334.502 (relating to Duty of Persons Paid by Recipients of Reimbursements Money from the Petroleum Storage Tank Remediation Fund) establishes that each person who is paid for money reimbursed to owners for petroleum storage tanks from the remediation fund have a duty to do good quality work and charge only a reasonable cost for that work, as defined in §334.309 of the commission rules. The basic thrust of this duty is that unnecessary work must not be undertaken and the work that is done that is necessary to remediate contamination, must be done at a fair cost in light of technical demands of the work involved and the going price in the area where the work is performed. This section also imposes a duty to cooperate with any audit or investigation the executive director may conduct regarding the quality of work performed or the reasonableness of costs charged.

Section 334 503 (relating to What Payment Means) makes clear that just because the executive director has sent a reimbursement check to the owner of a tank does not necessarily mean that all costs noted in the reimbursement application are considered allowable or reasonable. These sections allow for post-payment audits and it will be after that audit that decisions about allowable costs and reasonableness of cost and quality of work will be determined.

Section 334 504 (relating to Audits) makes clear that the executive director's staff shall conduct a sufficient number of audits of reimbursements claimed and payments made to assure achievement of the purposes of this subchapter and House Bill 1588. These audits may occur prior to or after claims for reimbursement have been made.

Section 334 505 (relating to Notice of Overpayment) makes clear that if an audit establishes that an overpayment has been made because unreasonable prices were charged or poor quality work was performed or costs which are not allowable were included in the reimbursement application, then the executive director's staff will issue a notice of overpayment. That notice of overpayment can go to the contractor who actually performed the work and was paid by the owner of the tank using reimbursement funds from the petroleum storage tank remediation fund. This section requires persons who receive that notice to return the amount of overpayment to the agency payable to the State of Texas—Petroleum Storage Tank Remediation Fund.

Section 334 506 (relating to Failure to Return Overpayment or Cooperate with an Audit or Investigation) makes clear that if someone who receives a notice of overpayment refuses or fails to return the overpaid amount within 30 days, then agency staff will seek an order from the commission compelling pay-

ment. It also indicates that if, upon hearing, the commission issues an order compelling the amount of overpayment, the person who had failed to submit the check may be charged with the cost of the hearing, including the cost of the hearing preparation. This section also makes clear that the commission may order a person to cooperate with an audit or investigation of a possible overpayment. This section also makes clear that once these orders are issued, if they are not obeyed, they may be enforced by the usual means in the Texas Water Code, Chapter 26. This includes possible penalty of up to \$10,000 per day for each day of non-payment or referral of the matter to the Attorney General for prosecution of a lawsuit.

The new sections are adopted on an emergency basis under House Bill 1588, which requires the TWC to establish a Groundwater Protection Program, and to implement a reimbursement program to responsible parties who clean-up sites on their own initiative; and §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

§334.501. Purpose and Applicability of this Subchapter.

(a) Purpose. The purpose of this subchapter is to establish procedures regarding the reimbursement of money expended from the petroleum storage tank remediation fund, to assure the most efficient use of the money available and to provide the most effective protection to the environment for the protection of public health and safety.

(b) Applicability. This subchapter applies to all applications for reimbursement from money in the petroleum storage tank remediation fund.

§334.502. Duty of Persons Paid by Recipients of Reimbursement Money from the Petroleum Storage Tank Remediation Fund.

(a) Each person who performs work at an underground storage tank or above-ground storage tank, who is paid by a person who anticipates being, or actually is,

reimbursed from the petroleum storage tank remediation fund, shall perform good quality work and charge only "reasonable cost" as defined in §334.309 of this title (relating to Reasonable Costs-Interim Period).

(b) Each person to whom the performance standard established by subsection (a) of this section applies shall cooperate fully with any audit or investigation by the executive director regarding the quality of work performed on the reasonableness of costs charged.

§334.503. What Payment Means.

(a) Payment by the executive director of a reimbursement claim means only that the claim is potentially subject to post-payment audit.

(b) By making payment of reimbursement claims to eligible owners or operators, the executive director makes no statement or admission that the payments are for necessary, reasonable or allowable costs, nor that the remedial action taken was not in excess of Texas Water Commission clean-up standards for effective protection of the environment, public health and safety.

§334.504. Audits. The executive director's staff shall conduct a sufficient number of audits of reimbursements claimed and payments made to assure achievements of the purposes of this chapter. Such audits may occur prior to or after claims for reimbursement have been paid. Such audits shall include at a minimum an investigation of the cost effectiveness and fiscal merits of the corrective action taken, and the technical merits of the corrective action taken.

§334.505. Notice of Overpayment.

(a) If the executive director conducts an audit or investigation and concludes that reimbursement of a claim was for an amount which exceeded the necessary, allowable or reasonable cost of corrective action a notice of overpayment may be delivered to the persons who were paid by the reimbursement recipient.

(b) Upon receipt of a notice of overpayment, the person who was paid by the reimbursement recipient shall submit a check returning the amount of overpayment.

(c) All checks rendered to return overpayments shall be made out to "The State of Texas-Petroleum Storage Tank Remediation Fund", and mailed to the Chief Fiscal Officer, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087 with the notation "LPST # _____, Application # _____, overpayment return."

§334.506. Failure to Return Overpayment or Cooperate with Audit or Investigation.

(a) If the overpayment has not been returned to the commission by the 30th calendar day after mailing of the notice of overpayment, excluding the date of mailing, the executive director shall file a petition seeking an order from the commission to compel payment.

(b) If, upon hearing, the commission issues an order compelling return of overpayment in any amount, the person found responsible for returning overpayment shall also be required to reimburse the commission for all hearing costs, including the costs of preparation.

(c) All commission orders issued pursuant to this subchapter shall be enforceable in the same manner as any order issued pursuant to the Texas Water Code, Chapter 26.

(d) The executive director may seek an order from the commission to compel cooperation with an audit or investigation at any time.

Issued in Austin, Texas, on March 6, 1992.

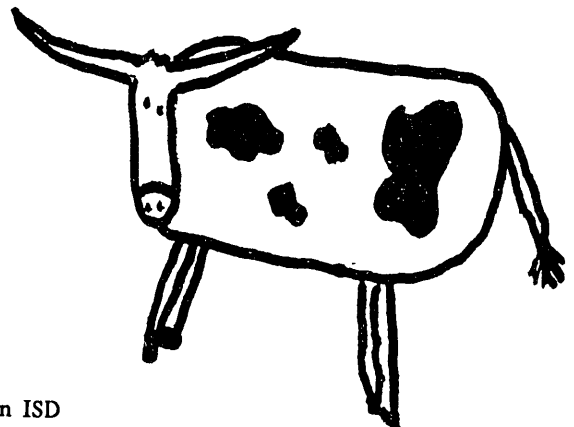
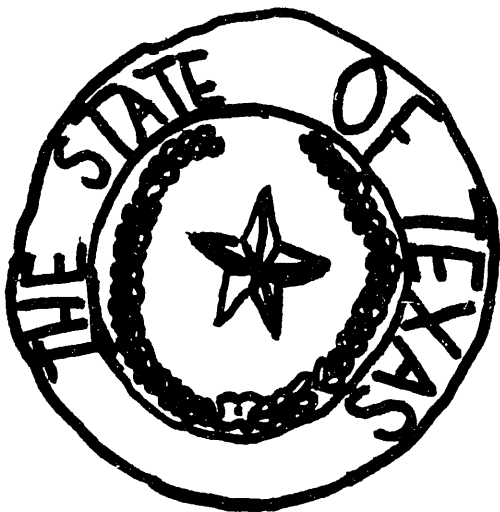
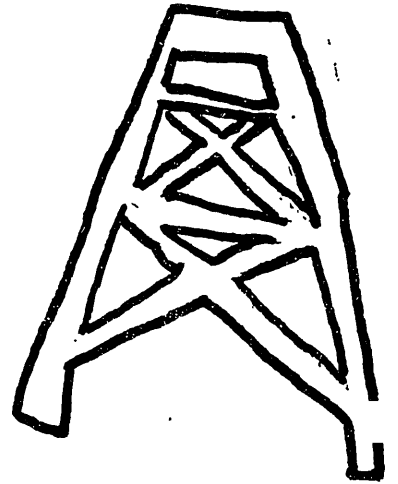
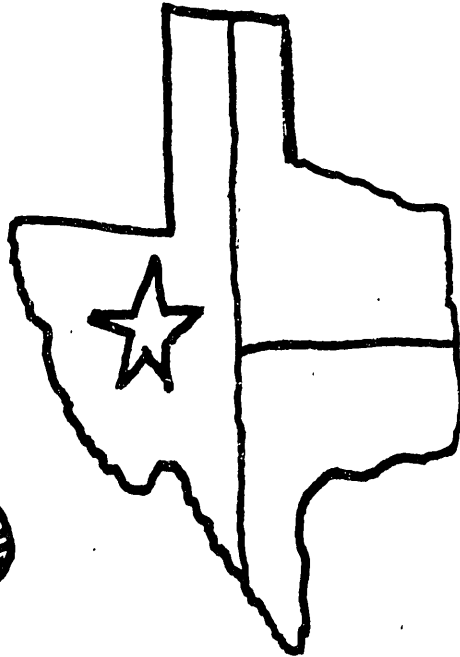
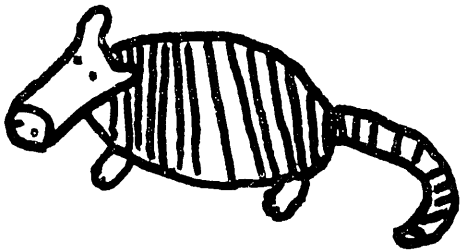
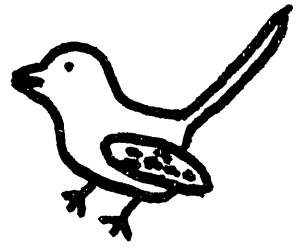
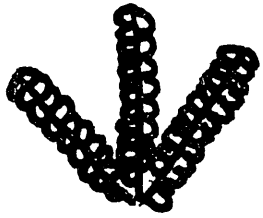
TRD-9203340 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: March 6, 1992

Expiration date: July 4, 1992

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





Name: Kristine Dunens
Grade: 4
School: Kuehnle Elementary, Klein ISD

Proposed Sections

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

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

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

Chapter 3. Criminal Justice Division

Subchapter A. Criminal Justice Administration of the Crime Victims Assistance

- 1 TAC §§3.603, 3.608, 3.609, 3.625

(Editor's Note: The Office of the Governor proposes for permanent adoption the amended sections it adopts on an emergency basis in this issue. The text of the amended sections is in the Emergency Rules section of this issue.)

The Criminal Justice Division (CJD) of the Office of the Governor proposes amendments to §§3.603, 3.608, 3.609, and 3.625, concerning the CJD's administration of the Crime Victims Assistance Program. The amendments are being adopted on an emergency basis to ensure that the applicants requesting funds under the Victims of Crime Act of 1984 (VOCA) have complete and accurate information concerning applicability, compliance, adoption by reference, funding limitation, review of grant applications, and financial and performance reports.

Mr. Tom Vickers, 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.

Mr. Vickers 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 assurance that applicants will be fully informed concerning the administrative policies and procedures and the special requirements for funding under the Crime Victims Assistance Program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Percy Symonette, Program Manager, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, for a period of 30 days following publication in this issue of the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4413(32a), §6(a)(11), which provide CJD of the Governor's Office with the authority to adopt rules, regulations, and procedures as may be necessary.

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 March 6, 1992.

TRD-9203347 David A. Talbot, Jr.
General Counsel
Office of the Governor

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 463-1788

TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter B. Individual Licenses

Specific Licensees

- 16 TAC §305.44

The Texas Racing Commission proposes an amendment to §305.44, concerning trainers. The amendment gives authority to the stewards or racing judges to require written testing for certain trainers if the trainers demonstrate an inability to adequately perform the duties of a trainer.

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 that the trainers participating in pari-mutuel racing are highly qualified. There will be no fiscal implications for small businesses resulting from the enforcement of the amendment. 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 April 24, 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 involving wagering and administering the Texas Racing Act and §7.02, which authorizes the commission to set qualifications and experience requirements for various categories of occupational licenses.

§305.44. Trainer.

(a) (No change.)

(b) A passing grade for the written examination is 75 on a scale of 100. An applicant who fails the examination may not take the examination again before the 60th day after the date the applicant failed the examination. The commission may waive the requirement of a written examination for a person who has a current license issued by another pari-mutuel racing jurisdiction. If a person for whom the examination requirement was waived demonstrates an inability to adequately perform the duties of a trainer, through excessive injuries, rulings, or other behavior, the stewards or racing judges may require the person to take the written examination. If such a person fails the examination, the stewards or racing judges shall suspend the person's license for 60 days.

(c)-(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 February 28, 1992.

TRD-9203327 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: April 13, 1992

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

Chapter 309. Operation of Racetracks

Subchapter A. General Provisions

Operations

• 16 TAC §309.53

The Texas Racing Commission proposes an amendment to §309.53, concerning records. The amendment specifies the deadline for licensed pari-mutuel racetracks and their concessionaires, managements companies, and totalisator companies to file annual financial statements with 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 that the financial condition of the major participants in pari-mutuel racing is monitored by the commission. The cost to small businesses resulting from the enforcement of the amendment will vary, on the size of the racetrack or business and the type of accounting systems used by the racetrack or business. The cost should range between \$2,000 and \$25,000 per audit. 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 April 24, 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 involving wagering and administering the Texas Racing Act and §6.13, which requires each racetrack to submit a detailed financial statement annually.

§309.53. Records.

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

(c) **Not later than April 30 of each year, an [The] association shall submit audited [annual] financial statements to the commission regarding the management and operation of the racetrack.**

(d) The association shall require each person with whom the association contracts to provide management, concession, or totalisator services to the racetrack:

(1) (No change.)

(2) **to submit, not later than April 30 of each year, audited [annual] financial statements to the commission regarding the person's operations at the racetrack.**

(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 February 28, 1992.

TRD-9203326

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: April 13, 1992

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

Chapter 321. Pari-mutuel Wagering

Subchapter C. Simulcast Wagering

The Texas Racing Commission proposes new §§321.201-321.208, 321.231-321.235, and 321.271-321.277, concerning simulcast wagering. The sections describe the purpose of the simulcast rules, the procedures for approving outgoing and incoming simulcasts and simulcasting contracts, the duties of a receiving location and sending racetrack, emergency procedures, fees for simulcasting at a horse racetrack, the requirements for negotiating with the horsemen's representatives, the procedure for allocating revenue to purses for horses, the procedure for allocating funds for Texas Bred Incentive programs for horses, the priority of signals at horse racetracks, and the procedures for forming, merging, and distributing common pools.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five year period the amendment is in effect, there will be no fiscal implications for local government as a result of enforcing or administering the amendment. There will be fiscal implications for state government, due to the increased revenue from pari-mutuel wagering generated by wagering on simulcast races. The revenue generated from the simulcasting fees is expected to be approximately \$150,000 for each of the first five years the sections are in effect. The exact amount of increased revenue to the state treasury from the state's share of pari-mutuel wagers on simulcast races cannot be determined at this time, because it will depend on the number of simulcast races offered by the various racetracks and the total amount of money wagered on simulcast races. However, the commission estimates that simulcasting will result in direct revenue to the general revenue fund of approximately \$480,000 in the first year after the sections take effect, and \$694,000 in each of the following years.

Ms. Carter also has determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the sections is the assurance that pari-mutuel wagering is being regu-

lated effectively while encouraging the live racing industry. There will be fiscal implications for small businesses, in the form of increased revenues to racetrack associations. The exact amount of increased revenue generated by wagering on simulcast races cannot be determined at this time, because it will depend on the number of simulcast races offered by the racetracks and the total amount of money wagered on the simulcast races. However, the commission estimates that a racetrack can anticipate an increase in revenues from pari-mutuel wagering of approximately 9.5% due to simulcast wagering. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted on or before April 24, 1992, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

General Provisions

• 16 TAC §§321.201-321.208

The amendments are proposed under Texas Civil Statutes, Article 179e, §11.011, which authorize the commission to adopt rules to license and regulate pari-mutuel wagering on simulcast races and §6.18 and §5.01, which authorize the commission to prescribe reasonable license fees.

§321.201. *Purpose.* The commission finds that, although wagering on simulcast races provides additional revenue for the state treasury, the primary advantage of wagering on simulcast races is the additional revenue it provides for purse supplements for live races conducted in this state. The commission further finds it is in the public interest to encourage live racing, which promotes economic development in a variety of racing-related industries. Therefore, it is the commission's intent to adopt and enforce rules relating to simulcast wagering in a manner that will encourage live racing and enhance the horse breeding, owning, and training industries and the greyhound breeding and training industries.

§321.202. *Simulcasting License.*

(a) A license to operate a pari-mutuel racetrack in this state held by an association that has been granted live race dates includes as a part of its privileges the privilege of conducting pari-mutuel wagering on simulcast races and to simulcast races conducted by the association. The conducting of pari-mutuel wagering on simulcast races and the simulcasting of races conducted by the association is subject to the approval of the commission.

(b) The approval of any particular simulcasting or wagering on particular simulcast races or programs is not binding on the commission for other requests for approval of simulcasting or wagering on simulcast races or programs.

§321.203. Approval of Simulcasts. An association that wishes to simulcast races conducted by the association shall submit all contracts relating to the simulcast for commission approval. The association may not simulcast a race until the commission has approved the contract relating to the simulcasting.

§321.204. Approval of Wagering on Simulcast Races.

(a) To receive approval of the commission for wagering on a simulcast race or program, an association must submit a proposal for simulcasting to the commission. Except as otherwise authorized by the commission, a proposal for simulcasting must be filed on or before September 1 of the year before the year for which the simulcasting is proposed.

(b) The proposal must:

(1) state the dates on which the association desires to conduct pari-mutuel wagering on simulcast races only, while conducting no live races (simulcast race meeting);

(2) describe the association's plan for conducting pari-mutuel wagering on simulcast races on live race dates (live date simulcasting), including the number of simulcast races per day;

(3) describe the association's plan for dedicating and distributing the revenue derived from the simulcast for purses at the association's racetrack and the impact the association's proposed simulcasting will have on the purses;

(4) describe how the association intends to allocate the revenue derived from the simulcast for purses and for breakage among the various breeds of race animals that participate in live racing at the association's racetrack; and

(5) state how the approval of the proposal will enhance the breeding, owning, and training industries for horses or greyhounds and encourage live racing.

(c) The association shall serve a copy of the proposal on every association licensed to conduct racing for the same species of race animal as the association. The executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the proposal.

(d) In considering whether or not to approve a simulcasting proposal for a racetrack, the commission shall consider:

(1) the financial stability of the association and the effect simulcasting will have on the economic viability of the association;

(2) the operating experience of the association;

(3) the regulatory compliance and conduct of the association;

(4) the impact of the association's proposed simulcasting on purses at the association's racetrack; and

(5) the public interest that will be served by the simulcasting.

(e) An association may not offer wagering on a simulcast race in place of a regularly scheduled live race, except as authorized by the commission.

§321.205. Simulcasting Contract.

(a) A contract executed by an association regarding simulcasting is subject to the approval of the commission. An association shall submit a contract regarding simulcasting to the commission as soon as possible after the contract is finally executed.

(b) A contract submitted under this section must contain provisions relating to:

(1) the dedication and distribution of the revenue derived from the simulcast for purses and breakage at the association's racetrack; and

(2) the allocation of the revenue derived from the simulcast for purses and for breakage among the various breeds of race animals participating in live racing at the association's racetrack.

§321.206. Duties of Receiving Location.

(a) An association that conducts pari-mutuel wagering on a simulcast race acts as a receiving location on those dates. The receiving location shall provide:

(1) communication facilities, which include all wire, radio, optical, satellite, or other electromagnetic systems and the modems, phone systems and other equipment used to transmit voice, data, and images enabling pari-mutuel data transmissions and data communications between the sending racetrack and the receiving location;

(2) a voice communication system between the receiving location and the sending racetrack providing timely voice contact between the stewards or racing judges and the mutuel departments at each racetrack; and

(3) if the receiving location plans to participate in common pools, a direct, private telephone line, a teletype or facsimile machine, and a cellular telephone in the mutuels area to transmit information to the sending racetrack in case of a system failure.

(b) Before the beginning of the transmission of the first performance of each day, the receiving location shall initiate a test program of its receiver, decoder, if applicable, and data communication to ensure proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the receiving system, the association may not conduct pari-mutuel wagering on a simulcast race until a successful test program is run.

(c) After each simulcast performance, the receiving location shall provide the reports of its pari-mutuel operations required by Subchapter A of this chapter (relating to Regulation and Totalisator Operations).

§321.207. Duties of Sending Racetrack.

(a) An association that simulcasts races conducted by the association acts as a sending racetrack on the dates the races are conducted and simulcast.

(b) A sending racetrack is responsible for the content of the simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of the performance, a periodic display of wagering information, and continuity of programming between racing events.

(c) The sending racetrack shall provide transmission equipment of acceptable broadcast quality that does not interfere with the closed circuit TV system of the receiving location. The sending racetrack must have the capability to transmit and receive wagering information via a dedicated data circuit. If the sending racetrack plans to form common pools, the racetrack shall provide a direct, private telephone line, a teletype or facsimile machine, and a cellular telephone in the mutuels area to receive information from the receiving locations in case of a system failure.

(d) Except as otherwise authorized by the commission, the simulcast shall be encrypted using a time displacement decoding algorithm encryption system or an equivalent encryption system approved by the commission.

(e) Unless otherwise permitted by the commission, a simulcast must contain in its video content:

(1) the date;

- (2) a digital display of the actual time of day at the sending racetrack;
- (3) the name of the sending racetrack;
- (4) the number of the race being displayed; and
- (5) any other relevant information available to patrons at the sending racetrack.

(f) Before the beginning of the transmission of the first performance of each day, the sending racetrack shall initiate a test program of its transmitter, encryption equipment, and data communication to ensure proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the sending system, the association may not transmit any races until a successful test program is run.

§321.208. Emergency Procedures.

(a) An association may not accept wagers on a simulcast race until the association is receiving both the audio and video signals from the sending racetrack.

(b) If the association loses audio or video signal from the sending racetrack, the association shall immediately notify the sending racetrack of the lost signal.

(c) If the audio or video signal is lost, the association shall establish telephone linkup with the sending racetrack's announcer and the association's public address system. The association may continue to accept wagers with the telephone linkup while attempting to reestablish the audio or video signal or until post time for the simulcast race.

(d) If both the audio and video signals are lost and the telephone linkup cannot be established, the association shall cease accepting wagers and immediately order a refund of all monies wagered into the pools for that 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 February 28, 1992

TRD-9203325 Paula Cochran Carter
General Counsel
Texas Racing Commission

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



Simulcasting at Horse Race-tracks

• 16 TAC §§321.231-321.235

The amendments are proposed under Texas Civil Statutes, Article 179e, §11. 011, which authorize the commission to adopt rules to license and regulate pari-mutuel wagering on simulcast races and §6.18 and §5 01, which authorize the commission to prescribe reasonable license fees.

§321.231. Simulcasting Fee. Not later than 10 business days before it first offers wagering on a simulcast race, a horse racing association shall pay an initial license fee of \$3,500. As a part of its annual fee, a horse racing association shall pay a daily charge for each date on which the horse racing association conducts wagering on a simulcast race. The daily charge required under this section is in addition to the daily charge for a live race date that may be required under §305.71 of this title (relating to Horse Racetrack Fees). Each daily charge is due and payable to the commission not later than 10 a.m. on the next banking day after each day the association conducts wagering on a simulcast race. The daily charge is:

- (1) \$100 for each live date simulcast; and
- (2) \$250 for each date in a simulcast race meeting.

§321.232. Negotiation With Horsemen.

(a) An association shall negotiate with the horsemen's organization representing a majority of the horsemen participating at a live race meeting regarding all live date simulcasting during that live race meeting. Except as otherwise provided by these rules, the association shall negotiate with the following organization regarding a simulcast race meeting:

- (1) the horsemen's organization representing a majority of the horsemen participating in the live race meetings during that calendar year; or
- (2) if the association conducts live race meetings exclusively for separate breeds of horses, each horsemen's organization representing horsemen participating in the live race meetings during that calendar year.

(b) If after a good faith effort the association and the appropriate organization cannot reach an agreement on simulcasting, either party may petition the commission to decide the issues in dispute. The decision of the commission is binding on all parties.

§321.233. Purses.

(a) For any intrastate simulcast signal, the percentage of the revenue from the simulcast race(s) dedicated to purses in this state shall be equal to or greater than the minimum percentage required by the Act, §6.08.

(b) For any interstate simulcast signal originating at a racetrack outside the state of Texas, an association shall provide that the percentage of the revenue from the simulcast race(s) dedicated to purses in this state shall be equal to or greater than the minimum percentage required by the Act, §6.08. unless a lesser amount is permitted by the officially recognized horsemen's organization in this state or by the commission. If the maximum net total takeout is reduced as a result of a common pool or the election by the association(s), the revenue for purses required under this subsection may be reduced by no more than on a pro-rata basis with that of the association's commission.

(c) The funds derived from a simulcast race for purses shall be distributed during the 12-month period immediately following the simulcast.

§321.234 Allocation of Breakage.

(a) The funds derived from a simulcast that are dedicated to the Texas Bred Incentive programs shall be allocated among the various breeds of animals in a manner that is agreed to by the official breed registries and the association.

(b) If after a good faith effort the association and the appropriate registries cannot reach an agreement on simulcasting, any party may petition the commission to decide the issues in dispute. The decision of the commission is binding on all parties.

§321.235 Priority of Signals.

(a) A Class 1 racetrack may offer wagering only on a race simulcast from another Class 1 Texas racetrack on dates when such a signal is made available pursuant to a contract between the sending track and receiving location and approved by the commission. If no such signal is available, a Class 1 racetrack may provide wagering on races originating from other racetracks in Texas or another jurisdiction, subject to the approval of the commission.

(b) A Class 2 racetrack may offer wagering only on a race simulcast from Class 1 Texas racetrack on dates when such a signal is made available pursuant to a contract between the sending track and receiving location and approved by the commission. If no such signal is available, a Class 2 racetrack may offer wagering only

on a race simulcast from another Texas racetrack on dates when such a signal is made available pursuant to a contract between the sending track and receiving location and approved by the commission. If no such signal is available, a Class 2 racetrack may provide wagering on races originating in another jurisdiction, subject to the approval of the commission.

(c) A Class 3 or 4 racetrack may not conduct a simulcast race meeting. A Class 3 or 4 racetrack may conduct wagering on simulcast races on dates when live racing is conducted at the racetrack only on races simulcast from a Class 1 Texas racetrack. If no such signal is available, a Class 3 or 4 racetrack may provide wagering on simulcast races originating at any racetrack in Texas or another jurisdiction, subject to the approval of 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.

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TRD-9203317 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

Common Pool Wagering

• 16 TAC §§321.271-321.277

The amendments are proposed under Texas Civil Statutes, Article 179e, §11.011, which authorize the commission to adopt rules to license and regulate pari-mutuel wagering on simulcast races and §6.18 and §5.01, which authorize the commission to prescribe reasonable license fees.

§321.271. General Provisions.

(a) With the prior approval of the commission, pari-mutuel pools offered by an association that is participating in a simulcast may be combined with corresponding wagering pools offered by the other racetracks participating in the simulcast to form a common pool. All corresponding pari-mutuel pools offered by two or more associations on an intrastate simulcast shall, where possible, be combined to form a common pool.

(b) A contract governing participation in a common pool must be submitted to the commission for approval. In determining whether to approve an interstate common pool that does not include the sending racetrack, the commission shall consider and may approve use of a type of wager which is not used at the sending racetrack

or other factors presented to the commission.

(d) All types of wagers that have been approved for the association may be offered, although types of pools which require more races than those included in the simulcast may not become part of the common pool.

(e) The content and format of the visual display of racing and wagering information at facilities in other racing jurisdictions in the interstate common pool need not be identical to the information required to be displayed under these rules.

§321.272. Formation of Common Pool.

(a) Wagering data shall be transmitted through a method authorized by this subsection, in the following order of preference:

- (1) via a dedicated data circuit;
- (2) via a dial back-up;
- (3) via telecopy or facsimile; or
- (4) by voice.

(b) Except as otherwise provided by this subsection, the odds and prices for a common pool shall be calculated in accordance with the laws and rules of the jurisdiction in which the sending racetrack is located. In determining the amount distributable to the wagerers, the total takeout required in the jurisdiction in which the sending racetrack is located shall be used. If the association desires, the association may use the net pool pricing method for determining the payoff prices.

(c) An association shall ensure that the necessary records are maintained regarding the amounts wagered at its racetrack for accounting, auditing, and reporting purposes.

§321.273. Distribution of Common Pool.

(a) A wager is made at the point of sale in the state where the wager is placed.

(b) The payoff attributable to the association shall be based on the actual winnings indicated by the totalisator wagering data.

(c) The total takeout applicable to the wagers received in this state for a common pool shall be distributed in accordance with the Act. A gain or loss caused by a difference in takeout totals shall be part of the association's revenue or expense from the interstate broadcast.

(d) A surcharge or other withholding other than the takeout authorized by law shall be applied only in the jurisdiction imposing the surcharge or withholding.

§321.274. Breakage. The ratio of an association's allocation of the breakage to the total breakage in an interstate common pool must be equal to the ratio of the dollars contributed to the common pool from the association to the total amount of the common pool.

§321.275. Report to Commission. An association participating in a common pool shall submit to the commission a report on the pool not later than the 10th day after the date of the performance for which the pool was formed. The report shall contain:

- (1) the total amount of the common pool;
- (2) the total amount of the common pool generated by wagers received in this state;
- (3) the total winnings for the common pool;
- (4) the total winnings attributable to wagers received in this state;
- (5) the total commission derived from the common pool; and
- (6) the total commission derived from the association's share of the common pool.

§321.276. Manual Merge.

(a) If the receiving location's computer system fails to adequately transmit wagering data to the sending racetrack, the sending racetrack may manually merge the pools if a manual merge will not endanger the pools at the sending racetrack.

(b) To merge the pools manually, the receiving location's pari-mutuel representative shall notify the sending racetrack via telecopy of the total amount in the pool, the total dollars on winning wagers, and the total dollars on the losing wagers in the pool. The stewards or racing judges at the sending racetrack and the presiding steward or racing judge at the receiving location shall be notified when the procedure is complete, for purposes of declaring the race official.

§321.277. Failure to Merge.

(a) Except as otherwise provided by this section, if for any reason it becomes impossible to successfully merge a receiving location's wagers in the common pool, the association shall make an announcement to the patrons explaining the circumstances and shall refund the monies that were not successfully merged into the common pool.

(b) A contract for common pools entered into by an association must contain a provision stating that the association is not liable for any measures taken which may

result in a receiving location's wagers not being accepted into a common pool formed by the association if for any reason:

(1) it becomes impossible to successfully merge the wagers placed in another state in the common pool formed by the association; or

(2) the commission's or association's representative determines that attempting to transfer pool data from the receiving location will endanger the association's wagering pool.

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 February 28, 1992

TRD-9203324 Paula Cochran Carter
General Counsel
Texas Racing Commission

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

◆ ◆ ◆
TITLE 19. EDUCATION
Part I. Texas Higher
Education Coordinating
Board

Chapter 5. Program
Development

Subchapter H. Approval of
Off-Campus and Out-of-
District Instruction for Pub-
lic Colleges and Universities

• **19 TAC §5.157**

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §5.157, concerning approval of out-of-state classes. This section is being repealed and rewritten. The new rules encourage institutions and students to develop and participate in educational opportunities that will increase skills in foreign languages, cultures, and business practices. The overall goal is to increase international competence and competitiveness of Texas citizens.

Bill Sanford, assistant commissioner for university and health affairs, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Sanford also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that Texas' professional work force will be potentially more competitive with foreign nations. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeal is proposed under the Texas Education Code, §61.051(j), which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding criteria and procedure for considering lower-division courses proposed off-campus by senior institutions and out-of-district by community junior colleges and technical institutes.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203210 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption, April 24, 1992

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

◆ ◆ ◆
The Texas Higher Education Coordinating Board proposes new §5.157, concerning approval of out-of-state classes. The new rules encourage institutions and students to develop and participate in educational opportunities that will increase skills in foreign languages, cultures, and business practices. The overall goal is to increase international competence and competitiveness of Texas citizens.

Bill Sanford, assistant commissioner for university and health affairs, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Sanford 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 Texas' professional work force will be potentially more competitive with foreign nations. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, §61.051(j), which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding criteria and procedures for considering lower-division courses proposed off-campus by senior institutions and out-of-district by community junior colleges and technical institutes.

§5.157. Approval of Out-of-State Classes.

(a) The Coordinating Board recognizes the importance of improved international and intercultural understanding for the educational development of Texas citizens and for the economic well being of the state. However, the board also recognizes the necessity to assure that state support is provided only for legitimate educational activities and not primarily for recreational or travel experience for students and faculty. Therefore, all state-funded out-of-state classes offered for credit by Texas public institutions of higher education must be approved by the commissioner of higher education by the following procedures in order for the semester credit hours or the contact hours to be used for formula calculation purposes. Thesis or dissertation classes are to be reported as on-campus classes. All self-supported courses for which no state funds are expended may be taught without prior approval by the commissioner.

(1) Application procedures. Each public institution wishing to obtain state funding for a credit course offered outside the State of Texas must submit to the commissioner an application for state funding which demonstrates that the course meets the criteria set forth in subsection (b) of this section. Application deadlines will be published annually by the commissioner, and will take into consideration the extraordinary lead time necessary for the planning and execution of out-of-state overseas courses.

(2) Review procedures. The commissioner or the commissioner's designee will review all applications for appropriateness of proposed courses as measured against the criteria set forth in subsection (b)(3) of this section. To assist in this process the commissioner will appoint a Peer Review and Resource Committee made up of three international education professionals from the state higher education community—one from a senior institution, one from a community college, and one at-large (selected at the discretion of the commissioner). The charge to the Peer Review and Resource Committee will include:

(A) to assist the commissioner in resolving questions of course quality or appropriateness as measured by published criteria; and

(B) to assist the commissioner in resolving appeals of initial negative decisions regarding course applications.

(3) Notification procedures. The commissioner or the commissioner's designee will, on a timely basis, notify each applicant of approval or denial of course applications, with written explanation of reasons for any denials.

(b) All state-funded out-of-state classes offered for credit by Texas public institutions of higher education must be approved by the commissioner of higher education by the following criteria in order for the semester credit hours or the contact hours to be used for formula calculation purposes.

(1) Criteria for students. All students enrolled must have met all institutional standards for admission and must have been actually admitted to the institution. All students enrolled must pay the appropriate tuition and fees for their residency category (e.g., resident, out-of-state, international) and for the total number of credit hours earned. Financial aid must be available to students registering in overseas courses on the same basis as it would be for such students seeking financial aid for on-campus instruction. Additional financial aid may be furnished by the institution as appropriate.

(2) Criteria for faculty. Instruction normally will be provided by regular faculty of the institution and will be supervised and evaluated according to appropriate institutional policies. Exceptions may be made to take advantage of uniquely qualified personnel at the overseas location if the institution provides for individual justification and approval by the appropriate faculty or institutional officials. Faculty and staff may not realize improper advantage or financial gain for teaching overseas courses.

(3) Criteria for courses. Individual course offerings are as follows.

(A) Courses offered at overseas locations must be regular courses of the institution and must be justified in terms of academic, cultural, or physical resources available at the specific location(s) of the course.

(B) Instruction in all authorized courses must conform to all relevant academic policies at the institution. All courses must conform to the institution's workload and enrollment requirements, its contact hour/credit ratio, and similar matters.

(C) Courses may not offer credit primarily for travel, recreation, or pleasure.

(D) Minimum class enrollments must conform to the same standards applicable were the course to be offered on-campus.

(4) Criteria for multi-course offerings. Multi-course offerings are as follows.

(A) A group of courses that are taught by an individual faculty member and that are offered in the same time period and in the same overseas location may be considered as an aggregate for authorization purposes.

(B) A multi-course aggregate may be approved provided that at least half the courses (making up at least half the credit hours) offered as part of the aggregate comply with paragraph (3)(A) of this subsection. All other criteria must be fully met by each course that is part of a multi-course aggregate.

(5) Criteria for repeat courses. A course that has been approved previously to be offered overseas may be approved simply on the basis of institutional certification that the course is the same course previously approved.

(6) Criteria for administration. The criteria for administration are as follows.

(A) Except for funds specifically appropriated for international activities (e.g., state incentive programs, scholarships, etc.) state funds may not be used for faculty or student travel, meals and lodging, or other incidental expenses associated with out-of-state instruction.

(B) Any free tickets for travel, accommodations, or other expenses provided by travel agents, carriers, or hotels must be used in direct support of the instructional program and may not be made as gifts to faculty or staff members or their families.

(C) Advertising or marketing for out-of-state courses should emphasize the instructional nature of the courses, and may not emphasize or create the impression that the courses are primarily credit-for-travel experiences.

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

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TRD-9203209

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

◆ ◆ ◆
Subchapter O. Offering of
Small Classes by Public Senior
Colleges and Universities

• 19 TAC §§5.301-5.304

(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 Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board proposes the repeal of §§5.301-5.304, concerning offering of small classes by public senior colleges and universities. This subchapter is being repealed and rewritten. In compliance with Article III, Rider 19, of House Bill Number 1, 72nd Legislature (First Called Session), the change eliminates all semester credit hours generated by organized small classes in computing formula funding. There will be minimal decrease in semester credit hours formula funded.

Roger Elliott, assistant commissioner for research and financial planning, 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.

Mr. Elliott also has 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 elimination of all semester credit hours generated by organized small classes in computing formula funding. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The repeals are proposed under Article III, Rider 19, House Bill 1, 72nd Legislature (First Called Session), which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding offering of small classes by public senior colleges and universities.

§5.301. General Provisions.

§5.302. Definitions.

§5.303. Justification Codes for the Offering of Small Classes.

§5.304. Consecutive Offerings of Small Classes.

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 March 3, 1992.

TRD-9203212 James McWhorter Assistant Commissioner for Administration Texas Higher Education Coordinating Board

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

• 19 TAC §§5.301-5.305

The Texas Higher Education Coordinating Board proposes new §§5.301-5.305, concerning offering of small classes by public senior colleges and universities. In compliance with Article III, Rider 19, of House Bill Number 1, 72nd Legislature (First Called Session), the change eliminates all semester credit hours generated by organized small classes in computing formula funding. There will be minimal decrease in semester credit hours formula funded.

Roger Elliott, assistant commissioner for research and financial planning, 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. Elliott 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 elimination of all semester credit hours generated by organized small classes in computing formula funding. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under Article III, Rider 19, House Bill 1, 72nd Legislature (First Called Session), which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding offering of small classes by public senior colleges and universities.

§5.301. General Provisions. In compliance with the Texas Education Code §51.403(d), the Coordinating Board sets forth the following guidelines for use by public senior colleges and universities for the offering of small classes.

(1) No small classes shall be offered in any institution except as authorized by the appropriate governing board within Coordinating Board guidelines.

(2) Each university may teach up to 1.0% of its total semester credit hours for the fall and spring semester in small classes without having to submit justification for such small classes.

(3) Any university generating above 1.0% of its total semester credit hours in small classes for a fall or spring semester must justify all small class hours to the Coordinating Board through its uniform reporting system small class report.

§5.302. Funding.

(a) In compliance with Article III, Rider 19 of House Bill Number 1, 72nd Legislature (First Called Session), the Coordinating Board will eliminate all semester credit hours generated by organized small classes when computing the number of semester credit hours to be used in the formula base period for the general academic institutions.

(b) The Coordinating Board will provide to the Governor's Budget and Planning Office and the Legislative Budget Board, for their use in recommending funding and in determining the inclusion or exclusion of small class hours in the base period, a report on small classes taught and such justifications as schools are required to submit.

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

Base period—The Summer, Fall, and Spring semesters immediately preceding the biennium to be funded (i.e., for the 1992-1993 biennium, the base period is Summer 1990, Fall 1990, and Spring 1991).

Individual instruction classes—Classes whose primary mode of instruction is practicum, independent study, private lesson, thesis, dissertation, or self-paced instruction.

Organized classes—Classes whose primary mode of instruction is lecture, laboratory, seminar, or group television instruction.

Small classes—Undergraduate level classes with less than 10 registrations, and graduate level classes with less than five registrations.

§5.304. Justification Codes for the Offering of Small Classes. Small classes which meet the requirements for any one of the codes listed following may be authorized to be taught as small classes by the institution's governing board:

(1) required course for graduation (the course is not offered each semester or term, and, if canceled, may affect the date of graduation of those enrolled;

(2) required course for majors in this field and should be completed this semester (or term) to keep proper sequence in courses;

(3) course in newly established degree program, concentration, or support area;

(4) interdepartmental (cross-listed) courses taught as a single class by the same faculty at the same station, provided that the combined courses do not constitute a small class;

(5) first-time offering of the course;

(6) class size limited by accreditation or state licensing standards;

(7) class size limited by availability of laboratory or clinical facilities; or

(8) voluntarily offered by a faculty member in excess of the institutional teaching load requirement and for which the faculty member receives no additional compensation.

§5.305. Consecutive Offerings of Small Classes. Consecutive offerings of small classes in two regular semesters covered by §5.304(1)-(3) of this title (relating to Justification Codes for the Offering of Small Classes) shall require an institutional review for the continuation of the course in the inventory of courses. Justification of the offering of such a course may be requested by the Coordinating Board staff.

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 March 3, 1992.

TRD-9203211 James McWhorter Assistant Commissioner for Administration Texas Higher Education Coordinating Board

Proposed date of adoption: April 24, 1992

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

Chapter 9. Public Junior Colleges

Subchapter I. Contractual Agreements

• 19 TAC §9.194

The Texas Higher Education Coordinating Board proposes an amendment to §9.194, concerning contract instruction. The amendment is necessary to clarify the existing rule as to what courses turned in for state funding are subject to the provisions of Chapter 9. The proposed change includes courses which are both turned in for state funding and delivered through contract with business and industry.

Dale Campbell, assistant commissioner for community and technical colleges, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Campbell 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 change will provide a clearer trail of auditable courses for the State Auditor's Office. A possible effect may be a change in the number of hours allowed for state funding under the current provisions of Chapter 9, Subchapter I. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §§61.027, 61.051, 61.061, and 130.001, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding contractual agreements.

§9.194. Contract Instruction.

(a) The Coordinating Board recognizes that in order to prepare a literate and trained workforce to be available for economic stability and development requires a true joint partnership between private and public sectors. Accordingly, the board encourages contractual agreements between postsecondary institutions, business and industry, municipalities, and other state agencies in order to forge a common partnership of joint planning, facilities, laboratories, delivery systems, and evaluation efforts. However, the board also recognizes the necessity to assure that state support is allowable only when there is a clear audit trail to demonstrate that the institution is only recovering the cost to provide instruction and that any excess revenue shall be returned to the state.

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

(5) A clear audit trail and documentation are provided to ensure that the aggregate revenue for the base [fiscal] year from contracted courses does not exceed the aggregate cost for the fiscal year as defined by paragraph (1) of this subsection. Any excess revenue shall be returned to the state.

(b) **This rule applies to adult vocational courses reported for state funding and delivered through contract instruction.** [Contracts in which the contractee is billed by the postsecondary institution for reimbursement of student tuition, fees, and books are exempt from the provisions of this section.]

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 March 3, 1992

TRD-9203214

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

Chapter 21. Student Services

Subchapter B. Determining Residence Status

• 19 TAC §21.34, §21.38

The Texas Higher Education Coordinating Board proposes amendments to §21.34 and §21.38, concerning determining residence status. The changes provide for more consistency in procedures used by institutions in determining student residency classifications. The amendments will provide for the development and use of a group of core questions, approved by the staff of the Coordinating Board and the State Auditor's Office, to identify students who should be allowed to pay resident tuition. Those not passing the screen of the core questions would be required to provide further evidence of their eligibility to pay the resident rate.

Mack Adams, assistant commissioner for student services, 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. It is anticipated that institutions, particularly junior colleges, will experience savings by the elimination of some of the documentation and record keeping required by current procedures. It is not anticipated that the number of students eligible to pay resident rates will change significantly.

Mr. Adams 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 students at institutions should find more consistency in the way they are classified for tuition purposes. Texas residents should face fewer hassles in proving their eligibility for resident tuition. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §54.053, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding determining residence status.

§21.34. *Student Responsibilities* When completing the oath of residency portion of an application for admission process, the student is responsible for registering under the proper residence classification and for providing documentation as required by the public institution of higher education. If there is any question as to right to classification as a resident of Texas it is the student's obligation, prior to or at the time of enrollment, to raise the question with the administrative officials of the institution in which enrolling for official determination. Students classified as Texas residents must affirm the correctness of that classification as a part of the admissions procedure. If the student's classification as a resident becomes inappropriate for any reason, it is the responsibility of the student to notify the proper administrative officials at the institution. Failure to notify the institution constitutes a violation of the oath of residency and will result in disciplinary action.

§21.38. *Responsibilities of the Public Institutions of Higher Education*

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

(c) Oath of residency. Each public institution is responsible for incorporating a **core of residency questions and an oath of residency** into its student application for admission process. The required core of questions will be developed by Coordinating Board staff with the assistance of an advisory committee. Answers to the questions should then be reviewed to determine the student's proper residency classification. If any of the answers raise questions as to the appropriateness of classification, the [Further, at minimum, each] institution must file and maintain a copy of one or more appropriately dated documents which will certify that the student classified as a resident has legal right to such classification as of the official census date of the semester or term for which enrolling. However, documents which can-

not legally or conveniently be reproduced should be observed by an official of the institution and pertinent information about the documents should be noted and signed by the observing official. Such notations should be maintained in the school's records for audit purposes. Documents acceptable for this purpose include, but are not limited to:

(1) Texas high school transcript for the full senior year immediately preceding the full semester enrolled;

(2) Texas college or university transcript (in conjunction with other documents from the institution);

(3) (No change.)

(4) permanent driver's license (at least one year old). The [Generally the] license expiration date minus date of enrollment should not exceed three years;

(5)-(6) (No change.)

(7) property tax payments for the year preceding enrollment;

(8) (No change.)

(9) utility bills for the year preceding enrollment;

[(10) other third party documentation;

[(11) a signed and dated application for admission with comprehensive questions regarding residence in Texas;]

(10) [(12)] a signed, dated, and notarized comprehensive residence questionnaire;

(11)[(13)] (for aliens) proof of permanent residence classification which is eligible for the establishment of a domicile in Texas; and

(12)[(14)] an income tax form or if [(if) current year federal tax form has not been filed) a signed, notarized statement regarding the student's independence or regarding the individual(s) who claims the student as a dependent;].

(13) A current credit report which documents the student's length and place of residence; and

(14) other third party documentation which confirms residency status for the 12-month period preceding enrollment.

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 March 3, 1992

TRD-9203219

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

◆ ◆ ◆
Subchapter C. Hinson-Hazlewood College Student Loan Program for all Loans Which Are Subject to the Provisions of the Guaranteed Student Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program

• **19 TAC §21.55**

The Texas Higher Education Coordinating Board proposes an amendment to §21.55, concerning the Hinson-Hazlewood College Student Loan Program Eligible Institution. The intent of this rule is to curtail further abuses of the federal Guaranteed Student Loan Program by unscrupulous school administrators. The rule will protect students who may borrow Hinson-Hazlewood College Student Loans from unscrupulous school administrators whose schools receive the proceeds from the student loans but fail to provide the promised schooling to the students

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

Mr Adams also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be better targeting of Hinson-Hazlewood college student loans to students who received the promised, good quality schooling. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711

The amendment is proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program.

§21.55. *Eligible Institution.*

(a) (No change.)

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of this section may be

eligible for a loan made from the fund under the governing provisions of the GSLP providing the postsecondary institution:

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

(3) is an institution which has its parent campus, within the State of Texas, whose parent campus has a default rate of less than 30% with no branch campuses in Texas having a default rate of 30% or greater, and which has no branch campuses outside of Texas having a default rate of 15% or greater;

(4)-(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 March 3, 1992

TRD-9203217

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption April 24, 1992

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

◆ ◆ ◆
• **19 TAC §21.56**

The Texas Higher Education Coordinating Board proposes an amendment to §21.56, concerning the Hinson-Hazlewood College Student Loan Program (Qualifications for Loans) This rule change is necessary because federal law regulating the Stafford Loans and Supplemental Loans for students, both of which are guaranteed student loans now require a favorable evaluation of credit reports. The effect of the change will cause the Hinson-Hazlewood Stafford and Supplemental Loan programs to be in compliance with federal law. Another effect will be to strengthen the program

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section

Mr. Adams 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 strengthening of the program. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the

Hinson-Hazlewood College Student Loan Program.

§21.45. Qualifications for Loans.

(a) Criteria. The commissioner may authorize, or cause to be authorized, Hinson-Hazlewood College student loans to students at any eligible institution which certifies that the applicant meets program qualifications if the applicant:

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

(8) in the case of **GSL**, **HEAL** or **HELP**, has received a favorable evaluation of credit reports by the board and, in the case of a **CAL**, has obtained a cosigner for whom the board has received a favorable evaluation of credit reports;

(9)-(13) (No change.)

(b) Criteria for students attending other institutions as defined in §21.55(b) of this title (relating to Eligible Institution). The commissioner may authorize, or cause to be authorized, **GSL**'s and **SLS**'s to students attending other [postsecondary] institutions, as set forth in subsection (a) of this section, provided the applicant meets all of the criteria in subsection (a) of this section, has a high school diploma or has received a certificate of high school equivalency for successfully completing the tests of general educational development (GED), and is unable to obtain a guaranteed student loan from a commercial lender. If the applicant is enrolled in a degree program approved by the board, evidence or inability to obtain a guaranteed student loan from a commercial lender is not required.

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 March 3, 1992.

TRD-9203218

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

**Subchapter L. Paul Douglas
Teacher Scholarship Program**

• 19 TAC §21.316

The Texas Higher Education Coordinating Board proposes an amendment to §21.316 concerning scholarship conditions. The changes made in these sections are necessary to comply with an interpretation of federal law and rules for the Paul Douglas Teacher Scholarship Program by the federal office responsible for the program. The federal office contends that the recipients of the

Paul Douglas Teacher Scholarship may not be limited to teaching in the state in which they received the Scholarship. Consequently, they may be certified to teach by any appropriate state certification agency, including the Texas State Board of Education. The effect of the changes will make the service obligation of the Paul Douglas Teacher Scholarship portable. A recipient of the federal funds through the Texas program may move to any state in the union to fulfill the service obligation required by the program.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Adams 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 as a result of this change, the public benefit is extended beyond the State of Texas. A few of the recipients of the Paul Douglas Teacher Scholarship may choose to teach in a state other than Texas. The United States benefits regardless of where the teacher teaches; Texas may lose a small number of the recipients who chose to teach in a sister state to fulfill the service obligation of the program. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding Scholarship Conditions.

§21.316. Scholarship Conditions. To receive a scholarship, a scholar shall enter into an agreement with the board under which he or she agrees to the following:

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

(3) pursue a course of study leading to certification at the pre-school, elementary or secondary level as determined by the appropriate state certification agency [Texas State Board of Education] but not including graduate study that is not required for initial teacher certification;

(4)-(5) (No change.)

(6) Maintain eligibility for this scholarship through the following:

(A) (No change.)

(B) pursue a course of study leading to certification at the pre-school, elementary, or secondary level as deter-

mined by the appropriate state certification agency [Texas State Board of Education] but not including graduate study that is not required for initial teacher certification; and

(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 March 3, 1992.

TRD-9203216

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

**Subchapter S. Vocational Nurs-
ing Student Scholarship Pro-
grams**

• 19 TAC §21.596, §21.600

The Texas Higher Education Coordinating Board proposes amendments to §21.596 and §21.600, concerning Vocational Nursing Student Scholarship Programs. After two years of operation of the Vocational Nursing Student Scholarship Programs, the Advisory Committee that oversees their operation has concluded that some of the funds provided by the surcharge on vocational nurse license fees should be awarded to outstanding needy students who are neither from a rural area nor of an ethnic minority. The amendments would create an additional scholarship program for which rural and minority students could qualify, but which would also be open to qualified students who are not from rural backgrounds and/or from a minority ethnic group.

Mack Adams, assistant commissioner for student services, 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. Adams also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections will be as follows. The state suffers from a shortage of vocational nurses. The new program will allow good vocational nursing students who are not eligible for previously existing scholarship programs because they are neither from rural communities nor from ethnic minorities, to receive financial assistance to meet college costs. 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 Kenneth H. Ashworth, Commissioner of

Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §61.656 which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Vocational Nursing Student Scholarship Programs.

§21.596. Scholarship Program Titles and Distinctions.

(a) Three [Two] scholarship programs for vocational nursing students are to be administered in accordance with this subchapter. Their titles are the **Scholarship Program for Vocational Nursing Students**, the **Scholarship Program for Ethnic Minorities in Vocational Nursing**, and the **Scholarship Program for Rural Vocational Nursing Students**.

(b) All three [Both] programs will be administered in keeping with this subchapter, except as outlined below.

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

§21.600. Certification and Disbursement Procedures.

(a) (No change.)

(b) Maximum awards. The maximum award for a student through any [either] of the programs is the lesser of:

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

(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 March 3, 1992.

TRD-9203215 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

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Subchapter AA. Texas-Mexico
Reciprocal Educational Ex-
change Program

• 19 TAC §§21.901-21.909

The Texas Higher Education Coordinating Board proposes amendments to §§21.901-21.909, concerning Texas-Mexico Reciprocal Educational Exchange Program. The amendments will bring the operations of the exchange student program more into alignment with the expectations of the bill's sponsor and participating institutions. The amendments will provide for the participation of faculty and staff as well as students in the

exchange program between institutions of higher education in Texas and in Mexico.

Mack Adams, assistant commissioner for Student Services, 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. Adams 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 changes should encourage exchanges between Texas public institutions of higher education and colleges in Mexico. It is anticipated that the exchange candidates from Mexico will often be staff or faculty members, while the participants from Texas are more likely to be undergraduate or graduate students. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §54.060, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules regarding the Texas-Mexico Reciprocal Educational Exchange Program.

§21.901. Purpose. The purpose of the **reciprocal educational exchange program** [student exchange program] is to encourage **students, faculty, and staff of participating institutions** [participating students] to better understand the culture, language, needs, and expectations of the United Mexican States and the State of Texas.

§21.902. Delegation of Powers and Duties. Texas Education Code, §54.060(c), provides that the Coordinating Board shall establish a program with the United Mexican States for the exchange of **students, faculty, and staff** between institutions of higher education.

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

Full-time enrollment—For undergraduates, [enrollment for] the equivalent of at least 12 semester credit hours per semester or as defined by the institution. For graduates, [enrollment for] the equivalent of at least nine semester credit hours per semester or as defined by the institution.

Receiving institution—The institution in which the student enrolls or studies [as an exchange student].

§21.905. Eligible Participants [Students]. A person [student] is eligible to participate in the exchange program if he/she:

(1) has been enrolled or has been employed as faculty or staff for one or more semesters at the originating institution;

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

(5) enrolls or studies on a full-time basis at the receiving institution.

§21.906. Tuition Rate to be Paid.

(a) If the reciprocal exchange program involved requires a tuition payment, participating Mexican students, faculty or staff, [participating in the exchange program] will be eligible to enroll at the receiving Texas institution by paying a tuition rate equal to the resident rate. Texas students, faculty or staff, participating in the exchange program must be allowed to pay a tuition rate no greater than the tuition rate normally charged Mexican nationals at the receiving Mexican institution.

(b) A participant [student] no longer participating in the exchange program, but continuing to enroll in the receiving institution will be expected to pay the rate charged other nonresident students beginning with the first enrollment period after the participant [student] discontinues his/her participation in the exchange program.

§21.908. Assurances. Each participating institution must maintain records in the appropriate office which would include:

(1) proof of each participant's [participating student's] eligibility; and

(2) (No change.)

§21.909. Reporting Requirements. By October 31 of each year each participating Texas institution shall provide a program report to the board on a form provided by the board. The report will include such things as the number of students, faculty or staff, who have participated in the exchange program, the names of the institutions in Mexico with which the exchanges have taken place, the programs of study, and any tuition or special classification code [and the programs of study in which the students enrolled].

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 March 3, 1992.

TRD-9203220

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

Chapter 25. Retirement Annuity Programs

Subchapter A. Retirement Annuity Programs

• 19 TAC §25.11

The Texas Higher Education Coordinating Board proposes new §25.11 concerning employee notification requirements. The new rules will ensure that all employees of public institutions of higher education in Texas who become eligible to elect the Optional Retirement Program (ORP) in lieu of the Teacher Retirement System (TRS) are provided uniform and unbiased background information on which to base their decision and to ensure that such employees are made aware that choosing ORP in lieu of TRS entails certain responsibilities for the participant, including selection and monitoring of vendors and investments. Institutions will be required to provide written introductory information on ORP (prepared by Coordinating Board staff) to all employees who become eligible to elect ORP in lieu of TRS.

James McWhorter, assistant commissioner for administration, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. McWhorter 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 institutional employees who become eligible to elect ORP in lieu of TRS will be provided sufficient basic information on the two programs to make an informed decision. 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 Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Government Code, §830.002(c) and §830.101 which provides the Texas Higher Education Coordinating Board with the authority to adopt the proposed rules regarding Retirement Annuity Programs.

§25.11. Employee Notification Requirements.

(a) To ensure that all employees who become eligible to select the Optional Retirement Program in lieu of the Teacher Retirement System are provided uniform and unbiased information on which to base their decision, each institution shall, on or before commencement of the 90-day period allotted for such a decision, provide, at a minimum, such employees with written introductory information on ORP provided by the Texas Higher Education Coordinating Board.

(b) On or before commencement of the 90-day period allotted for newly eligible employees to select the Optional Retirement Program in lieu of the Teacher Retirement System, each institution shall provide written notification to such employees that selection of ORP in lieu of TRS entails certain responsibilities for the employee, including selection and monitoring of vendors and investments. Each institution shall also provide written notification that the institution has no fiduciary responsibility for the market value of participants' investments or for the financial stability of the vendors chosen by the participants.

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 March 3, 1992.

TRD-9203213

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: April 24, 1992

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

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

• 22 TAC §463.6

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.6 concerning internship requirements of the Texas State Board of Examiners of Psychologists. To clarify that the board requires the two psychologists and two interns to be on staff full-time in order for the experience to be acceptable to the board.

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 govern-

ment as a result of enforcing or administering the section.

Ms. Tweedy also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to clarify the board's requirements for licensure so that potential applicants will place themselves in appropriate work settings to obtain experience that will be acceptable to the board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Patricia S. Bizzell Tweedy, M.P. A, 9101 Burnet Road, Suite 212, Austin, Texas 78758.

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

§463.6. Experience. Supervision may be obtained only in a full-time or half-time setting.

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

(11) For applications for licensure received after August 31, 1995, the one year of predoctoral experience must be an internship certified by the director of Internship Training and must be satisfied by either:

(A) (No change.)

(B) the successful completion of an organized internship meeting the following criteria.

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

(iii) The internship agency had two or more full-time psychologists on the staff as supervisors, at least one of whom was actively licensed as a psychologist by the State Board of Examiners in Psychology.

(iv)-(ix) (No change.)

(x) Full-time trainee had title such as "intern", "resident", "fellow", or other designation of trainee status.

(xi)-(xii) (No change.)

(xiii) The requirement that two full-time psychologists and two full-time interns be on staff, [Two psychologists on staff (see clause (iii) of this subparagraph) and two interns (see clause (x) of this subparagraph)] may be met by a consortium consisting of [formed by] two or more independent school districts.

(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 February 28, 1992.

TRD-9203129 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: April 13, 1992

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

Chapter 465. Rules of Practice

• 22 TAC §465.2

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.2, concerning release of patient or client information. To update board requirements concerning the release of patient or client information so that the rule reflects current requirements of the law. The 72nd Legislature repealed relevant law sections and transferred requirements to other code sections.

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. Tweedy also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to clarify that the board requires psychologists to comply with all state and federal laws requiring the psychologist to reveal patient/client information. 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 amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.2. Release of Patient or Client Information. A psychologist may not intentionally reveal information about a patient or client without written authorization by the patient, client, or guardian, or without a proper court order, or unless a state or federal statute requires it. A psychologist is bound by the provisions of all state and federal laws which require [Texas Civil

Statutes, Article 5561h, unless some other state or federal law requires] the psychologist to reveal information.

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 February 28, 1992.

TRD-9203128 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: April 13, 1992

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

• 22 TAC §465.30

The Texas State Board of Examiners of Psychologists proposes new §465.30, concerning marriage and family therapy, which psychologists are trained to do within their doctoral programs.

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. Tweedy also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to put the public on notice that psychologists are trained in marriage and family therapy within their doctoral programs. 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 amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.30. Marriage and Family Therapy. The practice of psychology includes but is not limited to marriage and family therapy.

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 February 28, 1992.

TRD-9203130 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: April 13, 1992

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

• 22 TAC §465.31

The Texas State Board of Examiners of Psychologists proposes new §465.31, concerning alcohol and substance abuse treatment which psychologists are trained to do within their doctoral programs.

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. Tweedy also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to put the public on notice that psychologists are trained in alcohol and substance abuse treatment within their doctoral programs. 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 Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this state, which are reasonable necessary for the proper performance of its duties and regulations of proceedings before it.

§465.31. Alcohol and Substance Abuse Treatment. The practice of psychology includes but is not limited to alcohol and substance abuse treatment.

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 February 28, 1992.

TRD-9203131 Patricia S. Bizzell Tweedy
Executive Director
Texas State Board of
Examiners of
Psychologists

Earliest possible date of adoption: April 13, 1992

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

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

Advertising and Soliciting

• 22 TAC §501.46

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes an amendment to §501.46, concerning form of practice. The amendment specifically allows certificate and registration holders to practice public accountancy through limited liability companies and limited liability partnerships.

William Treacy, 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.

Mr. Treacy 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 certificate and regulation holders will be able to practice through these entities. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to form of practice.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203199 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

Chapter 505. The Board

• 22 TAC §505.10

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption

the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes an amendment to §505.10, concerning board committees. The rule sets forth the responsibilities of the committees at the board.

William Treacy, 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.

Mr. Treacy 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 committee's responsibilities will be defined. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed 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 board committees.

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 March 5, 1992.

TRD-9203200 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

Chapter 513. Registration Registration of Partnerships

• 22 TAC §513.31

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes an amendment to §513.31, concerning registration of limited liability companies with the board. The rule clarifies the requirements for registering limited liability companies.

William Treacy, 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.

Mr. Treacy 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 limited liability companies registered with the Secretary of State's Office may register with the board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed 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 registration of limited liability companies with the board.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203202 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

• 22 TAC §513.32

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes new §513.32, concerning application for registration of a limited liability company. The rule details the requirements for filing an application for registration of a limited liability company.

William Treacy, 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.

Mr. Treacy 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 requirements for filing an application are clearly stated. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy

tancy with the authority to promulgate rules relating to application for registration of limited liability companies.

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 March 5, 1992.

TRD-9203203 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

• 22 TAC §513.33

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes new §513.33, concerning sections and statutory requirements that apply to limited liability companies. The rule states that limited liability partners and partnerships must follow the standards set for partners and partnerships.

William Treacy, 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.

Mr. Treacy 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 rules applying to limited liability partnerships are clarified. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed 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 sections and statutory requirements that apply to limited liability companies.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203204 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

• 22 TAC §513.34

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes new §513.34, concerning the name of limited liability companies. The rule will set forth the requirement for naming limited liability companies.

William Treacy, 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.

Mr. Treacy 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 requirements for naming these entities will be clarified. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed 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 names of limited liability companies.

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 March 5, 1992.

TRD-9203205 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

• 22 TAC §513.35

(Editor's Note: The Texas State Board of Public Accountancy proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The Texas State Board of Public Accountancy proposes new §513.35, concerning franchise tax status upon license application. The rule requires that applicants affirmatively certify that franchise tax payments are current.

William Treacy, 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.

Mr. Treacy 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 state's ability to collect franchise taxes will be enhanced. 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 J. Randel (Jerry) Hill, General Counsel, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41-a, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to certification of franchise tax status.

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 March 5, 1992.

TRD-9203206 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 450-7066

Part XXV. Structural Pest Control Board

Chapter 591. General Provisions

• 22 TAC §591.21

The Structural Pest Control Board proposes an amendment to §591.21, concerning definitions. The amendment will add definitions of personal contact and technician-apprentice for clarification of the regulations.

Benny M Mathis, Jr. 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.

Mr. Mathis 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 increased understanding among licensees of the meaning of the structural pest control regulations. 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 Roger B. Borgelt, 9101 Burnet Road, Suite 201, Austin, Texas 78758.

The amendment is proposed under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to establish standards for testing, licensing, and regulating persons engaged in the structural pest control business.

§593.1. Definitions of Terms. In addition to the definitions set out in the Structural Pest Control Act, §2, the following words, names and terms shall have the following meanings, unless the context clearly indicates otherwise.

Technician-apprentice—A person in training to become a technician who has completed classroom and on-the-job training but has not yet passed the technician examinations. A technician-apprentice license is a temporary license good for only six months in any twelve month period.

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 March 5, 1992.

TRD-92033154 Benny M. Mathis, Jr.
Executive Director
Structural Pest Control
Board

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 835-4066

Chapter 593. Licenses

• 22 TAC §§593.1, 593.3, 593.7, 593.13, 593.23, 593.24

The Structural Pest Control Board proposes amendments to §§593.1, 593.3, 593.7, 593.23, and 593.24 and new §593.13, concerning licenses. The amendments are proposed to clarify who must obtain a license. The amendments create an inactive status for certified applicators, a hardship clause for continuing education units, and an exemption for non-profit organizations from continuing education fees. The new proposed section creates a training program for the certified noncommercial applicator license.

Benny M. Mathis, Jr., executive director, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state and local 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 increase in revenue of \$8,100 for fiscal year (fy) 1992 and \$5,400 for fys 1993-1996. The effect on local government for the first five-year period the sections are in effect will be an estimated additional cost of \$3,600 for fy 1992 and \$2,700 for fys 1993-1996.

Mr. Mathis 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 clearer understanding of the licensing requirements, reduced economic burdens on non-profit organizations and inactive licensees, and a specific training requirement for certified non-commercial applicators. The effect on small and large businesses will be \$18 per employee. The anticipated economic cost to persons who are required to comply with the section as proposed will be for certified noncommercial apprentice license—\$18 for fys 1992-1996.

Comments on the proposal may be submitted to Roger B. Borgelt, 9101 Burnet Road, Suite 201, Austin, Texas 78758.

The amendments and new section are proposed under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to establish standards for testing, licensing, and regulating persons engaged in the structural pest control business.

§593.1. Persons Required to Secure License.

(a)-(d) (No change.)

(e) Technician-apprentice. Individuals who perform pest control services under the direct supervision of a certified commercial applicator must obtain a technician apprentice license prior to obtaining a technician license.

§593.3. Insurance Requirements.

(a) Each business license applicant and certified noncommercial applicator license applicant must submit with the application an insurance policy or certificate of coverage in the amount of not less than \$200,000 for bodily injury and property damage coverage with a minimum total annual aggregate of \$300,000 for all occurrences insuring him against liability for damage to persons or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under his care, custody, or control. No new business license or certified noncommercial applicator license will be issued until insurance requirements are met. Policies shall contain a cancellation provision whereby notification of cancellation is received by the board not less than 30 days prior to cancellation. Certified noncommercial applicators employed by governmental entities are exempt from this provision. **Certified applicators who are not actively engaged in the business of structural pest control and do not perform structural pest control work as a part of the duties of their employment are exempt from this provision.**

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

§593.7. Fees. Applicants and licensees will be charged the following fees for board services:

(1)-(9) (No change.)

(10) **\$18 for a certified non-commercial applicator apprentice license** [\$7.50 for a technician training manual].

§593.13. Noncommercial Apprenticeship.

(a) certified noncommercial applicator apprentice shall work under the direct on-site supervision of a certified noncommercial applicator for a period of up to six months. The apprentice may not apply restricted-use or state limited-use pesticides. The name, home address, social security number, driver's license number, and birthdate of all certified noncommercial applicator apprentices shall be supplied on the date of employment. A fee of \$18 per certified noncommercial applicator apprentice shall accompany this notification.

(b) A certified noncommercial applicator apprentice license will be issued when notification is received. The license is good for a maximum of six months and requires direct on-site supervision of all applications made by a certified noncommercial applicator. The apprentice should complete the certified noncommercial training course and take the examination during this period. The apprentice license is nonrenewable and may be held for only six months out of any 12-month period.

§593.23. Continuing Education Requirements for Certified Applicators.

(a) (No change.)

(b) Each certified applicator is required to gain a certain number of continuing education points during a three-year recertification period, beginning January 1, 1990, and for each three-year period thereafter. Applicators who are certified and licensed after January 1, 1990, will be permitted to obtain a prorated number of points for each year remaining in the existing three-year recertification period. **Upon written request, the board or the executive director may grant a hardship to a certified applicator due to extenuating circumstances. The length of the hardship is at the discretion of the board or the executive director.**

(c)-(m) (No change.)

§593.24. Criteria and Evaluation of Continuing Education.

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

(d) Each continuing education program submitted for approval will be accompanied by:

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

(4) a nonrefundable annual fee of \$60 for consideration of the course for approval and monitoring for the calendar year. **Non-profit organizations are exempt from this fee if the course is presented as a part of the legally mandated function of the organization.**

(e)-(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 March 5, 1992.

TRD-9203311 Benny M. Mathis, Jr.
Executive Director
Structural Pest Control Board

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 835-4066



Chapter 595. Compliance and Enforcement

• 22 TAC §595.6, §595.8

The Structural Pest Control Board proposes amendments to §595.6, and §595.8, concerning pest control signs. The amendment clarify when space is to be considered vacant, unused, and unoccupied. They also allow for the use of advertising and logos on the signs.

Benny M. Mathis, Jr. 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.

Mr. Mathis 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 better enforcement due to the availability of advertising through compliance. Also, the absence notifications on vacant property will increase economic efficiency. 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 Roger B. Borgelt, 9101 Burnet Road, Suite 201, Austin, Texas 78758.

The amendments are proposed under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to establish standards for testing, licensing, and regulating persons engaged in the structural pest control business.

§595.6. Pest Control Sign.

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

(f) A person may not be considered in violation of this section if the space to be treated is vacant, unused, and unoccupied at the time of treatment [for at least 48 hours following treatment].

(g) Each pest control sign must be at least 8 and 1/2 inches by 11 inches in size and must contain the following information with the first line in a minimum of 24-point type (1/4 inch) and all remaining lines in a minimum of 12-point type (1/8 inch). **The addition of advertising and logos to the Notice of Pest Control Treatment is permissible to the extent that such advertising does not interfere with the purpose of public notification of a pest control treatment.** A standard sign in Spanish is available from the board upon request. The sign should appear in the following format:

NOTICE OF PEST CONTROL TREATMENT

Date(s) of planned treatment _____

For more information call or contact:

"Phone number of hotline for pesticide information"

A Consumer Information Sheet may be obtained from the management.

Pest Control applicators are licensed by the Texas

Structural Pest Control Board, 9101 Burnet Road,

Suite 201, Austin, Texas 78758, (512)835-4066.

(h)-(j) (No Change.)

§595.8. Responsibilities of Unlicensed Persons for Posting and Notification.

(a)-(d) (No change.)

(e) A person may not be considered in violation of this section if a pest control sign is removed by an unauthorized person or if the space to be treated is vacant, unused, and unoccupied at the time of treatment [for at least 48 hours after treatment].

(f) (No change.)

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203314 Benny M. Mathis, Jr.
Executive Director
Structural Pest Control Board

Earliest possible date of adoption: April 13, 1992

For further information, please call: (512) 835-4066

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**Part XXX. Texas State
Board of Examiners of
Professional Counselors**
**Chapter 681. Professional
Counselors**

The Texas State Board of Examiners of Professional Counselors, with approval of the Texas Board of Health, proposes amendments to existing §681.21, §681.33, §681.36, §681.40, §681.52, §681.53, §681.64, §681.65, §681.82, §681.83, §681.93, §681.122, §681.127, §681.174, §681.178, §681.192, §681.196, §681.212, §681.213, §681.215, §681.216, §681.220, and new §§681.42, 681.128, and 681.197. Section 681.21 covers fees; §681.33 covers relationships with clients; §681.36 covers confidentiality; §681.40 covers advertising and announcements; §681.42 covers finding of non-fitness for licensure subsequent to issuance of license; §681.52 covers general application procedures; §681.53 covers required application materials; §681.64 covers academic requirements; §681.65 covers academic course content; §681.82 covers experience requirements (internship); §681.83 covers supervisor requirements; §681.93 covers applying for examination; §681.122 covers general rules concerning license and specialty renewal and active status; §681.127 covers inactive status; §681.128 covers active military duty; §681.174 covers types of acceptable continuing education; §681.178 covers reporting of continuing education; §681.192 covers denial, revocation, or suspension of licensure; §681.196 covers licensing of persons with criminal backgrounds; §681.197 covers suspension, revocation, or denial; §681.212 covers definitions related to formal hearings; §681.213 covers general rules concerning formal hearings; §681.215 covers parties to the hearing; §681.216 covers subpoenas; and §681.220 covers action after the hearing.

The amendments and new sections establish the following: renewal card replacement and application material fees; bring rules prohibiting remuneration for referrals into line with new state laws; clarify advertising and announcements of services as it applies to degrees from foreign universities; provide for revocation or suspension based on information received concerning an applicant after issuance of the license; change suspense dates concerning applications from "received by" to "postmarked"; further define allowable categories for required references; provide that applicants (interns) comply with the code of ethics while obtaining supervised experience; extend the date by which supervisors must have obtained supervisory training and be on a list of approved supervisors by one year; clarify notification procedures for persons approved to sit for the examinations; establish deadlines for renewals, late renew-

als, and penalties as postmark dates; authorize renewal denials for persons in default on guaranteed student loans; clarify the fact that teaching or consultation to meet continuing education requirements must be at the graduate level; establish criteria for accepting continuing education approved by colleges or universities and board approved sponsors; require documentation of hours for continuing education credit based on auditing of graduate level courses; define delivery procedures for notification of proposed denial, revocation, or suspensions; amend the listing of felonies and misdemeanors that must be considered when licensing persons with criminal backgrounds; outline renewal procedures in cases of suspension, revocation, or denial of licensure; establish that failure to appear or be represented at a hearing results in waiver to the right to a hearing; define parties to a hearing; outline procedures relative to subpoenas; further define the board's authority concerning final orders or decisions following the hearing; and make other minor administrative changes.

Stephen Seale, chief accountant III, Budget Office, Texas Department of Health, 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 proposed section governing renewal card replacement and application material fees. Renewal card replacement fees will increase program revenue for the board by approximately \$2,080 per year beginning in July of 1992, or approximately \$10,400 over a five-year period. Application material fees will increase program revenue for the board by approximately \$19,500 per year beginning in July of 1992, or approximately \$97,500 over a five-year period. There will be no other cost to state government and no fiscal implications to local government as a result of enforcing or administering the sections as proposed.

Mr. Seale 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 safeguarding of the public health, safety, and welfare by updating and clarifying the procedures and policies concerning the licensing and regulation of professional counselors. There is no anticipated economic cost to small or large businesses to comply with the sections as proposed, and no effect on local employment. The economic cost to a person requesting application materials will be \$5.00, and for a person who requests replacement of lost renewal cards, \$10.

Comments on the proposed amendments may be submitted to Don F. Rettberg, Executive Secretary, Texas State Board of Examiners of Professional Counselors, 1100 West 49th Street, Austin, Texas 78756-3183. Comments will be accepted for 30 days following the date of publication of this proposal in the *Texas Register* (telephone (512) 834-6628).

Subchapter A. The Board

• 22 TAC §681.21

The amendment is proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval

of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendment will affect Texas Civil Statutes, Article 4512g.

§681.21. Fees.

(a) (No change.)

(b) Effective July 1, 1992 [September 1, 1991], the schedule of fees shall be as follows:

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

(12) license certificate or renewal card duplication or replacement fee--\$10; [and]

(13) returned check fee--\$15; and

(14) application materials fee--\$5.00.

(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.

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Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
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For further information, please call: (512) 834-6628

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**Subchapter B. The Practice of
Counseling**

• 22 TAC §§681.33, 681.36, 681.40, 681.42

The amendments and new section are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments and new section will affect Texas Civil Statutes, Article 4512g.

§681.33. Relationships with Clients.

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

(d) A counselor shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage. The provisions of the Health and Safety Code, §161.091 relating to the prohibition of illegal remuneration apply to counselors. [No

commission or rebate or any other form of remuneration shall be given or received by a counselor for the referral of clients for professional services.]

(e)-(n) (No change.)

§681.36. Confidentiality.

(a) Communication between a counselor and client and the client's records are confidential under the provisions of the **Health and Safety Code, Chapter 611** [Texas Civil Statutes, Article 5561h] and other state statutes or rules where such statutes or rules apply to a counselor's practice.

(b) A counselor shall not disclose any communication or record of a client except as provided in the **Health and Safety Code, Chapter 611** [Texas Civil Statutes, Article 5561h] or other state statutes or rules.

§681.40. Advertising and Announcements.

(a) Information used by a counselor in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, incomplete, out of context, or deceptive. Only the highest academic degree earned from an accredited college or university and relevant to the profession of counseling or a counseling-related field shall be used when advertising or announcing counseling services to the public or in counseling-related professional representations. A degree received at a foreign university may be used if the degree could be accepted as a transfer degree by accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers. A counselor may advertise or announce his or her other degrees from accredited colleges or universities if the subject of the degree is specified.

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

§681.42. Finding of Non-Fitness for Licensure Subsequent to Issuance of License. The board may revoke or suspend a license based upon information received after issuance of the license, if such information had been received prior to issuance of the license and would have been the basis for denial of licensure under §681.164 of this title (relating to Finding of Non-Fitness 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.

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Subchapter C. Application Procedures

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• **22 TAC §681.52, §681.53**

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments will affect Texas Civil Statutes, Article 4512g.

§681.52. General.

(a) (No change.)

(b) The board will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form and, effective July 1, 1992, both the application and fee must be **postmarked** [received] at least 60 days prior to the date the applicant wishes to take the examination. Prior to July 1, 1992, both the application and fee must be received at least 60 days prior to the date the applicant wishes to take the examination.

(c) **Submission of** [The board must receive] all required application materials must be **postmarked** at least 30 days prior to the date the applicant wishes to take the examination.

(d) (No change.)

§681.53. Required Application Materials.

(a)-(d) (No change.)

(e) **References.** An applicant must have board reference forms submitted by three persons who can attest to the applicant's counseling skills and professional standards of practice.

(1) (No change.)

(2) References must include at least one **licensed professional counselor** [instructor and one licensed or certified professional in a counseling related profession]. All references must be from persons **licensed or certified** in the counseling profession or appropriately related professions.

(f) (No change.)

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

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Subchapter D. Academic Requirements for Examination and Licensure

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• **22 TAC §681.64, §681.65**

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments will affect Texas Civil Statutes, Article 4512g.

§681.64. Academic Requirements.

(a) Persons applying for examinations and licensure must have:

(1) a graduate degree on at least the master's level **which must be awarded before the application can be approved or the examination can be taken;** and

(2) (No change.)

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

§681.65. Academic Course Content.

(a) An applicant must have as part of the required graduate degree, planned graduate program in counseling, or the substantial equivalent course work in each of the following specific areas:

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

(6) group dynamics, theories, techniques-any course dealing with the theory and types of [or] groups, including dynamics and the methods of practice with groups;

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

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

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**Subchapter E. Experience Re-
quirements for Examination
and Licensure**

• **22 TAC §681.82, §681.83**

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments will affect Texas Civil Statutes, Article 4512g.

§681.82. Experience Requirements (Internship).

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

(d) A person who commences the supervised experience required for licensure shall comply with Subchapter B of this chapter (relating to The Practice of Counseling), in the same manner as is required of a licensed counselor.

§681.83. Supervisor Requirements.

(a) (No change.)

(b) A supervisor under subsection (a)(1) or (2) of this section must have met the following requirements.

(1) (No change.)

(2) A person who begins the supervision of a counseling intern on or after January 1, 1995 [1993], in addition to the requirements stated in paragraph (1) of this subsection, must have completed 40 clock hours of training in the supervision of counseling services through an accredited graduate course, training program, or clinical supervision provided by a person who meets the requirements of this section.

(3) Evidence of a supervisor meeting the requirements of this section may be submitted with a supervision contract or with the board's approved supervised experience documentation form. After **July 1, 1996** [September 1, 1994], supervisors must apply for supervisory approval and be listed on the roster of supervisors prepared by the board. Credentials must be submitted with the roster application form.

(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.

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**Subchapter F. Licensure Exam-
inations**

• **22 TAC §681.93**

The amendment is proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendment will affect Texas Civil Statutes, Article 4512g.

§681.93. Applying for Examination.

(a) A person must apply for examination in accordance with §681.52 of this title (relating to General) and §681.53 of this title (relating to Required Application Materials). The board shall notify an applicant whose application has been approved **in writing or by telephone** [or disapproved] and forward an examination registration form to each approved applicant as soon as the application has been approved.

(b) An applicant who wishes to take a scheduled examination must complete an examination registration form and return it to the board with the required fee **with a postmark of at least 15 days prior to the date of the examination. In cases where the date of approval of an application necessitates that the applicant be notified by telephone, the applicant must forward the required fee with a postmark of at least 15 days prior to the date of the examination; however, the registration form can be submitted following the 15-day deadline.**

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

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**Subchapter H. License and
Specialty Renewal and Inac-
tive Status**

• **22 TAC §§681.122, 681.127,
681.128**

The amendments and new section are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments and new section will affect Texas Civil Statutes, Article 4512g.

§681.122. General.

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

(g) **The deadlines established for renewals, late renewals, and licensure renewal penalty fees in this subchapter are based on the postmarked date of the documentation submitted by the counselor.**

(h) **The board shall deny renewal if required by the Education Code, §57.491, relating to defaults on guaranteed student loans.**

§681.127. Inactive Status.

(a) (No change.)

[(b) If a licensee fails to renew his or her license on or after August 1, 1990, because the licensee is called to or on active duty with the armed forces of the United States serving outside of the State of Texas, the licensee or the licensee's authorized representative may request that the license be declared inactive or be renewed. A request for inactive status shall be made in writing to the board prior to expiration of the license or within one year from the expiration date. This subsection is an exception to the requirement in subsection (a) of this section that the request be made prior to expiration of the license. A request for renewal may be made before or after the expiration date.

[(1) If the request is made by the licensee's authorized representative, the request must include a copy of the appropriate power of attorney or written evidence of a spousal relationship.

[(2) The written request shall include a copy of the official transfer orders of the licensee or other official military documentation showing that the licensee is called to or on active duty serving outside of the State of Texas.

[(3) The payment of the inactive status fee, late renewal fee, and licensure renewal penalty fee, is waived for a licensee under this subsection.

[(4) An active duty licensee shall be allowed to renew under this subsection without submitting proof of continuing education hours if proof is required for renewal; however, the licensee must submit proof of completion of the required number of continuing education hours by the end of the following time period. The time period shall start on the actual date of renewal of the license and be equal to the length of time the licensee was on active duty serving outside the State of Texas during the three-year continuing education period or following expiration of the license. If the licensee fails to submit proof of completion of the required continuing education by the end of the time period, the board may suspend or revoke or deny renewal of the license.

[(5) The written request shall include a current address and telephone number for the licensee or the licensee's authorized representative.

[(6) The board may periodically notify the licensee or the licensee's authorized representative that the license of the licensee remains in inactive status, if applicable.

[(7) Except in extraordinary circumstances, a licensee on active duty serving outside the State of Texas shall notify the board that the licensee is on active duty. The board shall note in the licensee's file that the licensee may be eligible for renewal under this subsection.

[(8) If a licensee is a civilian impacted or displaced for business purposes outside of the State of Texas due to a national emergency or war, the licensee or the licensee's authorized representative may request that the license be declared inactive in the same manner as described in this subsection for military personnel. The written request shall include an explanation of how the licensee is impacted or displaced, which explanation shall be on the official letterhead of the licensee's business. The requirements of this subsection relating to renewal by active duty licensees shall not apply to a civilian under this paragraph.]

(b)[(c)] An inactive status period shall begin on the first day of the month following board approval and payment of an inactive status fee.

(c)[(d)] All privileges, fees, and continuing education requirements are not applicable during the period of inactive status. A person may not act as a counselor or represent himself or herself as a counselor during the period of inactive status.

(d)[(e)] Continuing education credit cannot be earned while on inactive status.

(e)[(f)] A person is subject to investigation and action under Subchapter L of this chapter (relating to Complaints and Violations) during the period of inactive status.

(f)[(g)] A counselor may return to active status by written request to, and approval by, the board. Active status shall begin on the first day of the month following board approval and payment of a license fee. The license fee shall be prorated to the next renewal date in accordance with §681.123 of this title (relating to Staggered Renewals).

(g)[(h)] If continuing education requirements have not been met prior to the time that a counselor goes on inactive status, upon return to active status the hours that were remaining to complete the three-year continuing education requirement described in §681.172 of this title (relating to Deadlines) must be completed in a time period equal to the time that was remaining in the counselor's three-year cycle at the time that the counselor went into inactive status. Section 681.180 of this title (relating to Failure to Complete Required Continuing Education) will be applicable at the end of this additional time period.

(h)[(i)] Upon return to active status, the counselor's next three-year continuing education cycle will begin on the first day of the month following the licensee's birth month; however, the start date for the next three-year cycle will begin following the additional time period described in subsection (g) [(h)] of this section.

§681.128. *Active Military Duty.* If a licensee fails to renew his or her license on or after August 1, 1990, because the licensee is called to or is on active duty with the armed forces of the United States serving outside of the State of Texas, the licensee or the licensee's authorized representative may request that the license be declared inactive or be renewed. A request for inactive status shall be made in writing to the board prior to expiration of the license or within one year from the expiration date. This section is an exception to the requirement in §681.127 of this title (relating to Inactive Status) that the request be made prior to expiration of the license. A request for renewal may be made before or after the expiration date.

(1) If the request is made by the licensee's authorized representative, the request must include a copy of the appropriate power of attorney or written evidence of a spousal relationship.

(2) The written request shall include a copy of the official transfer orders of the licensee or other official military documentation showing that the licensee is called to or on active duty serving outside of the State of Texas.

(3) The payment of the inactive status fee, late renewal fee, and licensure renewal penalty fee is waived for a licensee under this subsection.

(4) An active duty licensee shall be allowed to renew under this section without submitting proof of continuing education hours if proof is required for renewal; however, the licensee must submit proof of completion of the required number of continuing education hours by the end of the following time period. The time period shall start on the actual date of renewal of the license and be equal to the length of time the licensee was on active duty serving outside the State of Texas during the three-year continuing education period or following expiration of the license. If the licensee fails to submit proof of completion of the required continuing education by the end of the time period, the board may suspend or revoke or deny renewal of the license.

(5) The written request shall include a current address and telephone number for the licensee or the licensee's authorized representative.

(6) The board may periodically notify the licensee or the licensee's authorized representative that the license of the licensee remains in inactive status, if applicable.

(7) Except in extraordinary circumstances, a licensee on active duty serving outside the State of Texas shall notify the board that the licensee is on active duty. The board shall note in the licensee's file that the licensee may be eligible for renewal under this section.

(8) If a licensee is a civilian impacted or displaced for business purposes outside of the State of Texas due to a national emergency or war, the licensee or the licensee's authorized representative may request that the license be declared inactive in the same manner as described in this section for military personnel. The written request shall include an explanation of how the licensee is impacted or displaced, which explanation shall be on the official letterhead of the licensee's business. The requirements of this section relating to renewal by active duty licensees shall not apply to a civilian under this paragraph.

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

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Subchapter K. Continuing Education Requirements

• 22 TAC §681.174, §681.178

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments will affect Texas Civil Statutes, Article 4512g.

§681.174. Types of Acceptable Continuing Education. Continuing education undertaken by a counselor shall be acceptable if the experience falls in one or more of the following categories:

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

(3) teaching or consultation in **graduate level** programs such as institutes, seminars, workshops, and conferences which are designed to increase professional knowledge related to the practice of counseling provided that such teaching and consultation is not part of, or required as a part of, one's employment;

(4) completion of graduate academic courses in areas supporting development of skill and competence in counseling at an institution which meets the accreditation standards acceptable to the board (e.g., accreditation by a recognized accrediting agency); [or]

(5) participation in case supervision or consultation provided that such supervision or consultation is not required as a part of a counselor's employment; is conducted according to stated training or didactic goals such as expertise in specific techniques including supervision techniques or certification in specialty areas of counseling; and is conducted by an appropriately state-licensed or state-certified mental health professional who meets board requirements for supervisors, demonstrates training and expertise in the specific area for which supervision is provided, and has received prior approval by the board for the program which does not exceed six months in length; or [.]

(6) participation or teaching in programs (e.g., institutes, seminars, workshops, or conferences) which are approved or offered by an accredited college or university or a sponsor approved by the board.

(A) An approved sponsor must be a nationally recognized professional organization in the mental health

field or its state or local equivalent organization. Only the programs or portions of programs approved by a sponsor for its continuing education credit shall be accepted by the board.

(B) The board shall maintain and make available on request a listing of approved sponsors.

(C) A sponsor shall be considered to be approved by the board upon a vote of the board accepting the sponsor.

(D) This paragraph shall apply to continuing education hours required for any renewal occurring after the effective date of this paragraph.

§681.178. Reporting of Continuing Education. The requirements for continuing education shall be as follows.

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

(3) Each report must be accompanied by appropriate documentation of the continuing education claimed on the report as follows:

(A) (No change.)

(B) for teaching or consultation in approved programs, a letter on the sponsoring agency's letterhead giving name of program, location, dates, and subjects taught and giving total clock hours of teaching or consultation. Documentation such as the board's roster form, official programs, or other appropriate documentation may be accepted; [or]

(C) for completion of academic work from accredited schools, an official graduate transcript showing course credit with at least a "B" or pass grade; or [.]

(D) for official auditing of a graduate level course at a regionally accredited academic institution, a letter from the academic institution or professor which includes the actual number of clock hours attended.

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

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Subchapter L. Complaints and Violations

• 22 TAC §§681.192, 681.196, 681.197

The amendments and new section are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments and new section will affect Texas Civil Statutes, Article 4512g.

§681.192. Denial, Revocation, or Suspension of Licensure.

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

(c) If denial, revocation, or suspension of a license is proposed, the board shall give written notice by certified mail, return receipt requested; **regular mail; or personal delivery of the basis for the proposal and** that the licensee or applicant must request, in writing, a formal hearing within 10 days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended.

(d) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the 10th day after the notice is mailed to the last address known to the board unless another date is reflected on a U.S. Postal Service return receipt. [The board or the appropriate committee may set a formal hearing and may appoint a hearing examiner to conduct the formal hearing and to recommend final action to the board based on the evidence presented at the formal hearing. The board is not required to adopt the recommendations of the hearing examiner and may deny, suspend, or revoke a license as it deems appropriate and lawful.]

(e) A decision of the board under this section may include any requirement to be imposed upon the licensee or applicant which is related to the individual's practice as a counselor and is deemed by the board to be appropriate and lawful.]

§681.196. Licensing of Persons With Criminal Backgrounds.

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

(c) Criminal convictions which directly relate to the profession of professional counseling.

(1) (No change.)

(2) In considering whether a criminal conviction directly relates to the occupation of a counselor, the board shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for requiring a license to be a counselor; [The following felonies and misdemeanors relate to the license of a counselor because these criminal offenses indicate an inability or a tendency to be unable to perform as a counselor:

[(i) the misdemeanor of knowingly or intentionally acting as a counselor without a license;

[(ii) a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:

[(I) concerning (Title 5) which relates to offenses against the person;

[(II) concerning (Title 7) which relates to offenses against property;

[(III) concerning (Title 9) which relates to offenses against public order and decency;

[(IV) concerning (Title 10) which relates to offenses against public health, safety, and morals; and

[(V) concerning (Title 4) which relates to offenses of attempting or conspiring to commit any of the offenses in clause (ii)(I)-(IV) of this subparagraph;

[(iii) the misdemeanors and felonies listed in clauses (i)-(ii) of this subparagraph are not inclusive in that the board may consider other particular crimes in special cases in order to promote the intent of the Act and this chapter;]

(C)-(D) (No change.)

(d) Criminal Offenses. The following felonies and misdemeanors relate to the license of a counselor because these criminal offenses indicate an inability or

a tendency to be unable to perform as a counselor:

(1) the misdemeanor of knowingly or intentionally acting as a counselor without a license;

(2) an offense involving moral turpitude;

(3) the misdemeanor of failing to report child abuse or neglect;

(4) a misdemeanor involving deceptive business practices;

(5) the offense of assault or sexual assault;

(6) a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:

(A) concerning Title 5 of offenses against the person;

(B) concerning Title 7 of offenses against property;

(C) concerning Title 9 of offenses against public order and decency;

(D) concerning Title 10 of offenses against public health, safety, and morals; and

(E) concerning Title 4 of offenses of attempting or conspiring to commit any of the offenses in subparagraphs (A)-(D) of this paragraph; or

(7) any other misdemeanor or felony which would indicate an inability or a tendency to be able to perform as a counselor and which would promote the intent of the Licensed Professional Counselor Act, this chapter, or Texas Civil Statutes, Article 6252-13c.

(e)[(d)] Procedures for revoking, suspending, or denying a license to persons with criminal backgrounds.

(1) The board's executive secretary will give written notice to the person that the board intends to deny, suspend, or revoke the license after a hearing in accordance with the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the board's hearing procedures in Subchapter M of this chapter (relating to Formal Hearings).

(2) If the board denies, suspends, or revokes a license under these rules, the executive secretary will give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County' for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable.

§681.197. Suspension, Revocation, or Denial.

(a) If the board suspends a license, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.

(b) If a suspension overlaps a license renewal date, the suspended licensee shall comply with the renewal procedures in this chapter; however, the suspension shall remain in effect pursuant to subsection (a) of this section.

(c) Upon revocation, suspension, or nonrenewal of a license, a licensee shall return his or her license certificate and all existing renewal certificates to the board.

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

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Subchapter M. Formal Hearings

• 22 TAC §§681.212, 681.213, 681.215, 681.216, 681.220

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act. The amendments will affect Texas Civil Statutes, Article 4512g.

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

[Party—Each person, governmental agency, or officer or employee of a governmental agency named by the hearing examiner as having a justiciable interest in the matter being considered or any person, governmental agency, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.]

§681.213. *General.*

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

(d) If the applicant or licensee fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the allegations and proposed action and to have waived the right to a hearing. The license may be denied, suspended, or revoked.

§681.215. *Parties to the Hearing.*

(a) The parties to a hearing shall be the applicant or licensee and the appropriate committee of the board. [All parties must have a justifiable interest in the proceedings to be designated as parties. All appearances are subject to a motion to strike upon a showing that the party has no justifiable interest in the proceeding.]

(b) (No change.)

(c) A party may appear personally or be represented by counsel. [Any person not wishing to be designated as a party but desiring only to appear for the purpose of showing support or opposition or to make any general relevant statement showing support or opposition may appear at the hearing and make or file statements.]

(d) The hearing examiner shall designate parties at any time prior to final closing of the hearing. No person will be admitted as a party later except upon a finding by the hearing examiner of good cause and extenuating circumstances and that the hearing will not be unreasonably delayed.

(e) In their pleadings, parties may classify themselves as applicants, petitioners, respondents, protestants, complainants, etc., but regardless of such classification, the hearing examiner has the authority to determine and designate their true status whenever necessary.

(f) A party may appear personally and/or be represented by counsel or other authorized representative.

(g) The hearing examiner may require parties of each class of affected persons to select one person to represent them in the proceedings.]

§681.216. *Subpoenas.*

(a) (No change.)

(b) All procedures relating to subpoenas shall be in accordance with

the Administrative Procedure and Texas Register Act (APTRA). [There must be a showing of good cause for the subpoena, i.e., the witnesses or documents must have information that is relevant and material to the hearing. The subpoena should not result in undue harassment, imposition, inconvenience, or unreasonable expense to a party.]

(c) (No change.)

(d) Documents include books, papers, accounts, and similar materials or objects. [Witnesses may be subpoenaed.]

(e) Subpoena fees shall be the state employee per diem plus transportation costs and incidental expenses. [Documents include books, papers, accounts, and similar materials or objects.]

(f) The payment of subpoena costs or fees and the failure to comply with a subpoena shall be governed by APTRA, §14.]

§681.220. *Action After the Hearing.*

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

(d) Final orders or decisions.

(1) The final order or decision will be rendered by the board. The board is not required to adopt the recommendation of a hearing examiner and may deny, suspend, or revoke a license as it deems appropriate and lawful. A decision of the board may include any requirement to be imposed upon the licensee or applicant which is related to the individual's practice as a counselor and is deemed by the board to be appropriate and lawful.

(2) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law [, either in the body of the order or by reference to the hearing examiner's proposal for decision].

(3) All final orders shall be signed by [the executive secretary and] the chairperson of the board; however, interim orders may be issued by the hearing examiner in accordance with his or her order of appointment.

(4) (No change.)

(e) Motion for rehearing. A motion for rehearing shall be governed by APTRA, §16, or other pertinent statute and shall be addressed to the [executive secretary of the] board and filed with the executive secretary [hearing examiner].

(f) (No change.)

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

Issued in Austin, Texas, on March 6, 1992.

TRD-9203466

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: May 16, 1992

For further information, please call: (512) 834-6628

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 97. Communicable Diseases

Control of Communicable Diseases

• 25 TAC §97.16

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

The Texas Department of Health (department) proposes the repeal of existing §97.16, concerning the Texas HIV Medication Program. The text of the section is being modified, restructured, and moved to Chapter 98 of this title, where it will become new §§98.101-§98.111.

Stephen Seale, chief accountant III, Budget Division, has determined that for the first five-year period that the repeal is in effect, there will be no fiscal implications to state or local government as a result of administering or enforcing the repeal.

Mr. Seale also has determined that for each year of the first five years that the repeal will be in effect the public benefit will be that the section will be updated and moved to a more appropriate chapter in Title 25 of the Texas Administrative Code. 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 proposed repeal may be submitted to Jim Allen, R.Ph., Director, Division of Pharmacy, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78745 (512) 458-7357. Comments will be accepted for 30 days following publication in the Texas Register.

The repeal is proposed under the Health and Safety Code, §85.063, which provides the Board of Health with authority to adopt rules covering procedures and guidelines for the HIV Medication Program; and §12.001, which provides the board with authority to adopt rules to implement every duty imposed by law on the board, the department and the Commissioner of Health. The repeal will affect Chapter 85 of the Health and Safety Code.

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 March 6, 1992.

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Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
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Proposed date of adoption: May 16, 1992

For further information, please call: (512)
458-7357

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §§98.101-98.111

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

The Texas Department of Health (department) proposes new §§98.101-98.111 concerning the Texas HIV Medication Program. The new sections will replace the existing §97.16 in Title 25 of the Texas Administrative Code which is being proposed for repeal in this issue of the Texas Register. The new sections are restructured from the repealed section and implement the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Chapter 85, concerning the establishment of an HIV medication program in Texas. The program assists hospital districts, local health departments, public or non-profit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the section covers eligibility for participation; medication coverage; priority of treatment; application process; confidentiality; payment for approved medications; participating pharmacies; and an appeal procedure to resolve any eligibility or funding disputes. The new sections also clarify the language, simplify structure, and expand the formulary to include Fluconazole, Didanosine, and Erythropoietin for eligible participants.

Stephen Seale, chief accountant III, Budget Division, has determined that for the first five-year period the sections will be in effect, there will be no fiscal implications for state government or local government as a result of enforcing or administering the sections as proposed.

Mr. Seale also has determined that for each year of the first five year period the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be to clarify the rule through restructuring; to move the provisions to a more appropriate chapter in Title 25 of the Texas Administrative Code; and to expand coverage of the program to

include Fluconazole, Erythropoietin, and Didanosine, for eligible program recipients. There is no anticipated economic cost to small or large businesses to comply with the sections as proposed. There is no anticipated cost for persons who may be required to comply with the sections as proposed. There will be no effect on local employment.

Comments on the proposal may be submitted to Jim Allen, R.Ph., Director, Texas Department of Health, Division of Pharmacy, Texas HIV Medication Program, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7357. Comments will be accepted for 30 days after publication of the proposal in the Texas Register.

The new sections are proposed under the Communicable Disease Prevention and Control Act, Health and Safety Code, §85.066, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; and §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.

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 March 6, 1992.

TRD-9203352

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: May 16, 1992

For further information, please call:(512)
458-7357

Chapter 125. Special Care Facilities

• 25 TAC §§125.1-125.7

The Texas Department of Health (department) proposes amendments to §§125.1-125.7, concerning special care facilities. Licensure inspections which have been conducted in these facilities have revealed areas in the rules which need to be modified or eliminated to facilitate the facilities' effectiveness in providing services to the individuals which they serve and in the facilities' abilities to provide these services. The amendments reflect the recodification of certain sections of Texas Civil Statutes into the Health and Safety Code; amendments to Health and Safety Code, Chapters 85 and 161; and the enactment of House Bill 1393, 72nd Legislature, 1991.

Also, the provisions added by the amendments concern the prohibition of illegal remuneration, the prevention of the transmission of HIV and Hepatitis B virus by infected health care workers, and the exemption of a license from any increased fee or other penalty for failure to renew the license in a timely manner if the individual license holder failed to

renew the license in a timely manner because the individual was on active duty in the United States armed forces serving outside the State of Texas.

Finally, the sections have been reorganized for clarification and the construction standards have been revised to provide a more appropriate application to the facilities which they regulate. Other amendments clarify the definitions of "assistance with medication or treatment regimen," "dangerous drugs," and "drug"; add definitions of administration of medication, medication, occupancy and practitioner; and provide for the increase in construction inspection fees and plan review fees in order to offset the department's costs in conducting the inspections and plan reviews.

Stephen Seale, Chief Accountant III, Budget Division, 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. Seale 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 adoption of standards which more accurately apply to the type of facilities which the department regulates, therefore allowing the facilities to better serve the individuals which reside in the facilities.

There may be a minimal increase in costs to small businesses on an individual basis as a result of the increase in construction inspection fees and plan review fees if the business requests the department's approval of its construction plans. The cost will be approximately \$250 for each business. There is no anticipated cost for large businesses. There will be no anticipated cost for persons who may be 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 Nance Kerrigan-Stearman, R.N., M.S.N., Director, Health Facility Licensure and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6650. 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, §248.026, which authorizes the Texas Board of Health (board) to adopt rules to establish and enforce minimum standards for the licensing of special care facilities; and §12.001, that provides the board with authority to adopt rules for the performance of every duty imposed by law upon the board, the department and the commissioner of health. The amendments affect the Health and Safety Code, Chapter 248.

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

Act—The Texas Special Care Facility Licensure Act, Health and Safety Code, Chapter 248, [71st Texas Legislature, 1989, Chapter 1085, §16 (Senate bill 487,

§16)].

Administration of medication—Administration of any medication by injection, inhalation, ingestion, or any other means to the body of the resident; calculation of a resident's medication dosage; or altering the form of the medication by crushing, dissolving, or any other method.

Assistance with medication or treatment regimen—Any needed ancillary aid provided to a resident in the resident's self-administered medication or treatment regimen, such as reminding a resident to take a medication at the prescribed time, opening and closing a medication container, returning a medication to the proper storage area, and assisting in re-ordering medications from a pharmacy[however, such ancillary aid shall not consist of direct application by the assistant of the medication by injection, inhalation, ingestion, or any other means to the body of the resident]. Such ancillary aid shall not include administration of any medication.

Controlled substance—A drug, controlled substance, or immediate precursor as defined in the Texas Controlled Substance Act, Health and Safety Code, §481.002 [Texas Civil Statutes, Article 4476-15, §1.02(5)], or the Federal Controlled Substance Act of 1970, Public Law 91-513.

Dangerous drugs—Any dangerous drug as defined in the Texas Dangerous Drug Act, Health and Safety Code, §483.001 [Texas Civil Statutes, Article 4476-14, §2].

Drug—A drug is:

(A) any substance recognized [as a drug] in the official United States Pharmacopoeia [, official Homeopathic Pharmacopoeia of the United States, or official] National Formulary[,] or any supplement to it [any of them];

(B) any substance designed or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals [humans];

(C) any substance, [(]other than food[)], intended to affect the structure of [or] any function of the body of man or other animals [humans]; or

(D) any substance intended for use as a component of any substance specified in subparagraphs (A)-(C) of this paragraph. The term [It] does not include devices or their components, parts, or accessories.

Local health authority—The physician having local jurisdiction to administer state and local laws or ordinances relating to public health[,] as defined in the Health

and Safety Code, Chapter 121, Subchapter B [Texas Civil Statutes, Article 4436b, §1.03].

Medication—A drug or controlled substance dispensed on prescription or obtained over the counter.

Occupancy—The purpose for which a building or portion thereof is used or intended to be used as determined by the local authority having jurisdiction. Special care facilities may fall under various occupancies, such as residential, residential board and care, custodial care, day care, educational, institutional, and one and two family dwellings as determined by the local authority having jurisdiction. In the absence of any local authority, the occupancy classification will be determined by the definitions of the National Fire Protection Association (NFPA 101, Chapter 4).

Practitioner—A person who is currently licensed in the State of Texas as a physician, dentist, or podiatrist.

§125.2. Application and Issuance of License for First Time Applicants.

(a) Upon written request, the director shall furnish a person with an application form for a special care facility license. The applicant shall be at least 18 years of age, and shall submit to the director a separate and accurate application form for each license, required documentation, and the license application fee. The applicant shall retain a copy of all documentation that is submitted to the director. The address provided on the application must be the address from which the facility will be operating. The applicant shall submit the following documents with the application for the license:

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

(3) [a proposed budget covering the period of time of the license and] a notarized affidavit attesting to the following:

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

[(4) an organizational structure, a list of management personnel, and a job description of each administrative and supervisory position. The job description must contain at a minimum the job title, qualifications including education and training, job responsibilities, and a plan to provide annual continuing education and training;]

(4)[(5)] a written plan for the orderly transfer of care of the applicant's clients and clinical records if the applicant is unable to maintain or deliver services under the license;

(5)[(6)] a notarized statement attesting that the applicant is capable of meeting the minimum state licensing standards for the provision of services under the Act;

(6)[(7)] a written policy and procedure document detailing the overall operating policies and procedures. The document shall include information on admission and admission agreements, resident care services, charges or reimbursement for services, expectations of residents, transfers, discharges, complaint procedures, use of volunteers, protection of residents' personal property, and residents' rights;

(7) [(8)] a written resident care policies document detailing the care provided and related services. These policies shall include provision for an interdisciplinary assessment of resident needs and the development of a plan for promoting self-care and independence;

(8)[(9)] written personnel policies and procedures;

[(10) a written agreement with at least one licensed hospital and at least one nursing home permitting the prompt transfer to and the admission by the receiving hospital or nursing home in a medically appropriate manner of any patient when special services are needed but are unavailable at the facility;]

(9)[(11)] if a facility does not employ a person qualified to provide a required or needed service, copies of arrangements with an outside resource that has the necessary qualifications to provide the service directly to residents or to act as a consultant to the facility. Facility policies shall state the methods used to provide required or needed services;

(10)[(12)] documentation regarding development for staff and/or volunteers and scheduling of periodic training to update their knowledge and skills in providing care to residents. Training must include the facility's policy on confidentiality of patient's medical record;

(11)[(13)] written guidelines to volunteers concerning areas such as confidentiality, infection control and sanitation, and security;

(12)[(14)] documentation regarding volunteer orientation to the facility, which will include at a minimum location of fire alarm system; emergency procedures, including emergency phone numbers; evacuation plan; availability of counseling programs, support groups, and advocacy information; the facility's policy on confidentiality of medical records and information pertaining to patients' diagnosis, treatment, and identification; and the general mission statement of the facility; and

(13)[(15)] written approval by the local fire marshal and a copy of the certificate of occupancy granted by the local building official.

(b)-(g) (No change.)

(h) A facility licensed on or before August 31, 1989, under Chapter 12 of the Hospital Licensing Standards (concerning rules governing special care facilities including care and treatment of residents) as adopted by reference in §133.21 of this title (relating to Adoption by Reference) is deemed to be a special care facility under this chapter.]

§125.3. *Inspections.*

(a)-(d) (No change.)

(e) The surveyor shall prepare a summary report of each inspection and submit it to the director for evaluation and decision. If the director determines the facility is not meeting minimum standards, the director shall notify the facility in writing of the standards that are not met and request that the facility prepare the plan of correction necessary for compliance if a plan has not been submitted at the time of inspection. If the plan of correction is not acceptable, the director will notify the applicant in writing within 20 days of receipt of the plan and request that an acceptable plan of correction be resubmitted within a specified period of time, but no later than 30 days from the date of the director's letter.

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

(4) If a subsequent survey results in evidence of further deficiencies, a plan of correction may be requested in accordance with this section or the director may propose action to deny, suspend, or revoke the license in accordance with §125.7 of this title (relating to License Denial, Suspension, or Revocation and Criminal Penalties).

§125.4. *Renewal of License.*

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

(d) Each facility shall have a fire and safety inspection performed by the local fire authority on an annual basis. Evidence of a successful inspection during the renewal period must accompany the application renewal form. In the absence of a local fire authority, the department shall perform a fire and safety inspection during the renewal period.

(e) If a licensee fails to timely renew his or her license on or after August 1, 1990, because the licensee is or was on active duty with the armed forces of the United States of America serving outside the State of Texas, the licensee may renew the license pursuant to this subsection.

(1) Renewal of the license may be requested by the licensee, the licensee's spouse, or an individual having power of attorney from the licensee. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) Renewal may be requested before or after the expiration of the license.

(3) A copy of the official orders or other official military documentation showing that the licensee is or was on active military duty serving outside the State of Texas should be filed with the department along with the renewal form.

(4) A copy of the power of attorney from the licensee shall be filed with the department along with the renewal form if the individual having the power of attorney executes any of the documents required in this section.

(5) A licensee renewing under this subsection shall pay the applicable renewal fee.

(6) A licensee is not authorized to operate the facility for which the license was obtained after the expiration of the license unless and until the licensee actually renews the license.

(7) This subsection applies to a licensee who is a sole practitioner or a partnership with only individuals as partners where all of the partners were on active duty with the armed forces of the United States serving outside the State of Texas.

§125.5. *Licensing Application, Construction Plan Review, and Construction Inspection Fees.*

(a) The schedule of fees are as follows.

(1) (No change.)

(2) Construction plan review fees are based on the estimated construction costs. If an estimated cost cannot be established, the estimated cost shall be based on \$105 per square foot. The fee schedule is:

	<u>Cost of Construction</u>		<u>Fee</u>
(A)	\$ Less than 150,000	\$ 100	[50]
(B)	150,001 - 600,000	250	[150]
(C)	600,001 - 2,000,000	500	[350]
(D)	2,000,001 - 5,000,000	750	[500]
(E)	5,000,001 - 10,000,000	1,000	[750]
(F)	10,000,001 - and over	1,500	[1,000]

(3)

The department shall determine the number of required inspections necessary to complete all proposed construction projects. A construction inspection fee of \$400 [300] per each inspection shall be submitted to the department. Construction inspection fees shall be paid prior to any inspections conducted by an authorized representative of the department.

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

§125.6. Standards.

(a) Administrative management.

(1) General requirements.

(A) A special care facility shall comply with all applicable state and local laws.

(B)[(A)] The license will specify the maximum number of residents who can be cared for at any one time.

(C)[(B)] Copies of this chapter shall be available to the personnel and residents of the facility upon request.

(D)[(C)] The facility management upon request shall make available to the department representatives copies of pertinent facility documents or records which in the opinion of the representatives contain evidence of conditions that threaten

the health and safety of residents. Such documents and records are residents' medical records including health care notes, pharmacy records, medication records, physicians' orders, and incident/accident reports concerning residents.

(E)[(D)] Each facility shall conspicuously and prominently post the facility license.

(F)[(E)] All accidents, whether resulting in injury, and any unusual incidents or abnormal events, including allegations of mistreatment of residents by staff, personnel, or visitors, shall be described in separate administrative records filed in the director's office. Certain procedures regarding accidents, unusual incidents, and abnormal events shall be observed as directed by the department.

(G)[(F)] Within 72 hours of admission, the facility must prepare a written inventory of the personal property a resident brings to the facility. The facility does not have to inventory the resident's clothing. If requested by the resident or responsible party, the inventory shall be updated. The facility should have a mechanism to protect resident clothing.

(H)[(G)] Grounds for denial, revocation, or suspension of the license in accordance with §125.7 of this title (relating to License Denial, Suspension, or Revocation and Criminal Penalties) may exist when

there is substantiated evidence of the owner, director, or any employee willfully inflicting injury, physical suffering, or mental anguish on any resident in a facility; the failure of management, who is knowledgeable of a substantiated case of physical or mental abuse or neglect, to take corrective action; or the failure of management, who has cause to believe that a resident's physical or mental health or welfare has been or may be adversely affected by abuse or neglect caused by another person, to report it to the department.

(I)[(H)] A license may not be transferred or assigned.

(2) Operating policies and procedures. The facility shall comply with its own written policies and procedures. All policies shall be reviewed and updated annually.

(A) The facility shall have a written policy and procedure manual [document] detailing the overall operating policies and procedures. The manual [document] shall include information on admission and admission agreements, resident care services, charges or reimbursement for services, expectations of residents, transfers, discharges, complaint procedures, use of volunteers, protection of residents' personal property, and resident's rights.

(B) A facility shall adopt, implement, and enforce a written policy to ensure compliance of the agency and

its employees, volunteers, and contractors with the Health and Safety Code, §161.091 relating to the prohibition of illegal remuneration for securing or soliciting patients or patronage. [The facility shall have a written resident care policies document detailing the care provided and related services. These policies shall include provision for an interdisciplinary assessment of resident need and the development of a plan for promoting self-care and independence. The residents of the facility shall participate in the annual review and update of the resident care policy.]

(C) The facility shall have written personnel policies and procedures. These policies and procedures must be explained to employees when first employed and be made available to them.

(D) In accordance with personnel policies, the facility may hire and retain employees with certain communicable diseases based on their abilities to perform on the job adequately and safely and on their willingness to follow prescribed measures to prevent the transmission of infections. Questions of employee infectious status and ability to perform duties should be resolved by consultation with a physician and/or local health authorities [also see Morbidity and Mortality Report, supplement of August 21, 1987, CDC, Atlanta, Georgia]. Should any facility staff have a communicable disease, the facility shall report as specified in subparagraph (F) of this paragraph].

(E) (No change.)

[(F) When the facility is ready for initial opening and operation, and when any newly acquired reportable communicable disease may become evident in a resident, staff member, outside resource person, or volunteer, the facility shall report in accordance with Communicable Disease and Prevention Act, Texas Civil Statutes, Article 4419b-1, or as specified in §§97.1-97.13 of this title (relating to Control of Communicable Diseases) and §§97.131-97.136 of this title (relating to Sexually Transmitted Diseases), (revised February 1988), and Reportable Diseases in Texas, Publication 6-101a (revised September 1987). After notification to the local health authority, appropriate infection control measures shall be implemented as directed by that authority and in accordance with facility policy.]

(F)[(G)] The facility shall ensure that personnel records are correct and contain sufficient information to support placement in the assigned position (in-

cluding a resume of training and experience). Where applicable, a current copy of the person's license or permit shall be in the file. **If copying of a license is prohibited, the file shall include a notation of when the license was verified.**

(G)[(H)] If the resident or the resident's responsible party entrusts the handling of cash to the facility, simple accounting records of receipts and expenditures of such cash shall be maintained. These funds must be separate from the facility's operating accounts.

(I) The facility shall enter into written agreements with at least one licensed hospital and at least one licensed nursing home permitting the prompt transfer to and the admission by the receiving hospital or nursing home in a medically appropriate manner of any patient when special services are needed but are unavailable at the facility.]

(H) [(J)] The facility is encouraged to provide assistance to the residents in their securing or arranging for transportation to meet the residents' transportation needs.

(I)[(K)] In the case of an acute episode, a serious change in the resident's condition, or death, the resident's responsible party shall be notified as soon as possible.

(J)[(L)] If a facility does not employ a person qualified to provide a required or needed service, it shall have arrangements with an outside resource that has the necessary qualifications to provide the service directly to residents or to act as a consultant to the facility. Facility policies shall state the methods used to provide required or needed services. The facility may employ personnel or use appropriate volunteer services or arrange with outside resources to provide services to residents or to act as consultants to the facility. Regardless of the method or combinations of methods used, staff performing services must be appropriately qualified or supervised.

(3) Legal responsibility. There shall be **an individual or individuals** [a governing body] which assume(s) [assumes] full legal responsibility for the overall conduct of the facility and are **responsible for compliance with all applicable laws and rules of the department.** [The person(s) legally responsible for the conduct of the facility shall carry out or have carried out the provisions of this chapter pertaining to the governing body.]

[(4) Compliance with laws and standards. The governing body shall be responsible for compliance with all applicable laws and with applicable rules and standards of the department.]

(4)[(5)] Facility director.

(A) **The facility director, who is to be accountable for the overall management of the facility, shall be named in writing** [The governing body shall appoint a facility director to be accountable for the overall management of the facility. The governing body shall delegate in writing to the director full authority for the internal operation of the facility in accordance with established policy].

(B) The director's responsibilities shall be defined in writing [for procurement and direction of competent personnel shall be clearly defined].

(C) If the facility can be successfully managed with less than the director's full-time management, the director may be less than full-time. In such instances, the director shall assign another responsible individual who can perform management tasks so that there is administrative management essentially for the usual and customary 40-hours-per-week business operations.

(D) There shall be a competent individual authorized to be in charge of the facility when the director is absent.

[(E) The director may be a member of the governing body.]

(E)[(F)] The director shall be at least 18 years of age and shall be physically, mentally, and emotionally able to perform the duties of operating the facility. [It is desirable for the director to have had training in administrative management.]

(F) **The director shall be responsible for coordinating the provision of all services.**

(5)[(6)] Medical care. The facility shall make arrangements for [provide] appropriate medical care as needed. [that is:]

[(A) required for improving life span and quality of life, for comfort, for prevention and treatment of illness, and for maintenance of bodily and mental function;

[(B) under the continued supervision of a physician; or

[(C) provided by a registered nurse or licensed vocational nurse available to carry out a physician's plan of care for a resident.]

(6)[(7)] Staff development. Staff and/or volunteers shall be oriented to the basic philosophy of the facility and shall be given periodic training to update their knowledge and skills in providing care to residents. Training must include the facility's policy on confidentiality of patient's medical records. Training may be provided by the facility or by another appropriate entity.

(7)[(8)] Volunteer services.

(A) The facility shall provide written guidelines to volunteers concerning areas such as confidentiality, infection control and sanitation, and security. It is recommended that volunteers sign a confidentiality agreement.

(B) Volunteers may be utilized in the following areas and in any other area in which they have the necessary qualifications for the assignment such as peer counseling, support groups, advocacy, information and referral, assistance with activities of daily living, spiritual support, grief work for both resident and significant others, recreational programs, errands, transportation, and facility housekeeping and maintenance.

(C) All volunteers will receive documented orientation to the facility which will include at a minimum location of fire alarm system; emergency procedures, including emergency phone numbers; evacuation plan; availability of counseling programs, support groups, and advocacy information; the facility's policy on confidentiality of medical records and information pertaining to patients diagnosis, treatment, and identification; and the general mission statement of the facility.

(D) All volunteers will receive documented training on job specifics of all assigned tasks. A detailed job description will be developed for each category of volunteer and be signed and dated by the volunteer acknowledging that they have read and understand the requirements and limitations of their assigned duties, and the facility's policy regarding the confidentiality of patient identity and information contained in medical records.

(E) All volunteers who are performing duties that require licensure, certification, or registration must currently be licensed, certified, or registered by the

appropriate board or agency and a copy of their credentials shall be kept on file in the facility. If the copying of a license or certification is prohibited, the file shall include a notation of when the license or certification was verified.

(b) Minimum construction standards.

(1) A facility that is classified as an institutional occupancy shall comply with the requirements found in National Fire Protection Association (NFPA) 101, Life Safety Code, Chapters 12 (relating to new construction) and Chapter 13 (relating to existing facilities), and building codes applicable to institutional use. New construction shall be subject to applicable local codes covering construction and electrical and mechanical systems for the occupancy. In the absence of, or absence of enforcement of the local codes, the department shall require conformance to the fundamentals of the following codes:

(A) the appropriate sections of NFPA 101, Life Safety Code;

(B) nationally recognized building codes, such as the Standard Building Code (1984) of the Southern Building Code Congress, International, Inc., or the Uniform Building Code (1988) of the International Conference of Building Officials. The nationally recognized codes used by a single facility shall be publications of the same group or organization so as to assure the intended continuity;

(C) the Handbook of Fundamentals of the American Society of Heating, Refrigeration, and Air Conditioning Engineers; the NFPA National Electrical Code (NFPA 70);

(D) for handicap provisions, American National Standards Institute, Standard A117.1-1980, the applicable requirements of the Texas General Services Commission, and the applicable provisions of the Americans with Disabilities Act and the regulations promulgated by that law; and

(E) the National Standard Plumbing Code (1983) of the National Association of Plumbing Heating Cooling Contractors.

(2) A facility may impose more stringent construction standards than the minimum construction standards in this subsection.

(3) A facility that is classified by an occupancy other than institutional shall comply with the applicable requirements found in NFPA 101, chapter 4, relating to classification of occupancy and hazards of contents; and with the sections found in NFPA 101 which apply to the occupancy in question and with applicable building codes.

(4) All buildings or structures, new or existing, used as a licensed facility shall be in accordance with the standards in this chapter.

(5) For existing buildings and structures which are converted to facility, the department may modify those requirements, which, if strictly applied, would clearly be impractical in the judgment of the department. Any such modifications will be allowed only to the extent that reasonable accommodations to protect health and safety are provided and maintained.

(6) Residents may not be admitted until all standards are met and approval for occupancy is granted by the department.

(7) The facility shall conform to all applicable state laws and local codes and ordinances. When such laws, codes, and ordinances are more stringent than the provisions of this chapter, the more stringent requirements shall govern. Should state laws or local codes or ordinances be in conflict with the requirements of the standards in this chapter, the department shall be informed so that these conflicts may be legally resolved.

(8) When a common wall exists between a facility and another occupancy, the common wall between the facility and the other occupancy shall be not less than a two-hour noncombustible fire rated partition as is defined in NFPA 101, Life Safety Code, Chapter 6 (relating to features of fire protection), unless approved otherwise by the department. A licensed hospital, nursing home, custodial care home, or personal care home is not considered another occupancy for this purpose.

(9) Planning, construction, procedures, and approvals shall be done in conformance with the following provisions.

(A) A facility may request the approval of the department of its construction plans unless approval is required under subparagraph (B) of this paragraph.

(B) A facility shall submit construction documents to the director

for approval if it is anticipated that the facility will fall under the institutional occupancy or if 16 or more residents will occupy the facility. The plans that are submitted shall be drawn to scale; include a plot plan; and indicate the usages of all spaces, sizes of areas and rooms, and the kind and location of fixed equipment.

(i) The plot plan shall show all structures within 20 feet of the facility. If the local governmental unit has a building official charged with the enforcement of a local code, that authority's review of the drawings and specifications is required.

(ii) The facility shall pay the required fee for plan review and inspection of construction at the time the proposed plans are submitted.

(C) Before licensing, the facility shall be approved by the local fire marshal having jurisdiction for compliance with local ordinances or requirements. In the absence of a local fire marshal, the state fire marshal shall have jurisdiction. These approvals shall be provided to the department at the time of final inspection for licensure purposes.

[(b) Building construction.

[(1) Applicability of requirements of construction and life safety.

[(A) All buildings or structures, new or existing, used as a licensed facility shall be in accordance with these standards.

[(B) For existing buildings and structures which are converted to facility occupancy, the department may modify those requirements, which, if strictly applied, would clearly be impractical in the judgment of the department. Any such modifications will be allowed only to the extent that reasonable accommodations and life safety against the hazards of fire, explosion, structural, or other building failure and panic are provided and maintained. Residents are not to be admitted until all standards are met and approval for occupancy is granted by the department.

[(2) Planning, construction, procedures, and approvals.

[(A) Submission of plans. When construction is contemplated for new buildings, additions, conversion of buildings not licensed by the department, or remodeling of existing licensed facilities, one copy of the preliminary proposed plans shall be submitted to the department for review and approval prior to construction or

occupancy. The plans shall be drawn to scale; shall include a plot plan; and shall indicate the usages of all spaces, sizes of areas and rooms, and the kind and location of fixed equipment.

[(B) The plot plan shall show all structures within 20 feet of the facility. If the local governmental unit has a building official charged with the enforcement of a local code, that authority's review of the drawings and specifications is required.

[(C) The facility shall pay the required fee for plan review and inspection of construction at the time the proposed plans are submitted.

[(D) No major construction shall be started until the working drawings and specifications are approved by the department.

[(E) All construction shall be done in accordance with the approved plans. Any deviations therefrom must have prior approval of the department.

[(F) Before licensing, the facility shall be approved by the local fire marshal having jurisdiction for compliance with local ordinances or requirements. These approvals shall be provided to the department at the time of final inspection of construction for licensure purposes.

[(G) On prior approval of the department, alternative building arrangements may be made, commensurate with the resident's needs or desires.

[(3) Requirements of construction.

[(A) New construction shall be subject to local codes covering construction and electrical/mechanical systems for this occupancy (the description of the occupancy may vary with the local codes). In the absence of, or absence of enforcement of such local codes, the department will require general conformance to the fundamentals of the following codes:

[(i) nationally recognized building codes, such as the Standard Building Code 1984 of the Southern Building Code Congress, International, Inc., or the Uniform Building Code (1988) of the International Conference of Building Officials (ICBO). Such nationally recognized codes, when used, shall all be publications of the same group or organization so as to assure the intended continuity;

[(ii) the Handbook of Fundamentals of the American Society of

Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE);

[(iii) the National Electrical Code of the National Fire Protection Association (NFPA 70);

[(iv) for handicap provisions, Standards A117.1-1980 of the American National Standards Institute (ANSI) and the requirements of the State Purchasing and General Services Commission, if applicable; and

[(v) the National Standards Plumbing Code (1983) of the National Association of Plumbing Heating Cooling Contractors (PHCC).

[(B) An existing building converted to this occupancy shall meet all local requirements pertaining to that occupancy. The department may require the facility owner or licensee to submit evidence that local requirements are satisfied.

[(C) An existing building converted to this occupancy shall have all electrical and mechanical systems safe and in working order. The department may require the facility owner or licensee to submit evidence to this effect, consisting of a report of the fire marshal or city/county building official having jurisdiction, or a report of a registered professional engineer.

[(D) The facility shall conform to all applicable state laws and local codes and ordinances. When such laws, codes, and ordinances are more stringent than the provisions of this chapter, the more stringent requirements shall govern. Should state laws or local codes or ordinances be in conflict with the requirements of these standards, the department shall be informed so that these conflicts may be legally resolved.

[(4) Separation from other occupancies. A common wall between a facility and another occupancy shall be not less than a two-hour noncombustible fire rated partition, unless approved otherwise by the department (definition of such a partition shall be in accordance with the National Fire Protection Association standards). A licensed hospital, nursing home, custodial care home, or personal care home is not considered another occupancy for this purpose.]

(10) [(5)] Facility location shall be determined using the following considerations.

(A) The facility shall be located so as to promote at all times the health, comfort, safety, and well-being of the residents.

(B) The facility shall be serviced by a paid or volunteer fire fighting unit as approved by the department. Water supply for fire fighting purposes shall be as required or approved in writing by the fire fighting unit serving the area.

(C) Any site conditions that can be considered a fire hazard, health hazard, or physical hazard shall be corrected by the facility as determined by the department.

(c) Personal safety and comfort.

(1) Fire alarm systems [and smoke detection system.] shall be required only in a facility which is required to have a system by local codes or under the applicable NFPA 101 occupancy category [A manual alarm initiating system with manual pulls at exit doors shall be provided and be supplemented by an automatic smoke detection and alarm initiation system. Smoke detectors shall be installed in habitable areas, such as resident bedrooms, corridors, hallways, public areas, and staff areas. Service areas such as kitchens, utility rooms, and attached garages used for car parking shall have heat detectors. The primary power source for the complete fire alarm system must be commercial electric. Emergency power source shall be from storage batteries or on-site engine-driven generator set. The manual operation of any alarm initiating device will sound an alarm(s) at the site that is audible and visual. The fire alarm panel shall be located in direct view of staff. The facility shall have a written contract with a fire alarm company or person licensed by the State of Texas to maintain the fire alarm system semi-annually].

(2) Approved smoke detectors shall be installed in all habitable areas, such as residential bedrooms, public areas, staff areas, and kitchens, except offices and workrooms. The primary power source for the smoke detector shall be from a commercial electrical source except that a facility which is licensed for six or less residents may use approved battery operated smoke detectors.

(2) Portable fire extinguishers. Portable fire extinguishers shall be provided as required by the local fire marshal having jurisdiction. Water pressure types should be provided at resident bedroom areas.]

(3) The fire alarm smoke detector systems shall be maintained in working condition at all times. The system will be tested on a regular basis not to exceed quarterly between tests. Documentation of quarterly tests shall be maintained.

(4) Approved portable fire extinguishers shall be provided as required by the state or local fire authority having jurisdiction.

(5)(3) General fire safety shall be observed at all times.

(A) General fire safety shall be observed at all times.]

(A)(B) Storage items shall be neatly arranged and placed to minimize fire hazard. Gasoline, volatile materials, paint, and similar products shall not be stored in the building housing the residents. Accumulations of extraneous material and refuse shall not be permitted. Storage of items, such as janitor supplies, shall be provided in closets or spaces separate from residential use areas.

(B)(C) The building shall be kept in good repair and electrical, heating, and cooling systems shall be maintained in a safe manner. Use of electrical appliances, devices, and lamps shall be such as not to overload circuits and not to require extension cords.

(C)(D) All fires shall be reported to the department within 72 hours; however, any fire causing injury or death to a resident shall be reported immediately to the department and appropriate law enforcement authority. A report of a fire to which the local fire authority has responded shall be followed by a copy of the local fire authority's report. All reports of fire shall be submitted to the department within 30 days on a form supplied by the department [A telephone report shall be followed by a written report on a form which will be supplied by the department].

(D)(E) All personnel shall be familiar with the locations of fire-fighting equipment. There shall be a fire exit drill of personnel at least quarterly [as required by NFPA 101, including the turning in of alarms, simulated evacuation of residents and other occupants, and the use of equipment]. Exit drills shall include suitable procedures to make sure that all persons in the building or all persons subject to the drill actually participate. In the conduct of the drills, emphasis shall be on the orderly evacuation under proper discipline rather than upon speed.

(6) [(4)] Waste and storage containers shall be used in the appropriate areas.

(A) Metal wastebaskets of substantial gauge or Underwriters Laboratories, Inc. (U.L.) approved plastic trash containers shall be provided for bedrooms, offices, staff areas, lounges, and similar locations in a facility.

(B) Garbage, waste, or trash containers provided for kitchens, janitor closets, laundries, general storage, and similar places must meet U.L. standards [be made of steel, have a close fitting steel cover, and have at least a 1/2 inch air space between the floor and the bottom of container]. Disposable plastic liners may be used in these containers for sanitation. [Certain plastic containers meeting U.L. standards may be used in place of metal.]

(C) Plastic containers with lids are acceptable for storage of staple foods in the pantry. Dishwashing chemicals used in the kitchen may be stored in plastic containers provided they are the original containers in which the manufacturer packaged the chemicals.

(D) All infectious waste and waste disposal procedures must comply with the department's rules and regulations concerning definition, treatment, and disposal of special waste from health-care related facilities, under Chapter 1 of this title (relating to Texas Board of Health) [which became effective April 4, 1989].

(7)(5) The facility shall comply with the following [Other] requirements of safety and comfort.

(A) All new carpet installed in public corridors and paths of egress [after the initial inspection of the department] shall have a maximum flame spread rate of 75 based on the [ASTM "tunnel test" method or equivalent under the] "radiant panel test." Proper documentation must be provided on the letterhead of the testing company.

(B) Only open [Open] flame heating devices which have been listed by a testing laboratory approved by the National Bureau of Standards shall be used in the appropriate locations within the facility [are prohibited]. All fuel burning heating devices shall be vented. Working fireplaces shall have [are acceptable if they are of safe design and construction and if enclosed with] a glass enclosure that will withstand 650 degrees Fahrenheit temperature.

(C) Smoking regulations and designated smoking areas shall be established. Ashtrays of noncombustible material and safe design shall be provided.

(D) The facility shall develop and conspicuously post throughout the facility an emergency evacuation plan approved by the local fire marshal having jurisdiction and the department.

(E) There shall be at least one non-coin operated telephone in the facility available to both staff and residents use in case of emergency. Emergency telephone numbers shall be posted conspicuously at or near the telephone in a place that can be read while using the telephone.

(F) An annual pressure test of facility gas lines from the meter shall be provided by a licensed plumber. Any unsatisfactory conditions shall be corrected promptly.]

(F)(G) Storage of hazardous items such as janitor supplies and equipment shall be provided in closets or spaces separate from resident-use areas. Closets or spaces shall be maintained in a safe and sanitary condition and ventilated in a manner commensurate with the use of the closet or space.

(G)(H) All exterior site conditions shall be designed, constructed, and maintained in the interest of resident safety. [Newly constructed ramps shall not exceed 1:12 slope. Ramps, walks, and steps shall be of slip-resistive texture and be smooth and uniform, without irregularities. At least one ramp shall be provided for handicap use.] Guard rails, fences, and hand rails shall be provided where needed. Grounds, grass, shrubbery, trees, and other site features shall be maintained in a neat and attractive manner [in the interest of health and safety].

(H)(I) Tubs and showers shall have non-slip bottoms or floor surfaces, either built-in or applied to the surface.

(I)(J) All lavatories and bathing units shall be supplied with hot water in quantities to meet the needs of the residents. Hot water shall be controlled not to exceed 120 [125] degrees Fahrenheit.

(J)(K) Cooling and heating shall be provided for resident comfort. Conditioning systems shall be capable of maintaining the comfort ranges of heating and cooling.

(K)(L) The facility shall be well ventilated through the use of windows, mechanical ventilation, or a combination of both.

(L)(M) Illumination, either natural or artificial, shall be provided to supply the needs of the residents and staff

without eye strain or glare. **Each resident bedroom shall have sufficient illumination for reading and general use.**

(M)(N) A passenger elevator shall be provided in the facility for resident bedroom and use areas which are on the third floor or higher, the street floor being considered the first floor. Applicable codes shall be observed in the design and construction of elevators.

(N)(O) It is desirable that finish materials, colors, decorations, and furnishings, contribute to physical and emotional comfort. Furniture shall be substantial and stable and of design commensurate with its function and use. Loose rugs creating a hazard shall not be permitted. Building features, furnishings, and furniture shall be provided and maintained free of hazardous conditions and in the interest of continuing resident benefit.

(O)(P) There shall be no occupancies or activities undesirable to the health and safety of the residents in the buildings or on the premises of the facility.

(d) Sanitary environment.

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

(8) All bathrooms, toilet rooms, and other odor-producing rooms or areas for soiled and unsanitary operations shall be ventilated for odor control by means of operable windows or powered exhaust [approved by the department].

(9) (No change.)

(10) [The facility shall be kept free of offensive odors, accumulations of dirt, rubbish, dust, and hazards.] Floors shall be maintained in good condition and cleaned regularly; walls and ceilings shall be structurally maintained, repaired, and repainted or cleaned as needed. Storage areas, attics, and cellars shall be free of refuse and extraneous materials.

(11) Clean [The quantity of available] linen shall [meet the sanitary and cleanliness] be available in a quantity sufficient to meet the needs of the residents. Clean linens shall be stored in clean linen storage areas.

(e) Accommodations.

(1) Resident bedrooms.

(A) (No change.)

(B) Useable bedroom floor space shall be not less than 80 square feet for a one-bed room and not less than 60 square feet (40 square feet where bassinets or cribs are used) per bed for a

multiple-bed room. Larger rooms are recommended for those residents needing nursing care. A bedroom shall be not less than eight feet in the smallest dimension, unless specifically approved otherwise by the department.

(C) (No change.)

(D) In the bedrooms and for each resident there shall be a bed, [comfortable] chair, table, [or] dresser, and closet space or wardrobe providing security and privacy for clothing and personal belongings.

(E) (No change.)

(F) All resident rooms shall open upon a hallway or corridor leading to an exterior exit either by stairway or a door opening to the exterior [an exit or service corridor, living area, or public area and shall be arranged for convenient and sheltered resident access to dining and recreation areas].

(G) All resident rooms shall be arranged for convenient and sheltered resident access to living or public areas, restrooms, and dining facilities.

(2) Resident toilet and bathing facilities.

(A) (No change.)

(B) One water closet and one lavatory shall be provided for each four residents [occupants] or fraction thereof. Where the needs of residents require, the facility may supplement this number by using bedside commodes, although water closets are preferable. Provisions may be needed for additional toilets and handwashing facilities for staff and the general public if the department determines the residents' facilities are not conveniently accessible. One tub or one shower shall be provided for each six residents [occupants] or fraction thereof.

(C) (No change.)

(D) Soap and towel dispensers or the equivalent shall be provided at all handwashing facilities [Sanitary handwashing and drying provisions for residents shall be maintained].

(3) Recreation, living, or [and] day room.

(A) Recreation, living, or [and] day room space and furniture shall be

provided to allow seating of [all] residents [at one time]. Each facility shall have at least one space of not less than 144 square feet. A facility with a capacity of nine or more residents shall provide a space of 10 square feet more per resident in addition to the 144 square feet minimum. [The first eight residents shall be provided with at least 144 square feet; for each additional resident 10 square feet shall be additionally provided].

(B) At least one of the recreation, living, or [and] day room areas shall have exterior windows providing a view to the outside.

(4) **Parking** [Miscellaneous]. The facility shall provide adequate parking accommodations for the staff, residents, and visitors [is encouraged to provide or arrange for nearby functional parking space for private vehicles of residents who drive, and is encouraged to provide nearby parking arrangements for visitors].

(f) Care and services.

(1) Admission.

(A) (No change.)

[(B) Each resident on admission shall have a current medical history, including medications, and a physical examination performed by a physician. The history and physical examination shall have been performed within 14 days prior to admission or shall be performed within seven days after admission. The history and physical examination shall be of sufficient detail for the attending physician to evaluate the resident's immediate and long-term needs, and shall include all diagnoses and any other information that may be needed for the care of the resident.]

(B)[(C)] Upon admission, the resident, responsible party, or facility responsible for the placement of the resident shall see that arrangements are made for the medical care of the resident by a designated attending physician or alternate physician.

(C)[(D)] The facility shall secure at the time of admission appropriate identifying information, including full name; sex; date of birth; usual occupation; social security number; family/friend name, address, and telephone number; and physician names and telephone numbers including emergency numbers.

(D) [(E)] There shall be in easily understood wording a written admission agreement between a facility and a

resident. The agreement shall specify such details as services to be provided and how services will be reimbursed, and shall be based on the operational policies.

(E)[(F)] The facility shall maintain a chronological register of all residents admitted to and discharged from the facility. The register shall contain at least the name of the resident, date of birth, date of admission, date of discharge/death, and disposition (where resident went including address).

(F) The facility shall have a written resident care document detailing the services provided. A list of the medications the resident is taking shall be included in the document. The resident, if capable, shall participate in the care document's preparation and update as needed. The facility is not required to obtain copies of records which document the care provided by other providers.

(2) Care plans and provision of services.

[(A) The facility shall develop for each resident a care plan that identifies the functional capabilities and needs of the resident, the services that will be provided or arranged for by the facility in or toward meeting those needs, and the services or assistance the resident will self-perform or self-arrange. The initial care plan shall be written at the time of admission or as soon thereafter as possible, but not to exceed 14 days after admission. The care plan shall be reviewed and updated as the condition of the resident changes but not to exceed quarterly in any case.]

[(B) Care plans shall be developed in concert with the attending physicians' orders of care and treatments. Assessment of needs shall be determined and care plans shall be developed by qualified persons representing nursing, dietary, and social service disciplines, and other disciplines as may be appropriate or indicated.]

[(C) The facility shall provide, arrange for, or assist as the case may be in the provision of services that are called for by the care plans to be the responsibilities of the facility. All such services shall meet applicable professional standards of quality, be in accordance with all governing laws and regulations, and as specified in this chapter.]

(2)[(3)] Staffing.

(A) The facility shall be staffed with personnel or shall arrange through outside resources or volunteers for

personnel in the quantity and of the disciplines, professions, or types necessary to provide [for the facility to provide the care and services required under the care plans of the individual residents and as called for in these standards. The personnel shall be commensurate with the intent of] the types and kinds of services stated in the policies of the facility.

[(B) For a resident requiring only personal care, including assistance in self-administration of medications, direct care personnel may be facility, outside resource, or volunteer attendant personnel.]

(B)[(C)] For residents requiring nursing care, including the administration of injectable or intravenous medications or medications by tube into a body cavity, direct care facility personnel shall be registered professional [qualified] nursing personnel, licensed vocational nursing personnel, or may be outside resource personnel or volunteers with the required qualifications.

(C)[(D)] There shall be personnel as needed to maintain cleanliness, sanitation, and safety; to prepare and serve meals; to keep a supply of clean linen; and to assure that each resident receives the kind and amount of supervision and care required to meet his or her basic needs. These personnel may be employees, be arranged for, be volunteers, or, where appropriate, be residents themselves, depending on the policies of the facility. In some facilities, these personnel may perform these functions on a periodic, as compared to an ongoing, basis.

(D)[(E)] At least one or more appropriate staff person(s) as needed shall be on duty at all times. Each shift or tour of duty shall have an appropriate staff person designated in charge. This person shall be qualified to recognize and respond to obvious sudden changes in a resident's condition and obtain necessary consultation or direct assistance by others.

[(F) The facility shall provide or arrange for a registered nurse or other qualified person, such as a physician or physician assistant, to check each resident on a periodic basis frequent enough to note any unrecognized or subtle change in the resident's condition.]

[(G) All staff shall be physically, mentally, and emotionally able to perform the duties to which they are responsible or have been assigned.]

(3) [(4)] Physician services.

[(A) Each resident admitted shall have a current medical history and physical examination as described in paragraph (1) (B) of this subsection.]

(A)[(B)] Each resident shall have a designated attending physician who is in charge of the medical care of the resident.

(B) The facility shall make a reasonable effort to contact the resident's physician within 72 hours after admission to obtain any information relating to the care of the resident. Any relevant information obtained from the physician will be recorded on the resident care document.

[(C) The facility shall provide a medical records service which facilitates attending physicians' entering of orders and progress notes.]

(C)[(D)] In the event of an acute illness, condition, or accident requiring medical and/or nursing care beyond the capabilities of the facility, the resident shall be transferred to a hospital or other health care facility as appropriate where needed services and facilities are available [; provided, however, until said transfer is made the facility personnel shall have authority to carry out emergency procedures as prescribed by a licensed physician. In case of an illness which does not necessitate transfer of a resident from the facility, appropriate nursing personnel shall keep a necessary record of medications and vital signs in order to keep the attending physician fully informed relative to the health status of the individual resident. Administration of medications shall be done in accordance with applicable laws and regulations].

[(E) Every facility shall have a written arrangement with one or more physicians to provide emergency medical care as needed.]

(4)[(5)] Nursing services.

[(A) Nursing services shall be provided as necessary for those residents needing nursing care. The nursing services shall be provided to meet the needs of the residents and in accordance with standard recognized practices of nursing care.]

(A)[(B)] Licensed nurses shall function consistent with the nursing practices recognized and authorized by their licensing boards in Texas.

[(C) A licensed nurse shall be designated to be responsible for the nursing service. This person shall be on duty or on call as needed.]

(B)[(D)] When nursing services are provided [needed], nursing personnel shall assure that residents requiring nursing care receive treatments, medications, and diets as prescribed; receive preventive care to discourage decubiti; are kept comfortable, clean, and well-groomed; are protected from accident and injury by adoption of indicated safety measures; and are treated with kindness and respect. Duties of nursing personnel consist of direct resident care and services.

(C)[(E)] Nursing or attendant personnel on duty shall be responsible to obtain emergency medical care when a resident's condition so requires and shall notify the applicable attending physician.

(5)[(6)] Infection control. The facility shall have written policies and procedures for the control of communicable diseases and infections in personnel, residents, volunteers or visitors, and for a safe and sanitary environment. A facility shall adopt, implement, and enforce a written policy to ensure compliance of the facility and its employees, volunteers, and contractors with the Health and Safety Code, Chapter 85, Subchapter I, relating to the prevention of the transmission of human immunodeficiency virus and hepatitis B virus. [These policies and procedures shall include the Recommendations for Prevention of HIV Transmission in Health-Care Settings as published by the United States Department of Health and Human Services, Centers for Disease Control, Atlanta, Georgia, and as revised; and "Infection Control for the Nursing Home," Texas Preventable Disease News, Volume 46, Number 33, August 16, 1986, Texas Department of Health. The Immunization Section of this newsletter will have to be carefully applied on an individual basis as determined by the patient's physician.]

(6) Resident file. [(7) Medical records.]

(A) The facility shall maintain for each resident admitted, a separate file [medical record] with all entries kept current, dated, and signed by the recorder. The file [record] shall include:

(i) identification data as identified in paragraph (1)(C) [(1)(D)] of this subsection;

(ii) medical history and physical exam reports, if available;

(iii) any physician orders and progress notes, if available;

(iv) any documentation of the resident's change in health condition requiring emergency procedures and/or health services provided by facility personnel;

[(v) if appropriate, documentation of assistance with medications as stated in pharmacy services;]

(v)[(vi)] other documents or reports related to the care of the resident as required by facility policy;

(vi)[(vii)] if appropriate, documentation of nursing services provided and nursing staff observation as required by facility policy; and

(vii) a list of medications the resident is taking.

[(viii) a separation or discharge report completed at the time of the resident's discharge. The report shall include date of departure, destination, reason for leaving, resident's health status, referral information, if any, and how to be contacted, if appropriate.]

(B) The director shall be responsible for the organization and management of the resident file. [medical records.]

(C) The facility will protect the resident file [medical records] against loss, damage, destruction, and unauthorized use by:

(i) safeguarding the confidentiality of the resident file [medical record information] and allowing access or [and/or] release only [under court order; by written authorization of the resident unless the physician has documented in the record to do so would be harmful to the physical, mental, or emotional health of the resident; as allowed by law and rules for licensure inspection purposes and reporting of communicable disease information; or] as specifically allowed by federal or [and] state laws [relating to facilities caring for residents with AIDS or related disorders];

(ii) maintaining files [records] in an organized manner, storing them in a protective device (manila folder, ring binder, envelope, etc.), and filing them using an organized system;

(iii) recording entries in ink, computer, or typewritten format and keeping original reports and records; and

(iv) storing files [records] in a lockable area during non-use and after resident's discharge.

(D) The following pertains to resident files [medical records].

(i) Resident files [Medical records] must be retained for at least five years after services end. In the case of a minor, the resident file [medical records] must be retained for at least three years after the minor reaches majority under state law.

(ii) The facility may not destroy resident files [medical records] that relate to any matter that is involved in litigation if the facility knows the litigation has not been finally resolved.

(iii) Each resident of the facility shall have an opportunity to comply with the provisions of the Natural Death Act, Health and Safety Code, Chapter 672 [Texas Civil Statutes, Article 4590h], if the resident desires to execute a directive under the act.

(iv) In the event of change of ownership, the new management shall maintain proof of the medical information required for the continuity of services of residents.

(7) Medications [(8) Pharmacy services].

(A) Medications [Pharmacy services] shall be provided as required for those residents on a physician-ordered medication therapy regimen.

(B) Upon admission, and as part of the care plan, the admitting physician shall determine whether a resident can self-administer his or her medications or will require administration by qualified [nursing] personnel in accordance with subparagraph (G) or this paragraph.

(C) Each resident's health status shall be reviewed at least quarterly, or more often if indicated, to determine if any changes are necessary in the medication administration procedures.

(i) The appropriateness for a resident to self-administer medications shall be reviewed by the facility director and[,] attending physician[, and a licensed nurse].

[(ii) The appropriateness for a resident to have qualified nursing personnel administer medications shall be reviewed by the facility director, attending physician, registered nurse, and a pharmacist.]

[(ii) [(iii)] A resident's drug regimen review shall be incorporated into the individual's plan of care.

(D) Residents self-administering their medications may:

(i) keep them in their possession;

(ii) secure their medications in a [use] lockable cabinet [cabinets] in their room or within the room itself if the room is not shared with others and can be secured [for medication storage provided by the facility for each resident in the resident's room]. Only the resident and authorized facility staff shall have access to the secured medications [the lockable cabinet]; or

(iii) allow the facility to keep residents' medications in a central medication storage area under control of facility staff.

(E) The central medication storage shall be lockable and shall be kept locked when facility staff is not actually in or at the storage area.

(F) Residents may be permitted entrance or access to the storage area for the purpose of self-administering their medications or treatments or receiving assistance with their medication or treatment regimen. A facility staff member shall remain in or at the storage area the entire time any resident is in the storage area.

(G) Medications that are administered to a resident shall be administered only by a registered professional nurse, licensed vocational nurse, practitioner, or individual under direct delegation orders by a physician and in conformance with all laws, rules, and recognized professional standards of practice. A home health agency who is providing services within a special care facility may use a home health medication aide only in accordance with §115.19(c) of this title (relating to permitted actions).

[(G) Lockable, individual resident-storage cabinets, securely fastened or attached to a wall or permanent fixture shall be available at a central location.

[(H) Each resident is responsible for keeping any record for taking his or her medications.]

(i) The person administering medications shall properly record in the appropriate record the medications administered. This record will be retained in the resident file.

(ii) Medications may not be taken by or administered to residents unless the medication was obtained directly from or under a valid prescription or order of a physician. All medications administered to residents shall be upon written orders or verbal orders subsequently verified in writing by the treating physician.

(iii) All injectables, intravenous solutions, or medications administered by way of a tube inserted in a cavity of the body shall be administered by a physician, registered professional nurse, or licensed vocational nurse under physician's orders.

(iv) [(I)] If administration of medications to residents is performed by a registered professional nurse or licensed vocational nurse [qualified nursing personnel] the following shall apply.

(v) [(i)] There shall be a specific area designated for medication that is:

(I) sufficient in size and/or space for the storage of all medications that are being administered to residents and for the preparation of medications for administration to residents;

(II) lockable and shall be maintained locked at all times when not occupied;

(III) accessible only to persons authorized to administer medications to residents;

(IV) equipped with a sink having hot and cold water available at all times; and

(V) adequately ventilated and temperature controlled.

(vi) [(ii)] A medication storage cart may be used in addition to the medication room for the storage of residents' medications. When not in use, the medication storage cart must be kept locked in the locked medication room or in the designated locked storage room that shall be used only for the storage of the cart.

[(I) The medication cart shall conform to the department guidelines for implementation and use of a medication storage cart.

[(II) When not in use, the medication storage cart must be kept locked in the locked medication room or in the designated locked storage room that shall be used only for the storage of the cart.

[(iii) All medications administered to residents shall be upon written orders or verbal orders subsequently verified in writing by the treating physician.

[(iv) Medications shall be administered only by personnel licensed or

permitted to administer medications and shall be done in conformance with all laws, regulations, and recognized professional standards of practice.

[(v)] The facility shall have readily available items necessary for the proper administration of all medications.

[(vi)] The person administering medications shall properly record in the appropriate medical record the medications administered.

[(vii)] A pharmacist arranged for by the facility shall review each resident's medication regimen at least monthly for all residents being administered their medications.

[(I)] The pharmacist shall furnish to the facility's nurse-in-charge and director a separate written report on each resident indicating the date of the review, and any irregularities.

[(II)] The pharmacist shall sign each drug regimen review.]

[(H)] When a resident needs assistance with taking oral medication, only those individuals approved in writing by the director of the facility may provide that assistance.

(i) A mechanism will be developed, implemented, and monitored by the facility director to insure that the resident is given only those medications that have been prescribed by the resident's physician at the intervals detailed on the resident's medication container.

(ii) When assistance with taking oral medication is provided, the facility will maintain a medication record which documents the medication, date, and time taken. The name of the individual who assisted the resident taking the oral medication shall also be documented.

(iii) The facility director or designee will monitor the medication records daily to insure accuracy.

[(I)][(J)] Medication [Pharmaceutical] service policies and procedures shall be developed and maintained current.

[(K)] Policies and procedures are to be developed by the facility's pharmacist, nurse-in-charge, director, and a physician.]

[(J)][(L)] Appropriate documentation shall assure that policies and procedures are reviewed at least annually.

[(M)] Medication requiring refrigeration shall be stored in the medication room, used only for medicine storage, supplemental feedings, and substances specifically ordered by the resident's physician that require refrigeration.]

[(K)] Medication requiring refrigeration shall be stored in a separate designated area within the refrigerator in a manner which prevents contamination of the medications.

[(L)][(N)] Medication under storage control of the facility shall be returned to the resident upon dismissal from the facility.

[(M)] Medications of a resident shall not be used for another resident. When a resident is dismissed from or otherwise leaves the facility for a period of time greater than 48 hours, medications which had been under the control of the resident and left in the facility shall be secured under locked storage control of the facility until reclaimed by the resident and no longer than 90 days. Medications of deceased residents shall not remain in the facility for more than 7 days after the resident's death. Medications of deceased residents and medications which have been left unclaimed in the facility for more than 90 days shall be handled in one of the following manners.

(i) Medications may be returned to any licensed pharmacy for destruction in accordance with regulations of the Texas Board of Pharmacy governing the destruction of dangerous drugs or controlled substances. A record shall be maintained by the facility which itemizes the quantity and strength of each medication returned to a pharmacy for destruction. Such record shall be signed by the director of the facility and the pharmacist accepting the drugs for destruction and shall be retained in the resident's file.

(ii) Medications may be destroyed beyond reclamation on-site by the facility director. Drugs should be destroyed by incineration, if possible. Small amounts of drugs may be flushed into the sewer system unless prohibited by local ordinance. Large quantities of drugs may be destroyed by removing the drugs from the prescription containers, placing them in a strong plastic container and adulterating the drugs with water or bleach.

[(I)] A record of the destruction shall be maintained by the facility and include:

(-a-) the name, strength, and quantity of the drug;

(-b-) the method of destruction; and

(-c-) the signature of the facility director who destroyed the drugs and signatures of two other individuals who witnessed the destruction.

[(II)] This record shall be retained in the resident's file.

[(O)] Medications no longer in use remaining in the facility after 90 days shall be destroyed in accordance with regulation governing the destruction of dangerous or controlled drugs by the Texas State Board of Pharmacy.]

[(N)][(P)] Controlled substances and drugs under storage control of the facility shall be kept separately locked in a permanently affixed compartment within the medicine room or medication storage cart.

(i) A separate record must be maintained for each controlled substance and drug.

(ii) The record shall include, but not be limited to, prescription number, name and strength of drug, date received by the facility, date and time each dose is provided [administered], signature of person providing the [administering] dose, name of resident, and the original amount received with the balance verifiable by drug inventory at least daily.

[(Q)] Appropriate facility staff shall be responsible for ordering and reordering medications from the pharmacy for those residents having their medications administered to them by facility staff.]

[(O)][(R)] All residents' medications shall be properly dispensed and/or labeled in accordance with applicable laws and regulations.

[(8)][(9)] Dietary services.

[(A)] A dining room, rooms, or space with appropriate furnishings shall be provided. The [Dining facilities shall not double as required living and day room areas. Ideally, the] dining space and furnishings should allow the residents who can come to the dining room to dine at one sitting. Where alternate or second meal services are employed, those services must be equal in quantity, quality, and sanitation to the first serving.

(B) The facility shall have a kitchen or dietary area to meet the food service needs of the residents. It shall include provisions for the storage, refrigeration, preparation, and serving of food; for dish and utensil cleaning; and for refuse storage and removal in accordance with §§229.161-229.171 of this title (relating to Food Service and Sanitation).

(C) Meal service at intervals of at least three meals per day, seven days per week, shall be provided or arranged to be commensurate with the needs of the residents. Meals shall be palatable and meet the nutritional needs of the residents.

(D) Procedures to prevent cross contamination shall be observed in the storage, preparation, and distribution of food; in the cleaning of dishes, equipment, and work area; and in the storage and disposal of waste.

(E) All dishes and utensils shall be washed in an automatic dishwasher or by the use of manual dishwashing procedures in accordance with §229.166 of this title (relating to Cleaning, Sanitization and Storage of Equipment and Utensils).

(F) Sanitary handwashing and drying provisions shall be provided in the kitchen area and shall include soap, water, and individual disposable towels.

[(G) If the attending physician specifies a therapeutic diet that cannot customarily be provided in a home or family setting, the facility shall make arrangement for the service of a dietitian in order to provide the resident with the appropriate diet.]

(9)[(10)] Social services/pastoral care. Services to meet identified social, spiritual, and emotional needs shall be offered to the resident, the resident's family or responsible party, the resident's friend, and significant other persons. Acceptance of these services will be at the option of the resident.

[(A) The care plan of each resident shall identify that resident's social, spiritual, and emotional needs.]

[(B) Services to meet identified social, spiritual, and emotional needs shall be offered to the resident, the resident's family or responsible party, the resident's friend, and significant other persons. Acceptance of these services will be at the option of the resident. Services may include but are not limited to:

[(i) issues of death or dying;

[(ii) individual and group counseling;

[(iii) grief work including follow-up care to survivors of patients;

[(iv) unresolved issues of sexual identity and responsible sexual activity;

[(v) issues related to employment, and acceptance by the community at large;

[(vi) use of health resources and options;

[(vii) substance or alcohol abuse; and

[(viii) appropriate and inappropriate behavior.

[(C) Social services staff should be available to assist with discharges and in locating alternative arrangements should the need exist.]

(10)[(11)] Personal care services.

(A) The facility shall provide personal care services required of residents to assist them in their day-to-day living.

(B) All residents will need the following basic personal care services:

(i) a safe, comfortable, and sanitary environment;

(ii) a food service which provides wholesome and satisfying meals meeting general nutritional needs; and

(iii) humane treatment, including responsible communication.

(C) Some residents may need personal care services such as:

(i) assistance with [the self-administration of] their medication regimen;

(ii) assistance with hygiene;

(iii) assistance with grooming, including clothing;

(iv) assistance with ambulation; and

(v) emotional support.

(D) Some residents may be able to be cared for through personal care services without reliance on nursing services.

(11)[(12)] Humane treatment and resident rights.

(A) As home-like an atmosphere as possible shall be provided. Restrictive rules shall be kept to a minimum. While some rules are necessary in group living to maintain a balance between individual wishes and group welfare, they shall not infringe upon a resident's rights of self-determination, privacy of person or thought, and personal dignity. [General rules affecting all residents should be based on the premise that residents have the capacity to function as adult individuals.]

(B) Through action and attitudes the facility staff shall help the residents develop and maintain self-respect, confidence, self-fulfillment, and meaningful relationships with other residents and staff.

(C) All facility staff, including management staff and volunteers, shall, in the course of their tasks, provide emotional support.

(D)[(i)] Staff shall provide observation and precautionary measures to promote safety and protection from falling, wandering, and harm.

[(ii) Staff shall treat residents humanely and with dignity and respect.

[(iii) Staff shall be alert to major changes in the conditions of the residents and outward signs of side effects of medications.

[(iv) Staff shall refrain from performing tasks for residents that they can do themselves.]

(E) [(D)] Abuse or punishment of residents in the facility is prohibited.

(F)[(E)] Each resident shall have unlimited freedom to move from the facility. A written release from the resident or the resident's responsible party is recommended.

(G)[(F)] No resident shall be discharged from the facility other than for reasons specified in the admission policies and without due notification.

(H)[(G)] To the extent practical, each resident shall have the right to keep and maintain his or her personal belongings in his or her possession.

(I)[(H)] Each resident shall have the right to keep and maintain his or her own finances.

(J)(I) Each resident shall have the right to participate in, or abstain from, religious observances.

(K)(J) Each resident shall have freedom to receive and send mail unopened and without undue delay.

(L)(K) Residents shall have the opportunity to receive visitors at reasonable hours but within reasonable limitations, as may be required by the facility in its operation policies.

(M)(L) Residents shall have as much freedom as possible in choice of clothing when provisions are available for laundry and dry cleaning at the individual resident's expense. Beautician and barber services shall be available for use by those desiring such outside service at the individual resident's expense.

(N)(M) The facility shall provide opportunities for meaningful activities and social relationships.

(O)(N) Use of volunteers from the community to participate and assist in meaningful resident activities is encouraged.

(P)(O) Rights of the elderly specified in the Human Resources Code, Title 6, Chapter 102 shall apply to residents 55 years of age or older.

(g) Waivers, modifications, and variations to provisions of this section.

(1) On the request of the facility, the department may grant a waiver or modification for certain provisions of the physical plant and environment which, in the opinion of the department, would be impractical for the facility to meet. In granting the waiver or approving the modification, the department shall determine that there will be no adverse effect on resident health or safety, and the requirement, if not waived or modified, would impose an unreasonable hardship on the facility in providing adequate care for the residents. The department may require offsetting or equivalent provisions in granting such a waiver or approving such a modification.

(2) On the request of the facility, the department may grant a waiver or approve a variation for certain provisions of facility operation which, in the opinion of the department, would be impractical or inappropriate for the facility to meet. In granting the waiver or approving the variation, the department shall determine that there will be no adverse effect on resident

health or safety, and the requirement, if not waived or varied, would impose an unreasonable hardship on the facility in providing adequate care to residents. The department may require offsetting or equivalent provisions in granting such a waiver or approving such a variation.

§125.7. License Denial, Suspension, or Revocation and Criminal Penalties.

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

(c) The department may suspend or revoke an existing valid license, or disqualify a person from receiving a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the ownership or operation of a facility.

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

(3) **The following felonies and misdemeanors directly relate because these criminal offenses indicate an ability or a tendency for the person to be unable to own or operate a facility:**

(A) a violation of the Act;

(B) an offense involving moral turpitude;

(C) an offense relating to deceptive business practice;

(D) an offense of practicing any health-related profession without a required license;

(E) an offense under any federal or state law relating to drugs, dangerous drugs, or controlled substances;

(F) an offense under Title 5 of the Texas Penal Code involving a patient or client of a health care facility or agency; or

(G) an offense under various titles of the Texas Penal Code:

(-i-) Title 5 concerning offenses against the person;

(-ii-) Title 7 concerning offenses against property;

(-iii-) Title 9 concerning offenses against public order and decency;

(-iv-) Title 10 concerning offenses against public health, safety, and morals; or

(-v-) Title 4 concerning

offenses of attempting or conspiring to commit any of the offenses in this subsection; or

(H) other misdemeanors or felonies which indicate an inability or tendency for the person to be unable to own or operate a facility if action by the department will promote the intent of the Act; this chapter, or Texas Civil Statutes, Article 6252-13c.

(d) (No change.)

(e) If the director proposes to deny, suspend, or revoke a license, the director shall notify the applicant or the facility by certified mail, return receipt requested, of the reasons for the proposed action and offer the applicant or facility an opportunity for a hearing. The applicant or facility must request a hearing within 30 days of receipt of the notice. The request must be in writing and submitted to the Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the department's formal hearing procedures in Chapter 1 of this title (relating to Texas Board of Health). If the applicant or facility does not request a hearing, in writing, within 30 days of receipt of the notice or does not appear at a scheduled hearing, the applicant or facility is deemed to have waived the opportunity for a hearing and the proposed action shall be taken. Receipt of the notice is presumed to occur on the 10th day after the notice is mailed to the last address known to the department unless another date is reflected on a U.S. Postal Service return receipt.

(f) (-i) (No change.)

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

Issued in Austin, Texas, on March 9, 1992.

TRD-9203393

Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: May 16 1992

For further information, please call: (512) 834-6650

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TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.83

The State Board of Insurance of the Texas Department of Insurance proposes new §7.83 concerning the filing and adoption of examination reports of insurers. This proposed rule implements §11.104 of House Bill 2 which amended the Insurance Code, Article 1.15. This proposed rule also makes the examination reports concerning financial condition and market conduct, open records under the Texas Open Records Act. This section applies to all insurers subject to Article 1.15 and includes group hospital service plans, health maintenance organizations, the Texas Catastrophe Property Insurance Association and the Texas Workers' Compensation Insurance Fund.

Clarence R. Nixon, chief examiner, examinations division, has determined that, for the first five-year period this proposed section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering this section.

Mr. Nixon, also has determined that for each year of the first five years this section is in effect the public benefit anticipated as a result of this section will be the availability of information concerning the financial condition and market performance of insurers which the public may use in making decisions about its insurance needs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with this section as proposed.

Comments may be submitted to Clarence R. Nixon, Chief Examiner, Examinations Division, 333 Guadalupe, MC #303-3A, P.O. Box 149104, Austin, Texas 78714-9104.

The new section is proposed under the Insurance Code, Articles 1.04, 1.15, 10.33, 10.35, 14.16, 14.39, 17.18, and 20.21. Article 1.04 provides the Texas Department of Insurance with the authority to determine policy and rules in accordance with the laws of this state. Article 1.15 provides the Texas Department of Insurance the authority to adopt procedures for the filing and adoption of examination reports of insurers. Articles 10.33, 10.35, 14.16, 14.39, 17.18, and 20.21 provide the Texas Department of Insurance examination authority of specified types of companies or insurers.

§7.83. Examination Reports.

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

(1) Commissioner—Commissioner of Insurance, Texas Department of Insurance.

(2) Associate commissioner—The associate commissioner, Financial Program of the Texas Department of Insurance.

(3) Company—An insurer, group hospital service plan, or health maintenance organization authorized to do business under the laws of this state.

(4) Final examination report—An examination report which has been the subject of an exit interview between the examiner-in-charge and company management, any management conferences between the chief examiner and company management, and which has been certified as "final" by the chief examiner.

(5) Financial statement—A balance sheet, income statement, schedule showing results of operations, summary of operations, underwriting and investment exhibit, schedule of capital and surplus accounts, or other similar schedules reflecting financial information about a company.

(6) Market conduct examination—An examination which focuses on the performance and general business practices of a company in its dealings with policyholders and the general public.

(7) Examination report—A report which contains a financial statement of the company examined or which reflects the results of a market conduct examination.

(8) Adopted examination report—An examination report which has been adopted or deemed adopted by the associate commissioner pursuant to this section.

(b) Applicability. This section applies only to examination reports with examination dates as of June 30, 1992 or later.

(c) Filing of examination reports.

(1) Examination reports prepared by the Texas Department of Insurance. Upon completion of an examination, the examiner-in-charge shall immediately conduct an exit interview with company management. The examiner-in-charge shall submit the completed examination report to the chief examiner within 15 days after the exit interview. Within 30 days after the exit interview, the company examined may submit a written request, for a management conference with the chief examiner on the examination report. The company's request shall include a detailed statement of the company's disagreement with the report. The chief examiner may request a management conference to address any regulatory concerns raised by the examination. The management conference must be scheduled for a date within 30 days after the request is

made. If no conference is requested by either the company or the chief examiner within the time permitted, the chief examiner shall proceed as provided in subsection (d)(1) of this section, the examination report shall be deemed adopted by the associate commissioner, and the report shall be subject to subsection (f) of this section.

(2) Examination reports prepared by other jurisdictions. In lieu of examining any foreign or alien insurer licensed in this state, the Texas Department of Insurance may accept an examination report on the company prepared by the insurance department for the company's state of domicile until January 1, 1994. Thereafter, such report shall be accepted only if:

(A) the examining insurance department is required by law to conduct an examination of an insurer licensed in that state not less frequently than once every five years;

(B) the examining insurance department was at the time of the examination accredited under the NAIC Financial Regulation Standards and Accreditation Program; or

(C) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by its insurance department.

(d) Notice to associate commissioner.

(1) Examination reports prepared by the Texas Department of Insurance. No later than 15 days following any management conference conducted pursuant to subsection (c)(1) of this section, the chief examiner may make changes to the report which are believed to be necessary or proper. After any such changes are made, the chief examiner shall simultaneously:

(A) certify the examination report as final;

(B) notify the associate commissioner of the certification; and

(C) transmit a copy of the final report to the company examined.

(2) Examination reports prepared by other jurisdictions. The chief examiner shall notify the associate

commissioner of each examination report received pursuant to subsection (c)(2) of this section. Each such report shall be deemed to be a final report.

(e) Adoption of reports.

(1) A company which is the subject of a final examination report prepared by the Texas Department of Insurance and which has had a management conference pursuant to subsection (c)(1) of this section may, within 15 days after the chief examiner notifies the associate commissioner of the certification of a final examination report, submit for the associate commissioner's consideration, a written rebuttal to the report. Within 30 days following receipt of the rebuttal, the associate commissioner shall adopt the examination report, either with or without changes or shall reject the report. If no written rebuttal is submitted within the time permitted, no further action is required and the report shall be:

(A) deemed adopted by the associate commissioner; and

(B) subject to subsection (f) of this section.

(2) Nothing contained herein shall be construed to limit the commissioner's authority to use any final or preliminary examination report, any examiner or company work papers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action which the commissioner may deem appropriate.

(3) Nothing contained herein shall be construed to prohibit the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country, or to law enforcement officials of this or any other state, or to an agency of the federal government at any time. The commissioner may request any recipient of such reports or matters relating thereto to agree in writing to hold it confidential and in a manner consistent with this section.

(f) Open records treatment.

(1) Each adopted examination report prepared by the Texas Department of Insurance shall be considered an open record pursuant to the Open Records Law, Texas Civil Statutes, Article 6252-17a. Each report received from another jurisdiction pursuant to subsection (c)(2) of this section shall be considered an open record.

(2) All examination reports with examination dates as of December 31,

1990, or later, but before June 30, 1992, which are determined by the chief examiner to be completed shall be considered open records pursuant to the Open Records Law.

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 March 9, 1992.

TRD-9203383

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Proposed date of adoption: April 13, 1992

For further information, please call: (512) 463-6328

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Chapter 11. Health
Maintenance Organizations

Subchapter H. Schedule of
Charges

• 28 TAC §§11.701-11.707

The State Board of Insurance of the Texas Department of Insurance proposes amendments to §§11.701-11.704 and new §11.705, §11.706 and §11.707, concerning the schedule of charges for enrollee coverage by health maintenance organizations (HMOs). The amendments and new sections are necessary to conform the subchapter to legislative revisions to the Texas HMO Act and to provide clarification of the regulations related to the schedule of charges. The amendment to §11.701 provides for the filing of the formula or method for calculating the schedule of charges and the required supporting documentation and clarifies the contents of the schedule of charges. The amendment to §11.702 provides that the formula or method for calculating the schedule of charges must be accompanied by certification of a qualified actuary that it is appropriate to produce rates that are not excessive, inadequate, or unfairly discriminatory. The amendment to §11.703 provides that each formula or method for calculating the schedule of charges must be accompanied by adequate detail including assumptions to justify that the charges produced are not excessive, inadequate, or unfairly discriminatory. That amendment also provides that the calculations must be available in the HMO's office and that any changes in the assumptions in the formula or method for calculating the schedule of charges for a particular group need not be filed but justification of the variances must be retained at the HMO's office. The amendment to §11.704 establishes the standards for establishing conversion rates and prohibit charges based on any individual's health status. New §11.705 establishes requirements concerning a one-time enrollment fee or a reinstatement fee for lapsed contracts. Section 11.706 provides standards for determining reasonableness of HMO rates with respect to benefits. Section 11.707 requires review of an HMO's formula or method for calculating its schedule of charges after a

one-year period. The existing §11.705 and §11.706, concerning rate variations and schedule of charges projected in application for certificate of authority, have been proposed for repeal.

Joan Kennedy, director of insurance related activities, Bob Long, actuary, and Bill Beversdorff, examiner, have determined that for the first five-year period the sections in effect fiscal implications to state or local government will be a slight increase in the cost of group health coverage in some cases in order to offset decreases in individual conversion health coverage rates to affordable amounts, otherwise there will be no adverse fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on the local employment or the local economy.

Ms. Kennedy, Mr. Long, and Mr. Beversdorff also have determined that for each year of the first five years the amendments and new sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer, more concise statement of requirements concerning an HMO's schedule of charges, in accordance with the amendments to the Texas HMO Act; a more affordable individual conversion coverage cost; assurance of some benefit to the consuming public as a result of the HMO's efforts to hold down health care costs by negotiating lower fees with providers; and an incentive to HMOs to encourage negotiations for discounts of health care service costs. There will be no effect on small businesses. There is some anticipated economic cost to persons who are required to comply with the proposed sections as actuarial reviews of rates are required once a year. Such costs will depend upon size, type, and complexity of the HMO but will range from \$1,000 to \$50,000 per year. Most HMOs have already provided for such reviews. Also, there would be an economic cost to HMOs which would otherwise charge rates in excess of that allowable by these sections, but because it does not appear there are any HMOs that could not comply with these sections without a decrease in revenue, no economic costs from loss of revenue are anticipated.

Comments on the proposal may be submitted to Joan Kennedy, Director of Insurance Related Activities Section, Mail Code 106-3A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The amendments and new sections are proposed under the Texas Insurance Code, Article 104, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state; and under the Texas Insurance Code, Article 20A.22, which authorizes the board to promulgate rules to carry out the provisions of the Texas Health Maintenance Organization Act.

§11.701. Must Be Filed Prior to Use.

(a) No formula or method for calculating the schedule of charges for enrollee coverage, as defined in §11.2(b)

[§11.2(b) (13)] of this title (relating to Definitions), may be used until a copy of such formula or method for calculating the schedule of charges with the required supporting documentation as defined in §11.703 of this title (relating to Supporting Documentation) has been filed with the commissioner.

(b) The schedule of charges governed by this section includes all charges made for group or individual coverage except that any fee collected as an administrative service only fee, whereby the HMO assumes no risk, shall not be governed by this section.

(c) Each filing must be accompanied by HMO Form #6 (SC#1) as referenced in §11.1001 of this title (relating to Forms Adopted by Reference). This information may be submitted in the form of a computer printout.

§11.702. Actuarial Certification. Each formula or method for calculating the schedule of charges must be accompanied by the certification of a qualified actuary that, based on reasonable assumptions, the formula is appropriate to produce rates that are not excessive, inadequate, or unfairly discriminatory [rates to be charged are appropriate]. An actuary is considered qualified if he or she:

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

§11.703. Supporting Documentation. Each formula or method for calculating the schedule of charges must be accompanied by adequate detail including assumptions [supporting documentation adequate] to justify that the charges produced by the formula or method are not excessive, inadequate, or unfairly discriminatory as defined in §11.706 of this title (relating to Factors to be Considered in Determination of Reasonability of Rates) [rates to be charged].

(1) The calculations used to produce any schedule of charges as defined in §11.2(b)(14)(A) of this title (relating to Definitions) must be available at the HMO's office.

(2) Any changes in the assumptions in the formula or method for calculating the schedule of charges due to special characteristics of a particular group need not be filed, but justification of the variances must be retained at the HMO's office so that compliance with §11.706 may be checked.

§11.704. Charges for Individuals. [May not be Based on Health Status].

(a) Charges for any individual's coverage may not be based on the individual's health status.

(b) The charge by an HMO for individual coverage which has been converted from group coverage shall not exceed 200% of the HMO's group community rate for comparable coverage. The phrase "group community rate" as used herein is the rate which would be charged all persons in the service area if all persons were members of one group, within the parameters set out in §11.706 of this title (relating to Factors to be Considered in Determination of Reasonability of Rates). The conversion rate is, therefore, based on the experience of all persons in the service area and not on the converting individual's characteristics.

§11.705. Enrollment Fees. An HMO may charge a one-time enrollment fee or a reinstatement fee for lapsed contracts to offset the costs of initial enrollment or reinstatement, but said fee shall not exceed:

- (1) for basic health care plans, the monthly rate attributable to administrative costs for a period of one month; or
- (2) for single service health care plans, two months' premium.

§11.706. Factors to be Considered in Determination of Reasonability of Rates.

(a) A rate is inadequate if, after consideration of all factors including the financial support of a parent company or sponsoring organization, the rate anticipated results in lower per-member-per-month revenue than required for the HMO to reach financial break-even within five years of the commencement of operations or subsequently jeopardize the financial viability of the HMO.

(b) The following factors shall be considered in any review of rates under the Texas Insurance Code, Article 20A.09:

- (1) the cost of the health care services and benefits provided by the coverage if the same coverage were provided on a private pay basis, considering community average rates for such services and benefits within the service area of the plan;
- (2) the expense of initial enrollment. This can be expressed as the onetime enrollment fee under §11.705 of this title (relating to Enrollment Fees);
- (3) administrative expenses;
- (4) assumed or actual utilization levels;
- (5) group demographics;
- (6) other factors as appropriate.

(c) In the event the commissioner considers an HMO's rates to be in potential violation of the standards set out by this section, the commissioner shall notify the

HMO of the potential violation. It will be the responsibility of the HMO to demonstrate that the rates in question are not excessive, inadequate, or unfairly discriminatory using the factors reflected in subsection (b)(2) of this section and other factors which the HMO deems pertinent.

§11.707. Subsequent Review of the Formula or Method for Calculating the Schedule of Charges. If the formula or method for calculating the schedule of charges is to be continued beyond a one-year period, the HMO must file with the commissioner, by each anniversary of the effective date of that original filing, an actuarial statement stating that the previously filed formula or methodology has been consistently applied and the rates charged have proven and are expected to continue to be adequate, not excessive, nor unfairly discriminatory. This statement must be accompanied by HMO Form #6.

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 March 9, 1992.

TRD-9203385

Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

Earliest proposed date of adoption: April 13, 1992

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

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 12. Special [Child] Nutrition Programs [Program]

Child and Adult Care Food Program

- 40 TAC §§12.1-12.10, 12.15, 12.17, 12.22, 12.25

The Texas Department of Human Services (DHS) proposes amendments to §§12.1-12.10, 12.15, 12.17, 12.22, and 12.25, concerning the Child and Adult Care Food Program in its Special Nutrition Programs (formerly Child Nutrition Program) rule chapter. The purpose of the amendments is to establish the availability of funds to expand program participation in the Child and Adult Care Food Program by day care homes in rural and/or low-income areas. In addition, DHS is updating references to the Child Care Food Program to reflect the current program name: Child and Adult Care Food Program.

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 governments or small businesses 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 increased availability of funds to enhance the quality of meals served in day care homes providing services in rural or low-income areas of the state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Keith N. Churchill at (512) 450-3137 in DHS's Special Nutrition Programs. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-055, 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, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§12.1. Program Purpose. The National School Lunch Act, §17, authorizes the Child and Adult Care Food Program (CACFP) [(CCFP)] to provide assistance to initiate, maintain, and expand quality public and nonprofit food service programs for children or adults participants in nonresidential institutions which provide care.

§12.2. Definitions of Program Terms. Terms used in the administration and operation of the Child and Adult Care Food Program (CACFP) in Texas are defined in 7 Code of Federal Regulations, §226.2 and 7 Code of Federal Regulations Parts [Part] 3015 and 3016, and appropriate office of management and budget circulars, [.] except as defined in paragraphs (1)-(4) of this section: [Exception: The term "contractor" is substituted for the term "institution" as defined in 7 Code of Federal Regulations §226.2.]

(1) **Contractor**—Term used in this chapter instead of "institution" as defined in 7 Code of Federal Regulations, §226.2.

(2) **Expansion funds**—Funds made available to a contractor that has sponsored the participation of day care homes for at least one year at the time of application for expansion funds to expand the participation of the CACFP in day care homes located in low-income and/or rural areas.

(3) **Low-income area**—Local area where at least 50% of the area children are eligible for free or reduced-price school meals under the National School Lunch Program, as determined:

(A) by the number of free and reduced-price lunches or breakfasts served to children attending public and nonprofit private schools located in areas where there are CACFP sites;

(B) by information provided from departments or agencies that shows the family size and income of families in specific geographical boundaries; or

(C) from other appropriate sources.

(4) **Rural area**—

(A) any area in a county which is not part of a Metropolitan Statistical Area; or

(B) any "pocket" within a metropolitan statistical area which, at the option of the Texas Department of Human Services and with concurrence of the Food and Nutrition Service Regional Office, is determined to be geographically isolated from other urban areas.

§12.3. Eligibility of Contractors and Facilities.

(a) To participate in the Child and Adult Care Food Program (CACFP), contractors must meet the definitions in 7 Code of Federal Regulations, §226.2 and the appropriate requirements of 7 Code of Federal Regulations, §§226.6 and 226.15-226.19a.

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

(d) DHS requires contractors to submit copies of a current licensure or registration to operate a day care facility when they:

(1) apply to participate in the CACFP [CCFP]; or

(2) (No change.)

(e) Contractors are ineligible for the CACFP [Child Care Food Program] if they have permitted a member of the governing body, an agent, a consultant, or an employee of the contractor to enter the facility when children are present and any of these persons have been convicted of:

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

§12.4. Day Home Facilities.

(a) Day home providers participating in the Child and Adult Care Food

Program (CACFP) [CCFP] may not be actively engaged in the day-to-day operations of any sponsoring organizations, either full- or part-time. These day home providers may be board members of sponsoring organizations if they are not engaged in day-to-day operations of any sponsoring organization.

(b) Day home providers who have been found guilty of committing fraud in the CACFP [CCFP], including cases in which adjudication is deferred, are ineligible to participate in the CACFP [CCFP].

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

§12.5. Application for Program Benefits—Contractors.

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

(d) To be eligible for start-up funds or expansion funds, contractors that sponsor day care homes must submit an application. DHS approves or denies applications for start-up and expansion funds according to 7 Code of Federal Regulations, §§226.6, 226.12, 226.15, 226.16, and 226.23.

(1) Start-up funds are available only to sponsors of day care homes or contractors that are attempting to add day care homes to their operation.

(2) Expansion funds are available only to contractors that have sponsored day care homes for at least one year at the time of application and may be used only to expand program operations in low-income and/or rural areas. DHS considers the anticipated amount of expansion funds and alternate sources of funds when evaluating an applicant sponsor's plan for expansion. Contractors that are eligible to receive expansion funds may receive expansion funds only once. Applications for expansion funds must include:

(A) an acceptable and realistic plan for recruiting day care homes to participate in the program, including activities which the sponsoring organization will undertake;

(B) the amount of expansion funds needed and a budget detailing the costs the organization will incur, document, and claim;

(C) the time necessary for the expansion of program operations; and

(D) documentation that the expansion area meets the definition of a rural or low-income area.

§12.6. Agreement.

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

(g) Contractors that have been approved to receive start-up or expansion funds must enter into an agreement with DHS which incorporates:

(1) the information provided by the contractor in the application process; and

(2) a statement of the responsibility of the applicant contractor to repay upon demand by DHS all expansion funds not expended in accordance with the agreement.

§12.7. Budget.

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

(g) Contractors that apply for start-up or expansion funds must submit a budget that demonstrates how the funds will be used. Start-up and expansion funds may be used only for start-up or expansion activities.

§12.8. Financial Management System.

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

(c) Day activity and health services (DAHS) centers participating in the Child and Adult Care Food Program must report any reimbursement received under the program on their annual DHS DAHS cost report.

§12.9. Record Retention.

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

(c) A sponsoring organization with more than one approved facility participating in the program must maintain separate records for each facility or maintain the records in a way that makes the information for each facility easy to identify and retrieve. Organizations must maintain Child and Adult Care Food Program [CCFP] records separately from other program records.

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

§12.10. Procurement Standards.

(a) Contractors must obtain foods, supplies, equipment, and other goods and services for the Child and Adult Care Food Program according to 7 Code of Federal Regulations, §§226.2, 226.6, 226.21, and 226.22, and 7 Code of Federal Regulations Part 3015.

(b) (No change.)

§12.15. Reimbursement Methodology.

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

(f) Day home providers may not claim Child and Adult Care Food Program reimbursement for another day home provider's own children.

§12.17. Start-up and Expansion Funds [Payments].

(a) (No change.)

(b) DHS issues expansion funds to day home sponsoring organizations according to the following formula: multiply the number of day care homes the sponsoring organization intends to recruit (up to 50) X \$63 X 2. The maximum amount available to a sponsoring organization is \$6,300.

(c)[(b)] Day home sponsoring organizations must use start-up funds [payments] to develop or expand a food service program in day homes and initiate a successful program operation. Applicants receiving start-up funds who fail to initiate a program operation within the time frame of the start-up funds agreement must return to DHS all start-up payments issued.

(d)[(c)] Start-up or expansion funds [payments] to day home sponsoring organizations may not be used to recruit day home providers that are already participating with another DHS-approved sponsoring organization.

§12.22. Audits.

(a) DHS and Child and Adult Care Food Program contractors conduct audits of program administration and operation in day care facilities according to 7 Code of Federal Regulations, §226.7, and §226.8, and 7 Code of Federal Regulations Part 3015, and §69.301 of this title (relating to Methods for Auditing Providers).

(b) (No change.)

§12.25. Denials and Terminations.

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

(c) Sponsoring organizations of day homes must terminate the participation of day home providers who have been found guilty of committing fraud in the Child and Adult Care Food Program (CACFP) [CCFP], including cases in which adjudication is deferred. Denial of participation in the CACFP [CCFP] is effective for the duration of the sentence of the court, and termination is effective when the sentence is pronounced.

(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 March 4, 1992.

TRD-9203173

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: May 1, 1992

For further information, please call: (512) 450-3765



State Board of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and 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, at a board meeting scheduled for 8:30 a.m., April 15, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider adoption of an amended Texas Workers' Compensation Detailed Claim Information Statistical Plan (the plan). The amendments to the plan, originally

adopted by Board Order Number 59284, include, but are not limited to, amended definitions and edits.

Copies of the full text of the amendments to the plan are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on March 9, 1992.

TRD-9203387

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: March 9, 1992

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



The State Board of Insurance, at a board meeting scheduled for March 25, 1992 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a filing by American Bankers Insurance Company of an Involuntary Unemployment Insurance Program Forms and Rates for Monthly Outstanding Balance Accounts.

House Bill 2, 72nd Legislature, added Article 21.79E, Credit Involuntary Unemployment Insurance, to the Texas Insurance Code, which authorizes casualty insurers to write group or individual credit involuntary unemployment insurance indemnifying a debtor for installment or other periodic payments on indebtedness while the debtor is involuntarily unemployed. New Article 21.79E further provides that rates and forms for such insurance may be filed with the board in accordance with the Texas Insurance Code, Articles 5.14 and 5.15. The proposed filing covers an insured's scheduled minimum monthly revolving account payment to a creditor after the insured has been involuntarily unemployed for more than 30 consecutive days. Loss of employment must result from an involuntary loss of employment or temporary unemployment due to labor dis-

putes, strikes, or lockouts. Involuntary unemployment does not include retirement, normal seasonal unemployment, voluntary forfeiture of salary, disability, being notified either orally or in writing of pending unemployment or discharge of employment due to willful misconduct, forbidden acts, neglect of duty, violation of established policy, or criminal misconduct. The benefit payments begin after the 30-day waiting period has been met and are retroactive to the first day of unemployment. Payments are subject to the limitations shown in the certificate and are based on the insured's balance on the date of involuntary unemployment. The benefit payments do not include any past due amounts or late charges and will not apply to any purchases, advances, or interest charges made on or after the date of loss.

In order for benefits to begin, an insured must provide proof that he is registered with a state unemployment office or a recognized employment agency, and must submit verification of unemployment by the employer. The registration with the state's unemployment office or employment agency must begin within 15 days after involuntary unemployment and must continue through the entire period of the claim. The benefit payments cease when one of the following occurs: insured becomes employed, outstanding balance has been paid, insured's limitation has been met, or the maximum amount of benefits has been paid.

An insured becomes re-eligible for unemployment benefits following completion of payments under a claim, if the insured has been employed for a salary or wage on a full-time basis for 30 consecutive days for one employer.

The premiums for this program are based on the account's previous month's balance; \$.20 per \$100 per month for unlimited benefits and \$.16 per \$100 per month for the 12-month benefit level with one of the following methods used: if the charge is per day-the daily rate multiplied by each day's balance. The sum of the daily charges during the prior month is then obtained; or, 12-month benefits-the average daily balance multiplied by the monthly rate or the ending billing multiplied by the monthly rate.

Copies of the full text of the proposed American Bankers Insurance Company filing for approval of an Involuntary Unemployment Insurance Program Forms and Rates for Monthly Outstanding Balance Accounts are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.

The notification is made pursuant to the Texas Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas, on March 9, 1992.

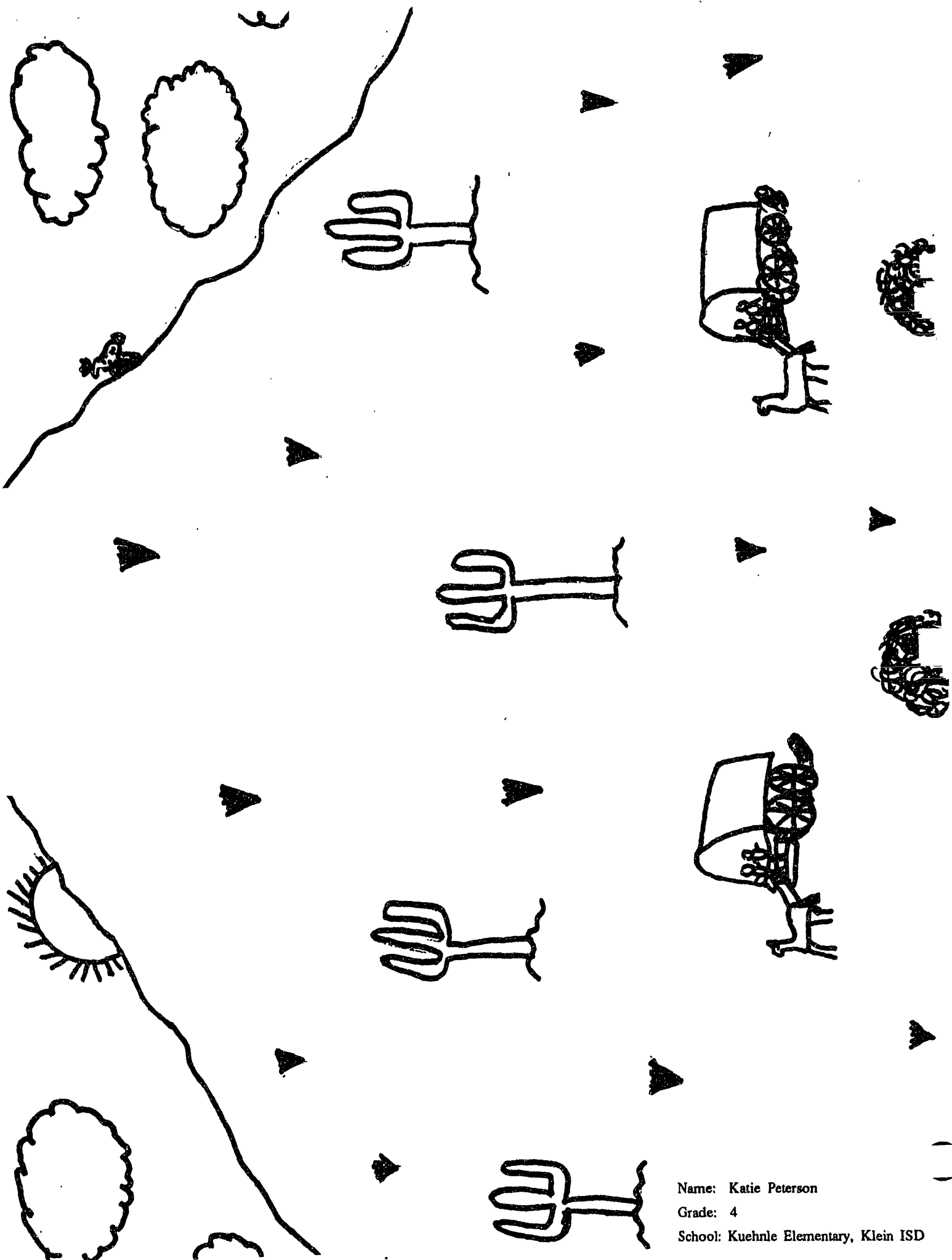
TRD- 9203386

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: March 9, 1992

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





Name: Katie Peterson

Grade: 4

School: Kuehnle Elementary, Klein ISD

Part VIII. Texas Racing Commission

Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges

Appeals to Commission

• 16 TAC §307.261

The Texas Racing Commission adopts an amendment to §307.261, concerning appeal to the commission, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7693).

The amendment is adopted to ensure that the administrative processes of the commission are efficient and effective.

The amendment clarifies the procedure for filing an appeal from a ruling by the stewards or racing judges.

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 involving wagering and for administering the Texas Racing Act and §3.08, which provides that decisions by stewards and racing judges are appealable to the commission in accordance with the Administrative Procedure and Texas Register Act; and Texas Civil Statutes, Article 6252-13a, §4, which authorizes the commission to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

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

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

TRD-9203337 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

Chapter 309. Operation of Racetracks

Subchapter C. Greyhound Racetracks

Operations

• 16 TAC §309.352

The Texas Racing Commission adopts an amendment to §309.352, concerning Texas preference, without changes to the proposed

text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7693).

The amendment is adopted to ensure that the rules of the commission are technically correct.

The amendment corrects a technical error regarding the requirements for a greyhound racetrack in contracting with kennel owners.

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 involving wagering and for administering the Texas Racing Act and §10.06, which states the requirements for contracting with kennel owners.

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

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

TRD-9203316 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

Chapter 311. Conduct and Duties of Individual Licensees

Subchapter A. General Provisions

• 16 TAC §311.6

The Texas Racing Commission adopts an amendment to §311.6, concerning influence of race prohibited, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7693).

The amendment is adopted to ensure that pari-mutuel racing is conducted fairly, humanely, and with the utmost integrity.

The amendment clarifies the prohibition against the possession or use of a device designed to increase or decrease the speed of a horse, other than an ordinary riding whip.

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 involving wagering and for administering the Texas Racing Act and §14.03, which authorizes the commission to adopt rules prohibiting the illegal influencing of a race.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

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

TRD-9203336 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

• 16 TAC §311.7

The Texas Racing Commission adopts an amendment to §311.7, concerning inhumane treatment, without changes to the proposed text as published in the December 27, 1991 issue of the *Texas Register* (16 TexReg 7694).

The amendment is adopted to ensure the rules of the commission are internally consistent and non-repetitive.

The amendment deletes the reference to the possession or use of a device designed to increase or decrease the speed of a horse, other than an ordinary riding whip, because this prohibition has been moved to another section of the commission's rules.

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 involving wagering and for administering the Texas Racing Act and §14.03, which authorizes the commission to adopt rules prohibiting the illegal influencing of a race.

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

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

TRD-9203335 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

• 16 TAC §311.10

The Texas Racing Commission adopts an amendment to §311.10, concerning conduct, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7694).

The amendment is adopted to ensure that participants in pari-mutuel racing are qualified and that pari-mutuel racing is safe for the participants.

The amendment clarifies the responsibilities of the commission's licensees regarding fire safety in the stable or kennel area, security in the stable or kennel area, and the decision-making process by stewards or racing judges.

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 involving wagering and for administering the Texas Racing Act and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks.

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

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

TRD-9203334 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

◆ ◆ ◆ Subchapter B. Specific Licensees

Licensees for Horse Racing

• 16 TAC §311.159

The Texas Racing Commission adopts new §311.159, concerning conduct in stable area, with changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7695).

The section is adopted to ensure that pari-mutuel racing is safe for the participants.

The section describes the responsibilities of licensees participating in horse racing regarding their conduct in the stable area. The change from the proposed text clarifies the duty of a licensee to wear a helmet when galloping or ponying a horse or riding a horse in a race. The change was made from the proposed text to ensure consistency with other rules of the commission.

No comments were received regarding adoption of the new section.

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

§311.159. Conduct in Stable Area.

(a) An individual licensee may not sleep in the stable area of an association's grounds except in a facility provided for that purpose by the association in accordance with commission rules.

(b) An individual licensee may not possess, keep, or maintain a pet in the stable area of an association's grounds unless:

(1) the pet is confined and prevented from going at large on associations grounds; and

(2) the pet is annually vaccinated against rabies.

(c) An individual licensee who is galloping or ponying a horse or riding a horse in a race shall wear a properly fastened helmet, of a type approved by the commission, at all times.

(d) An individual licensee may not hold a horse in a starting gate unless the licensee wears properly fastened headgear, of a type approved by the commission.

(e) Except as otherwise provided by this subsection, an individual licensee may not operate a motor vehicle in the stable area during training hours. This subsection does not apply to:

(1) a person who has power of entry under the Act, §3.03;

(2) the stewards;

(3) security personnel employed by the association;

(4) the commission veterinarian;

(5) the racing secretary;

(6) a veterinarian licensed by the commission;

(7) a trainer;

(8) a jockey's agent at a Class 1 racetrack; or

(9) a farrier.

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

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

TRD-9203333 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

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

Subchapter A. Officials

General Provisions

• 16 TAC §313.4

The Texas Racing Commission adopts an amendment to §313.4, concerning approval

of officials, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7696).

The amendment is adopted to ensure that pari-mutuel racing is supervised by qualified officials who are of the utmost integrity.

The amendment describes the procedure for obtaining and rescinding commission approval of officials at horse racetracks.

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 involving wagering and for administering the Texas Racing Act and §3.07, which authorizes the commission to approve all racetrack officials.

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

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

TRD-9203332 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: March 27, 1992

Proposal publication date: December 27, 1991

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

◆ ◆ ◆ TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

Chapter 1. Architects

Subchapter A. Scope; Definitions

• 22 TAC §1.9

The Texas Board of Architectural Examiners adopts an amendment to §1.9, concerning the officers and employees of the board, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7067).

The amendment is necessary to provide language in the rules that is consistent with recent legislation.

The amendment will function to provide consistency between the rules and Texas Civil Statutes, Article 249a.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203188

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter B. Registration

• 22 TAC §§1.21, 1.22, 1.25

The Texas Board of Architectural Examiners adopts amendments to §§1.21, 1.22, and 1.25, registration, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7067).

The amendment is necessary to provide eligibility requirements and deadline dates for applicants applying for architectural registration.

The amendment will provide applicants with notice of actions which may affect their eligibility as candidates for registration.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203189

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter D. Certification and Annual Registration

• 22 TAC §§1.67, §1.69

The Texas Board of Architectural Examiners adopts amendments to §1.67 and §1.69, concerning the annual registration procedure and the reinstatement of licensure, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7068).

The amendments are necessary to clarify the board's intent to require of registrants a writ-

ten change of mailing address and to exercise its statutory authority for the requirements for reinstatement of license.

The amendments will provide current and former licensees with notice of reinstatement requirements and procedures.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203190

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

• 22 TAC §1.70

The Texas Board of Architectural Examiners adopts new §1.70, concerning denial of annual renewal, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7068).

The new rule will bring the board's rule into compliance with the Texas Education Code.

The rule will function to provide notice to registrants of action which may affect their renewal of license.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203191

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter E. Fees

• 22 TAC §§1.81, 1.82, 1.84-1.86, 1.88

The Texas Board of Architectural Examiners adopts amendments to §§1.81, 1.82, 1.84-1.86, and 1.88, concerning fees, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7069).

The amendments increase the fees the agency must charge in compliance with Senate Bill 429 and House Bill 11.

The sections will function to inform the persons affected of the increased fees and create increased revenue to the general revenue and school foundation funds.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203192

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter F. Architect's Seal

• 22 TAC §1.103

The Texas Board of Architectural Examiners adopts an amendment to §1.103, concerning the affixation of the architect's seal to documents issued for use in this state, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7072).

The amendment is necessary to inform the public if documents are sealed by architects holding current registrations.

The section will function to provide registrants with specific instructions concerning the addition of the expiration date of their licenses under their signatures.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203193

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter H. Rules of Conduct

• 22 TAC §1.143

The Texas Board of Architectural Examiners adopts an amendment to §1.143, the rules of conduct for architects, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7072).

The amendment is necessary to clarify the board's authority concerning the discipline of a registrant.

The section will function to provide a degree of discipline more appropriate to the seriousness of a violation of law or rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203194

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Subchapter I. Charges Against Architects: Action

• 22 TAC §1.161, §1.173

The Texas Board of Architectural Examiners adopts amendments to §1.161, and §1.173, concerning disciplinary actions against architects, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7072).

The amendments are necessary to clarify to the persons affected by these rules the board's authority concerning disciplinary actions.

The rules will function to provide increased protection of the public by additional disci-

plines should a registrant be found guilty of alleged violations of law or rules.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with the authority to promulgate rules.

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

Issued in Austin, Texas, on March 3, 1992.

TRD-9203195

Robert H. Norris
Executive Director
Texas Board of
Architectural Examiners

Effective date: March 26, 1992

Proposal publication date: December 10, 1991

For further information, please call: (512) 458-1363

Part XXV. Structural Pest Control Board

Chapter 593. Licenses

• 22 TAC §593.21

The Structural Pest Control Board adopts the repeal of §593.21, concerning technician license standards, without changes to the proposed text as published in the January 10, 1992, issue of the *Texas Register* (17 TexReg 153).

The repeal is necessary so that new technician license requirements may be adopted.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to adopt rules concerning testing and licensing of persons engaged in the businesses of structural pest control.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203312

Benny M. Mathis, Jr.
Executive Director
Structural Pest Control
Board

Effective date: August 31, 1992

Proposal publication date: January 10, 1992

For further information, please call: (512) 835-4066

• 22 TAC §593.21, §593.22

The Structural Pest Control Board adopts new §593.21, and §593.22, concerning licenses. Section 593.22 is adopted with

changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 377). Section 593.21 is adopted without changes and will not be republished.

The new sections are adopted in order to implement new standards for the training and testing of technicians licensed in the structural pest control business. The sections were amended to reflect the expanded role of the Texas Agricultural Extension Service in the training process.

The new sections create step-by-step procedures and standards for the registration of employees as technician-apprentices and the training and testing standards which must be met for technician licensure.

Comments received were more in the nature of inquiries as to how the sections would function. The Texas Pest Control Association opposed the institution of an initial \$18 if it did not automatically include a criminal background check.

The name of a group or association making comments against the section is as follows: Texas Pest Control Association.

The agency, for reasons of time management and processing agreements, is unable to assure that 100% of applicants will receive a background check. The fee is justified on the basis that it pays for six months of licensure by the agency.

The new sections are adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to test, license, regulate, and develop standards for the structural pest control industry.

§593.22. Technician License Standards.

(a) A technician-apprentice may become a licensed technician by taking the approved technician training courses for the general category and the category of licensure desired and passing the technician examination. The technician examination application must be accompanied by a fee of \$30 per category. A technician-apprentice may take the technician examination as many times as necessary, but shall maintain a technician-apprentice license for a maximum of six months out of any 12-month period. Technicians who were licensed on or before September 1, 1991 must verify that they have completed the board-approved technician training course before September 1, 1996. Failure of a licensed technician to complete the technician training courses shall be a violation of this section.

(b) The Technician Training Manual for each category may be obtained from the Texas Agriculture Extension Service.

(c) An individual must pass the subject area examination for each category of structural pest control in which the individual wishes to become licensed. Reexamination is not necessary if the license is renewed annually by the technician.

(d) Examinations shall be given at dates and at locations to be at the discretion of the board. A fee of \$30 per examination category shall be paid by the applicant.

(e) All other testing procedures shall be governed by §593.5(c)(3)-(11), (13), and (14) of this title (relating to Examinations) except that a technician-apprentice may retest at any time

(f) Persons who make a passing grade and qualify for a technician license must make application to obtain a license within six months of the exam date or be retested.

(g) Each technician-apprentice license application shall be accompanied by a fee of \$18.

(h) Each technician license application shall be accompanied by a fee of \$36.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203313

Benny M Mathis, Jr.
Executive Director
Structural Pest Control
Board

Effective date: August 31, 1992

Proposal publication date: January 10, 1992

For further information, please call: (512) 835-4066

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 21. Oil Spill Prevention and Response Hearings Procedures

• 31 TAC §§21.9, 21.10, 21.12, 21.41

The General Land Office adopts amendments to §§21.9, 21.10, 21.12, and 21.41, concerning statement of grounds, docketing and notice, pleadings, and rehearing, without changes to the proposed text as published in the September 20, 1991, issue of the *Texas Register* (16 TexReg 5198).

The amendments are necessary to clarify the classification of pleadings.

The adoption of these sections will eliminate incorrect references and redundancies in this chapter.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Senate Bill 14, 72nd Legislature, 1991, which autho-

rizes the commissioner to promulgate rules necessary and convenient to the administration of the Oil Spill Prevention and Response Act of 1991.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203344

Garry Mauro
Commissioner
General Land Office

Effective date: March 27, 1992

Proposal publication date: September 20, 1991

For further information, please call: (512) 463-5394

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

• 34 TAC §3.320

The Comptroller of Public Accounts adopts the repeal of §3.320, concerning ice and dry ice, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 464).

The section is being repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on March 6, 1992.

TRD-9203342

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 27, 1992

Proposal publication date: January 21, 1992

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

The Comptroller of Public Accounts adopts new §3.320, concerning ice and dry ice, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 464).

The new section removes the exemption for

ice and dry ice used as packaging material by someone other than manufacturers or processors. The exemption was removed from the Tax Code, Chapter 151, by the 72nd Legislature, 1991, First Called Session, and is effective October 1, 1991.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

Issued in Austin, Texas, on March 6, 1992.

TRD-9203343

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: March 27, 1992

Proposal publication date: January 21, 1992

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

Chapter 7. Administration of State Lottery Act

Subchapter A. Procurement

• 34 TAC §7.101

The Comptroller of Public Accounts adopts new §7.101, concerning lottery procurement procedures, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7457).

These procedures outline the solicitation process for the lease and purchase of various goods and services by the Lottery Division. These procedures also define the contract award process, as well as the protest process.

A comment was received regarding subsection (a). It was suggested that this subsection be amended to include a definition of "minority business" and "disadvantaged business entity" (DBE) for clarification purposes.

The comptroller declined to define these terms in the section because the term "minority business" is already defined in the State Lottery Act (Act) and the section refers to that definition. Further, the term "DBE" is not used anywhere in the Act. Had the legislature desired to include this term in the Act, it could have easily broadened its preference to include all DBEs and not just minority businesses, as defined in the Act.

A second comment from the same person on the proposed section was received regarding subsection (g)(2). It was recommended that this subsection be amended to encourage cooperation, innovative strategies, and conscientious efforts by prime contractors in the utilization of minority firms.

The comptroller declined to incorporate the

suggested language because the specific information the language would elicit from prime contractors in already being elicited through the request for proposals (RFP) process. Information such as the name and location of the minority business, the service offered, its certification status, and any planning strategies are items that must be addressed in the proposer's response to the RFP. Because minority business utilization has been one of the evaluation criteria in every RFP issued by the Texas Lottery, failure to address this aspect would result in a loss of evaluation points and jeopardize a proposer's chances of becoming the successful proposer.

The new section is adopted under the Texas Civil Statutes, Article 179g, State Lottery Act §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203395 Martin Chery
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: December 20, 1991

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

◆ ◆ ◆ Subchapter B. Licensing of Sales Agents

◆ ◆ ◆ • 34 TAC §7.151

The Comptroller of Public Accounts adopts new §7.151, concerning general rules governing the licensing of sales agents to sell lottery tickets pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 99).

The new section relates to the licensing of a sales agent to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203396 Charles Johnstone
 Senior Legal Counsel,
 General Law Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆ • 34 TAC §7.152

The Comptroller of Public Accounts adopts new §7.152, concerning general matters to be complied with in an application for sales agent license submitted pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 100).

The new section relates to the licensing of a sales agent to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203397 Charles Johnstone
 Senior Legal Counsel,
 General Law Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆ • 34 TAC §7.153

The Comptroller of Public Accounts adopts new §7.153, concerning general criteria to be considered by the director of the lottery division in determining the eligibility of applicants to be licensed as sales agents for the sale of lottery tickets pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 100).

The new section relates to the licensing of a sales agent to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203398 Charles Johnstone
 Senior Legal Counsel,
 General Law Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆ • 34 TAC §7.154

The Comptroller of Public Accounts adopts new §7.154, concerning certain terms to be included in licenses issued to sales agents for the purpose of selling lottery tickets pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 102).

The new section relates to the licensing of a sales agent to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203399 Charles Johnstone
 Senior Legal Counsel,
 General Law Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆ • 34 TAC §7.155

The Comptroller of Public Accounts adopts new §7.155, concerning the expiration of a sales agent license issued pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 102).

The new section relates to the expiration of a sales agent's license to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203400 Charles Johnstone
 Senior Legal Counsel,
 General Law Section
 Comptroller of Public
 Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆
• 34 TAC §7.156

The Comptroller of Public Accounts adopts new §7.156, concerning certain requirements associated with the renewal of a sales agent's license issued pursuant to the State Lottery Act, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 102).

The new section relates to the renewal of a sales agent's license to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203401 Charles Johnstone
Senior Legal Counsel,
General Law Section
Comptroller of Public
Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆
• 34 TAC §7.157

The Comptroller of Public Accounts adopts new §7.157, concerning temporary license, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 103).

The new section relates to the issuances of temporary licenses to applicants to become sales agents authorized to sell lottery tickets pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203402 Charles Johnstone
Senior Legal Counsel,
General Law Section
Comptroller of Public
Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆
• 34 TAC §7.158

The Comptroller of Public Accounts adopts new §7.158, concerning suspension or revocation of license, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 103).

The new section sets forth the circumstances under which the comptroller may suspend or revoke the license of a sales agent issued pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203403 Charles Johnstone
Senior Legal Counsel,
General Law Section
Comptroller of Public
Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆
• 34 TAC §7.159

The Comptroller of Public Accounts adopts new §7.159, concerning summary suspension of license, without changes to the proposed text as published in the January 7, 1992, issue of the *Texas Register* (17 TexReg 104).

The new section sets forth the circumstances under which the comptroller may summarily suspend a sales agent's license issued pursuant to the State Lottery Act.

No comments were received regarding adoption of the new section.

The new section is adopted under the State Lottery Act, §2.02, which provides the comptroller with the authority to adopt all rules necessary to administer the State Lottery 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 March 9, 1992.

TRD-9203404 Charles Johnstone
Senior Legal Counsel,
General Law Section
Comptroller of Public
Accounts

Effective date: March 30, 1992

Proposal publication date: January 7, 1992

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

◆ ◆ ◆
TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS

Part XI. Texas Juvenile
Probation Commission

Chapter 341. Texas Juvenile
Probation Commission

◆ ◆ ◆
• 37 TAC §341.7

The Texas Juvenile Probation Commission adopts an amendment to §341.7, concerning local juvenile boards-advisory councils, without changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6915).

The amendment is made to delete from the rule a requirement that has been enacted in state law since adoption of the rule.

Juvenile boards are required by law to appoint citizen advisory councils.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Human Resources Code, §141.042, which provide the Texas Juvenile Probation Commission with the authority to adopt rules for the operation of juvenile boards that are necessary to provide adequate and effective probation services.

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

Issued in Austin, Texas, on March 5, 1992.

TRD-9203267 Bernard Licarone, Ph.D.
Executive Director
Texas Juvenile Probation
Commission

Effective date: March 26, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 443-2001

◆ ◆ ◆
• 37 TAC §341.23

The Texas Juvenile Probation Commission adopts an amendment to §341.23 concerning memorandum of understanding regarding service delivery to dysfunctional families without changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6915).

The amendment is made to update the memorandum of understanding was published in the *Texas Register*.

The three agencies will jointly contract to provide dysfunctional families with training in parenting skills, training in coping skills for children, and support groups for both parents and children.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Human Resources Code, §71.001(a), which provides the Texas Juvenile Probation Commission with the authority to enter into a memorandum of understanding with the Texas Department of Human Services and the Texas Youth Commission, 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 March 5, 1992.

TRD-9203269 Bernard Clarke, Ph.D.
Executive Director
Texas Juvenile Probation
Commission

Effective date March 26, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 443-2001

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-support Services

Child Care Management Services Statewide Implementation

• 40 TAC §10.3404, §10.3445

The Texas Department of Human Services (DHS) adopts amendments to §10.3404 and §10.3445, concerning family self-support services, without changes to the proposed text as published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 671).

The amendments are justified to simplify the rules and to provide a wider choice of vendors for parents and the opportunity for more providers to become vendors.

The amendments will function by deleting duplicate material and adding a new group of providers eligible to become vendors; specifically, day camps licensed by the Texas Department of Health as youth camps.

The department received no comments regarding adoption of the amendments.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public assistance and day care 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 March 4, 1992.

TRD-9203174 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of

Human Services

Effective date: April 1, 1992

Proposal publication date: January 28, 1992

For further information, please call: (512) 450-3765

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

The Texas Department of Human Services (DHS) adopts amendments to §§19.1, 19.101, 19.202-19.204, 19.206-19.208, 19.213, 19.216, 19.217, 19.302-19.304, 19.401, 19.502, 19.503, 19.505, 19.601-19.603, 19.701, 19.801, 19.902, 19.903, 19.907, 19.908, 19.911, 19.1001-19.1003, 19.1005, 19.1010, 19.1101, 19.1201, 19.1301, 19.1303, 19.1401, 19.1501, 19.1606, 19.1906, 19.1908-19.1910, 19.1914, 19.1915, 19.1917, and 19.1918; adopts the repeal of §§19.220, 19.301, and 19.303, and adopts new §§19.220, 19.301, and 19.1903, concerning DHS's Long Term Care Nursing Facility Requirements for Licensure and Medicaid Certification.

The justification for the amendments, repeals, and new sections is to comply with final regulations published by the Health Care Financing Administration in the September 26, 1991, issue of the *Federal Register*.

The amendments, repeals, and new sections will function by incorporating into Chapter 19 corrections, clarifications, and procedural changes mandated by federal law.

Subchapter A. Basis and Scope

• 40 TAC §19.1

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1 Basis and scope.

(a) Basis in legislation.

(1) The following laws govern the requirements for the Long Term Care nursing facility requirements for licensure and Medicaid certification, unless noted otherwise in this chapter: Texas Civil Statutes, Health and Safety Code, Chapter 242: §§1819(a)-(d), 1863, 1871, 1905(a) and (c), and the Social Security Act, 1919(a)-(d) (42 United States Code, §§1395i-3(a)-(d), 1395(z), 1395hh, 1396d(a) and (c), and 1396r(a)-(d)), and 42 Code of Federal Regulations, Part 483.

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

(b)-(c) (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 March 5, 1992.

TRD-9203242 Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: April 1, 1992

For further information, please call: (512) 450-3765

Subchapter B. Definitions

• 40 TAC §19.101

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

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

Facility—Unless otherwise indicated, a nursing facility (NF) which meets the requirements of the Social Security Act, §1919(a)-(d).

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

(C) For Medicare and Medicaid purposes (including eligibility, coverage, certification, and payment), the facility is always the entity which participates in the program, whether that entity is comprised of all of, or a distinct part of, a larger institution. For Medicare, a skilled nursing facility (SNF) (see the Social Security Act, §1819(a)(1)) and for Medicaid, a nursing facility (NF) (see the Social Security Act, §1919(a)(1)) may not be an institution for mental diseases as defined in 42 Code of Federal Regulations, §435.1009.

(D)-(E) (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 March 5, 1992.

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Agency liaison, Policy and
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For further information, please call: (512) 450-3765

• 40 TAC §§19.202-19.204,
19.206-19.208, 19.213, 19.216,
19.217, 19.220

The amendments and new section are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments and new section are adopted in compliance with federal requirements effective April 1, 1992

§19.202. *Exercise of Rights.*

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

(g) In the case of a resident not adjudicated incompetent by the state court, any legal surrogate designated in accordance with state law may exercise the resident's rights to the extent provided by state law.

§19.203. *Notice of Rights and Services.*

(a) The facility must inform the resident, both orally and in writing, in a language that the resident understands, of his rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The facility must also provide the resident with the notice of the state-developed rights under the Social Security Act, §1919(c)(6) (see also §19.202 of this title (relating to Exercise of Rights)). Such notification must be made prior to or upon admission and during the resident's stay if changed.

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

(e) The resident or his legal representative has the following rights:

(1) upon an oral or written request, to access all records pertaining to himself, including clinical records, within 24 hours; and

(2) after receipt of his records for inspection, to purchase photocopies of all or any portion of the records, at a cost not to exceed the community standard, upon request and two workdays advance notice to the facility.

(f) -(i) (No change.)

(j) The facility must furnish a written description of legal rights which includes:

(1) a description of the manner of protecting personal funds, described in §19.204 of this title (relating to Protection of Resident Funds);

(2) a description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment under the Social Security Act, §1924(c) which:

(A) is used to determine the extent of a couple's nonexempt resources at

the time of institutionalization; and

(B) attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse's medical care in his process of spending down to Medicaid eligibility levels;

(3) a posting of names, addresses, and telephone numbers of all pertinent state client advocacy groups such as the state survey and certification agency, the state licensure office, the state ombudsman program, the protection and advocacy network, and the Medicaid fraud control unit; and

(4) a statement that the resident may file a complaint with the Texas Department of Health concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(k)-(m) (No change.)

(n) Notification of changes.

(1) A facility must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal representative or an interested family member when there is:

(A) an accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) a significant change in the resident's physical, mental, or psychosocial status (that is, a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

(C) a need to alter treatment significantly (that is, a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

(D) (No change.)

(2) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is:

(A) (No change.)

(B) a change in resident rights under federal or state law or regulations as described in subsection (a) of this section.

(3) (No change.)

§19.204. *Protection of Resident Funds.*

(a)-(d) (No change.)

(e) Funds in excess of \$50. The facility must deposit any residents' personal funds in excess of \$50 in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on the residents' funds to that account. In pooled accounts, there must be a separate accounting for each resident's share.

(f) Funds less than \$50. The facility must maintain a resident's personal funds that do not exceed \$50 in a noninterest bearing account, interest-bearing account, or petty cash fund.

(g)-(h) (No change.)

(i) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility must convey within 30 days the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate (see also §19.214 of this title (relating to Personal Property)), or make a bona fide effort to locate the responsible party or heir to the estate (see also §19.214 of this title (relating to Personal Property)). Within 30 days of a Medicaid recipient's death, the facility must use the following procedures to clear the recipient's account.

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

(j) Assurance of financial security. The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the secretary of health and human services to assure the security of all personal funds of residents deposited with the facility.

(k)-(l) (No change.)

(m) Quarterly statement. The individual financial record must be available, through quarterly statements on request, to the resident or his legal representative. The statement must reflect any recipient funds which the facility has deposited in an account as well as any recipient funds held by the facility in a petty cash account. The statement must include at least the following:

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

(n) Banking charges.

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

(5) If the facility places any part of the resident's money in savings accounts, certificates of deposit, or any other plan whereby interest or other benefits are accrued, the facility must distribute the interest or benefit to participating residents on an equitable basis. If pooled accounts are used, interest must be prorated on the basis

of actual earnings or end-of-quarter balances.

(n)-(s) (No change.)

§19.206. Privacy and Confidentiality. The resident has the right to personal privacy and confidentiality of his personal and clinical records. (See also §19.1910(e) of this title (relating to Clinical Records) and §19.203(e) of this title (relating to Notice of Rights and Services.))

(1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident.

(2) (No change.)

(3) The resident's right to refuse release of personal and clinical records does not apply when:

(A) (No change.)

(B) record release is required by law; or

(C) (No change.)

(4)-(5) (No change.)

§19.207. Grievances. A resident has the right to:

(1) voice grievances without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished.

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

§19.208. Examination of Survey Results. The resident has the right to:

(1) examine the results of the most recent survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility. The results must be made available by the facility for examination, in a place readily accessible to residents; and

(2) (No change.)

§19.213. Telephone.

(a) The resident has the right to have reasonable access to the use of a telephone (other than a pay phone), where calls can be made without being overheard, and which can also be used for making calls to summon help in case of emergency.

(b) (No change.)

§19.216. Self-administration of Drugs. An individual may self-administer drugs if the interdisciplinary team, as defined in §19.602(b) (2) of this title (relating to Comprehensive Care Plans), has determined that this practice is safe.

§19.217. Directives and Durable Powers of Attorney for Health Care. Competent adults may issue directives or durable powers of attorney for health care, subject to the requirements of this section, and the Texas Natural Death Act and law governing durable powers of attorney for health care. (See §19.219 of this title (relating to Documentation for the Delegation of Long Term Care Resident's Rights) and §19.205(b) of this title (relating to Free Choice.)) When an individual has issued no directive, has no legal guardian, and has been determined by the physician to be incapable of understanding and exercising his rights, treatment decisions must be made according to the Texas Natural Death Act, §672.009.

(1) (No change.)

(2) Durable power of attorney for health care.

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

(E) The durable power of attorney for health care must be signed in the presence of two witnesses, as defined in paragraph (1)(B) of this section.

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

(3) (No change.)

§19.220. Refusal of Certain Transfers.

(a) An individual has the right to refuse a transfer to another room within the facility, if the purpose of the transfer is to relocate:

(1) a resident of a skilled nursing facility (SNF) from the distinct part of the facility that is an SNF to a part of the facility that is not an SNF; or

(2) a resident of a nursing facility (NF) from the distinct part of the facility that is an NF to a distinct part of the facility that is an SNF.

(b) A resident's exercise of the right to refuse transfer under this section does not affect the individual's eligibility or entitlement to Medicaid benefits.

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.

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◆ ◆ ◆
Subchapter C. Resident Rights
◆ ◆ ◆
• 40 TAC §19.220

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The repeal is adopted in compliance with federal requirements effective April 1, 1992.

§19.220. Right to Refuse Transfer to Medicare Qualified Distinct Part.

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.

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**Subchapter D. Admission,
Transfer, and Discharge
Rights**
◆ ◆ ◆
• 40 TAC §19.301

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The repeal is adopted in compliance with federal requirements effective April 1, 1992.

§19.301. Admissions Policy.

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.

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• 40 TAC §§19.301-19.304

The new section and amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The new section and amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.301. Admissions Policy.

(a) The facility must:

(1) not require residents or potential residents to waive their rights to Medicare or Medicaid; and

(2) not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare benefits.

(b) The facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the state plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission, or continued stay in the facility. However:

(1) a nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the state plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for and receipt of such additional services; and

(2) a nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid-eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident. (See §19.1708 of this title (relating to Limitations on Provider Charges.))

(d) States or political subdivisions may apply stricter admission standards under state or local laws than specified in

subsections (a) and (b) of this section, to prohibit discrimination against individuals entitled to Medicaid benefits.

§19.302. Transfer and Discharge.

(a) Definition. Transfer and discharge includes movement of a resident to a bed outside the certified facility, whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement within the same certified facility.

(b) Transfer and discharge requirements. (See also §19.1915 of this title (relating to Transfer Agreement.)) The facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless:

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

(c) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in subsection (b)(1)-(5) of this section, the resident's clinical record must be documented. The documentation must be made by:

(1) the resident's physician when transfer or discharge is necessary under subsection (b)(1) or (2) of this section; and

(2) a physician when transfer or discharge is necessary under subsection (b)(4) of this section.

(d) Notice before transfer. Before a facility transfers or discharges a resident, the facility must:

(1) notify the resident and, if known, a responsible party or family or legal representative of the resident about the transfer or discharge and the reasons for the move in writing and in a language and manner they will understand;

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

(e) Timing of the notice.

(1) Except when specified in paragraph (3) of this subsection, the notice of transfer or discharge required under subsection (d) of this section must be made by the facility at least 30 days before the resident is transferred or discharged.

(2) (No change.)

(3) Notice may be made as soon as practicable before transfer or discharge when:

(A) the safety of individuals in the facility would be endangered, as specified in subsection (b)(3) of this section;

(B) the health of individuals in the facility would be endangered, as specified in subsection (b) (4) of this section;

tion;

(C) the resident's health improves sufficiently to allow a more immediate transfer or discharge, as specified in subsection (b)(2) of this section;

(D) an immediate transfer or discharge is required by the resident's urgent medical needs, as specified in subsection (b)(1) of this section; or

(E) (No change.)

(f) Contents of the notice. For nursing facilities, the written notice specified in subsection (d) of this section must include the following:

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

(g) Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(h) Notice of relocation to another room. Except in an emergency, or as provided by subsection (e)(2) of this section, the facility must notify the resident and either the responsible party or the family or legal representative at least five days before relocation of the resident to another room within the facility. The facility must prepare a written notice which contains:

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

(i) Fair hearings—preadmission screening and annual resident review (PASARR) as described in subsection (b)(7) of this section. Any individual discharged as a result of a determination by TDMHMR must be informed of his right to request a fair hearing and to be represented by an authorized representative. Fair hearings must be conducted according to the provisions of Chapter 79, Subchapters L, M, and N of this title (relating to Fair Hearings, Appeals Process, and Hearing Procedure). Individuals requesting admission to Medicaid contracted nursing facilities have 90 days to appeal. Individuals currently residing in a Medicaid contracted nursing facility have 10 days to appeal. Payments for Medicaid residents to the facility continue until the hearing officer makes a final determination. When decisions are upheld, overpayments to the nursing facility are immediately recouped.

(j) Fair hearings—All other discharges.

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

(k) Discharge of married residents. If two residents in a facility are married and the facility proposes to discharge one spouse to another facility, the facility must give the other spouse notice of his or her right to L.J.H.L.K.-charged to the same facility.

ty. If the spouse notifies a facility, in writing, that he or she wishes to be discharged to another facility, the facility must discharge both spouses on the same day, pending availability of accommodations.

§19.303. Notice of Bed-Hold Policy and Readmission.

(a) Notice before transfer. Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies:

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

(b) Bed-hold notice upon transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative, written notice which specifies the duration of the bed hold policy described in subsection (a) of this section.

(c)-(d) (No change.)

§19.304. Equal Access to Quality Care.

(a) (No change.)

(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in §19.203(h) and (i) of this title (relating to Notice of Rights and Services).

(c) (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.

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**Subchapter E. Resident
Behavior and Facility Prac-
tice**

• 40 TAC §19.401

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.401. Resident Behavior and Facility Practice.

(a) Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. See also §19.810(g) and (h) of this title (relating to Nursing Practices).

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

(b) Abuse. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

(c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect and abuse of residents, and misappropriation of residents' property.

(1) The facility must:

(A) not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion; and

(B) not employ individuals who have:

(i) been found guilty of abusing, neglecting, or mistreating individuals by a court of law; or

(ii) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and

(C) report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other nursing facility staff to the state nurse aide registry or licensing authority.

(2) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and to other officials in accordance with Texas law through established procedures (including to the state survey and certification agency).

(3) (No change.)

(4) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with Texas law (including to the state survey and certification agency) within five working days of the incident; and if the alleged violation is verified, appropriate corrective action must be taken.

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.

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Subchapter F. Quality of Life

• 40 TAC §§19.502, 19. 503,
19.505

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.502. Activities.

(a) (No change.)

(b) The activities program must be directed by a qualified professional who:

(1) is a qualified therapeutic recreation specialist or an activities professional who is:

(A) licensed or registered, if applicable, by the state in which practicing; and

(B) eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body, such as the National Council for Therapeutic Recreation Certification, on October 1, 1990; or

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

(c) (No change.)

§19.503. Social Services General Requirements.

(a) The facility must provide medically-related social services to attain the highest practicable physical, mental, or psychosocial well-being of each resident. See also §19.701 of this title (relating to Quality of Care) for information concerning psychosocial functioning.

(1) A facility with more than 120 beds must employ a qualified social worker on a full-time basis.

(2) (No change.)

(b) Qualifications of a social worker. A qualified social worker is an individ-

ual who is certified, or provisionally certified, by DHS as prescribed by the Human Resources Code, Chapter 50, and who has at least:

(1) a bachelor's degree in social work, or a bachelor's degree in a human services field, including, but not limited to, sociology, special education, rehabilitation counseling, and psychology; and

(2) one year of supervised social work experience in a health care setting working directly with individuals.

§19.505. Environment.

(a) The facility must provide:

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

(4) private closet space in each resident room;

(5)-(7) (No change.)

(b) (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

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Subchapter G. Resident Assessment

• 40 TAC §§19. 601-19.603

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.601. Resident Assessment. The facility must conduct initially and periodically a comprehensive accurate, standardized, reproducible assessment of each resident's functional capacity.

(1) (No change)

(2) Comprehensive assessments.

(A) The facility must make a comprehensive assessment of all residents' needs, utilizing the Health Care Financing Administration's (HCFA) approved resident assessment instrument (RAI).

(B) The comprehensive assessment must include at least the following information:

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

(iii) physical and mental functional status;

(iv)-(vi) (No change.)

(vii) mental and psychosocial status;

(viii)-(xiii) (No change.)

(C) Assessments must be conducted:

(i) no later than 14 days after the date of admission;

(ii) for current nursing facility residents, not later than October 1, 1991;

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

(D)-(F) (No change.)

(G) The comprehensive assessment shall include the HCFA-approved resident assessment instrument to be completed as required in paragraph (2)(C) of this section, and the client assessment, review, and evaluation (CARE) form to be completed as required in §19.604 of this title (relating to Preadmission Screening and Annual Resident Review (PASARR)).

(3) (No change.)

§19.602. Comprehensive Care Plans.

(a) The facility must develop a comprehensive care plan for each resident that includes measurable short-term and long-term objectives and timetables to meet a resident's medical, nursing, and psychosocial needs that are identified in the comprehensive assessment. Approaches must be listed that identify the activity that will be provided and by whom. The plan of care must deal with the relationship of items or services to be provided (or withheld) to the facility's responsibility for fulfilling other requirements in this chapter.

(b) The comprehensive care plan must be:

(1) (No change.)

(2) prepared by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, with the participation of the resident, the resident's family, or legal representative; and

(3) (No change.)

(c)-(d) (No change.)

§19.603. Discharge Summary (Discharge Plan of Care).

(a) When the facility anticipates discharges, the resident must have a discharge summary that includes:

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

(b) (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.

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Subchapter H. Quality of Care
• 40 TAC §19.701

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.701. Quality of Care. Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, as defined by and in accordance with the comprehensive assessment and plan of care.

(1) (No change.)

(2) Vision and hearing. To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility must, if necessary, assist the resident:

(A) (No change.)

(B) by arranging for transportation to and from the office of a practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices.

(3) (No change.)

(4) Urinary incontinence. Based on the comprehensive assessment of the resident, the facility must ensure that:

(A) a resident who enters the facility without an indwelling catheter is not

catheterized unless his clinical condition demonstrates that catheter-ization is necessary; and

(B) a resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

(5) (No change.)

(6) Mental and psychosocial functioning. Based on the comprehensive assessment of the resident, the facility must ensure that:

(A) a resident who displays mental or psychosocial adjustment difficulty receives appropriate treatment and services to correct the assessed problem; and

(B) a resident whose assessment does not reveal a mental or psychosocial adjustment difficulty does not display a pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless his clinical condition demonstrates that such a pattern is unavoidable.

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

(11) Special needs. The facility must ensure that residents receive proper treatment and care for the following special services:

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

(G) foot care; and

(H) (No change.)

(12) Unnecessary drugs.

(A) General. Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

(i) in excessive dose (including duplicate drug therapy); or

(ii) for excessive duration; or

(iii) without adequate monitoring; or

(iv) without adequate indications for its use; or

(v) in the presence of adverse consequences which indicate the dose should be reduced or discontinued; or

(vi) any combination of the circumstances in clauses (i)-(v) of this subparagraph.

(B) Antipsychotic drugs.

Based on the comprehensive assessment of the resident, the facility must ensure that:

(i) residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and

(ii) residents who use antipsychotic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue use of these drugs.

(13) Medication errors. The facility must ensure that:

(A) it is free of medication error rates of 5.0% or greater, and

(B) (No change.)

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◆ ◆ ◆ Subchapter I. Nursing Services

• 40 TAC §19.801

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.801. Nursing Services. The facility must have sufficient staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. Care and services are to be as specified in §19.701 of this title (relating to Quality of Care)

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

(3) Waiver of requirement to provide licensed nurses on a 24-hour basis. To the extent that a facility is unable to meet the requirements of paragraphs (1)(B) and (2)(A) of this section, the state may waive such requirements with respect to the

facility, if:

(A) (No change.)

(B) the state determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility;

(C) the state finds that, for any periods in which licensed nursing services are not available, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility;

(D) a waiver granted under the conditions listed in this paragraph is subject to annual state review;

(E) in granting or renewing a waiver, a facility may be required by the state to use other qualified, licensed personnel;

(F) the state agency granting a waiver of such requirements provides notice of the waiver to the state long term care ombudsman (established under the Older Americans Act of 1965, §307(a)(12)) and the protection and advocacy system in the state for the mentally ill and mentally retarded; and

(G) the nursing facility that is granted such a waiver by the state notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

(4) Waiver of the requirement to provide services of a registered nurse for more than 40 hours a week in a Medicare SNF.

(A) The secretary may waive the requirement that a Medicare SNF provide the services of a registered nurse for more than 40 hours a week, including a director of nursing specified in paragraph (2) of this section, if the secretary finds that:

(i) the facility is located in a rural area and the supply of Medicare skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;

(ii) the facility has one full-time registered nurse who is regularly on duty at the facility 40 hours a week; and

(iii) the facility either:

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

(B) The secretary provides notice of the waiver to the state long term care ombudsman (established under the Older Americans Act of 1965, §307(a)(12)) and the protection and advocacy system in the state for the mentally ill and mentally retarded.

(C) The skilled nursing facility that is granted such a waiver by the state notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

(D) A waiver of the registered nurse requirement under subparagraph (A) of this paragraph is subject to annual renewal by the secretary.

(5)-(9) (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

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Nancy Murphy
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Subchapter J. Dietary Services

• 40 TAC §§19.902, 19.903, 19.907, 19.908, 19.911

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.902. Staffing. The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

(1) (No change.)

(2) All qualified dietitians not registered as provided by paragraph (1)(A) of this section must have 15 hours dietetic continuing education annually.

(3) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian

(4)-(5) (No change.)

§19.903. Sufficient Staffing. The facility must employ sufficient dietary support personnel who are competent to carry out the functions of the dietary service.

§19.907. Menus and Nutritional Adequacy.

(a)-(j) (No change.)

(k) The facility must ensure that trays for bedfast residents rest on firm supports such as over-bed tables. The facility must provide sturdy tray stands of proper height to residents able to be out of bed for their meals. The facility must provide special eating equipment and utensils for residents who need them

(l)-(m) (No change.)

§19.908. Food. Each resident must receive and the facility must provide:

(1) food prepared by methods that conserve nutritive value, flavor, and appearance;

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

§19.911. Sanitary Conditions. The facility must:

(1) (No change.)

(2) store, prepare, and serve food under sanitary conditions, as required by the Texas Department of Health food service sanitation requirements; and

(3) (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.

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Subchapter K. Physician Services

• 40 TAC §§19.1001, 19.1002, 19.1003, 19.1005, 19.1010

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.1001. Physician Services. A physician must personally approve in writing a recom-

mendation that an individual be admitted to a facility. Each resident must remain under the care of a physician. The facility must ensure that:

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

§19.1002. Physician Visits. The physician must:

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

(3) sign and date all orders;

(4)-(6) (No change.)

§19.1003. Frequency of Physician Visits. Physician visits must conform to the following schedule.

(1) The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter.

(2) A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required.

(3) Except as provided in paragraph (4) of this section and §19.1005(c) of this title (relating to Physician Delegation of Tasks), all required visits must be made by the physician personally.

(4) At the option of the physician, required visits in Medicare SNFs after the initial visit may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner, or clinical nurse specialist in accordance with §19.1005 of this title (relating to Physician Delegation of Tasks).

(5) Each resident shall have a physical examination at least annually by his or her physician. See also §19.1401(2)(E) of this title (relating to Infection Control).

§19.1005. Physician Delegation of Tasks.

(a) In a Medicare SNF, except as specified in subsection (b) of this section, a physician may delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who:

(1) meets the applicable definition in 42 Code of Federal Regulations §491.2 (see §19.101 of this title (relating to Definitions)) or in the case of a clinical nurse specialist, is licensed as such by the state;

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

(b) In a Medicare SNF, a physician may not delegate a task when the regulations specify that the physician must perform it personally, or when the delegation is prohibited under state law or by the facility's own policies.

(c) In a Medicaid nursing facility, any required physician task except certification, recertification, and the ordering of medications and treatments, may also be satisfied when performed by a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician.

(d) If physician assistant (PA), nurse practitioner (NP), or clinical nurse specialist's (CNS) services are used in the facility, facility staff must ensure that the following conditions exist.

(1) The facility has written agreements with physicians who intend to use the services of PAs, NPs, or CNSs.

(2) The facility has established, written procedures specifying that:

(A) the PA, NP, or CNS is identified clearly to residents, responsible parties, and to employees as a PA, NP, or CNS;

(B) residents are informed that the PA, NP, or CNS is not a physician and that the resident may see the supervising physician at the resident's request;

(C) residents or responsible party has given consent, in writing, to receive services from the PA, NP, or CNS; and

(D) (No change.)

§19.1010. Physicians' Reporting Communicable Diseases. The physician must report all reportable communicable diseases immediately according to the requirements specified in §19.1401(2)(D) of this title (relating to Infection Control).

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.

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Subchapter L. Specialized Rehabilitative

• 40 TAC §19.1101

The amendment is adopted under the Human

Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1101. Provision of Specialized Rehabilitative Services.

(a) Provision of services. If specialized rehabilitative services, such as, but not limited to, physical therapy, speech/language pathology, occupational therapy, and health rehabilitative services for mental illness and mental retardation are required in the resident's comprehensive plan of care, the facility must:

(1) provide the required services; or

(2) obtain the required services from an outside resource, in accordance with §19.1906 of this title (relating to Use of Outside Resources), from a provider of specialized rehabilitative services.

(b) The facility must ensure that safe and adequate space and equipment are available for rehabilitative services offered.

(c) The facility must ensure that rehabilitative services are provided under a written plan of treatment based on the physician's diagnosis and orders, and that services are documented in the resident's clinical record.

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.

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Subchapter M. Dental Services

• 40 TAC §19.1201

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1201. Dental Services. The facility must assist residents in obtaining routine and 24-hour emergency dental care.

(1) Skilled nursing facilities (resident's daily reimbursement paid by Medicare).

(A) The facility must provide or obtain from an outside resource, in accordance with §19.1906 of this title (relating to Use of Outside Resources), routine and emergency dental services to meet the needs of each resident.

(B) A skilled nursing facility (SNF) may charge a Medicare resident an additional amount for routine and emergency dental services.

(C) An SNF must, if necessary, assist the resident:

(i) in making appointments; and

(ii) by arranging for transportation to and from the dentist's office.

(D) An SNF must promptly refer residents with lost or damaged dentures to a dentist.

(2) Nursing facilities. The facility must provide or obtain from an outside resource, in accordance with §19.1906 of this title (relating to Use of Outside Resources), the following dental services to meet the needs of each resident:

(A) routine dental services (to the extent covered under the state plan).

(i) (No change.)

(ii) Routine restorative procedures are not considered emergency procedures. Emergency root canal procedures must be accompanied by x-rays. Dental services not covered include, but are not limited to, the following:

(I) cleaning;

(II) filling teeth with amalgam composite, glass ionomer, or any other restorative material;

(III) cast or preformed crowns (capping);

(IV) restoration of carious or non-carious permanent or primary teeth, including those requiring root canal therapy;

(V) replacement or repositioning of teeth;

(VI) services to the alveolar ridges or periodontium of the maxilla and the mandible, except for procedures

covered under subparagraph (B) of this paragraph; and

(VII) complete or partial dentures;

(B) (No change.)

(C) assistance to the resident, if necessary:

(i) in making appointments; and

(ii) by arranging for transportation to and from the dentist's office;

(D) prompt referral of residents with lost or damaged dentures to a dentist.

(3)-(4) (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.

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Subchapter N. Pharmacy Services

• 40 TAC §19.1301, §19.1303

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendments are adopted in compliance with federal requirements effective April 1, 1992.

§19.1301. Pharmacy Services. The facility must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in §19.1906 of this title (relating to Use of Outside Resources). See also §19.701(12) and (13) of this title (relating to Quality of Care) for information concerning drug therapy and medication errors.

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

(6) Labeling of drugs and biologicals. Drugs and biologicals used in the facility must be labeled in accordance with currently accepted professional principals and in compliance with the Texas State Board of Pharmacy laws and regulations, Chapter 291, including the appropriate accessory and cautionary instructions and the expiration date when applicable.

(7) Storage of drugs and biologicals.

(A) (No change.)

(B) The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse, except when the facility uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected (see §19.1309 of this title (relating to Controlled Substances)).

§19.1303. Additional Supervision and Consultation Requirements.

(a) (No change.)

(b) A pharmacist, currently licensed by the State of Texas and in good standing, must be an employee of the facility or act as a consultant to the facility. The facility must ensure that notes on the monthly visits by the consulting pharmacist are entered in the resident's clinical record. The pharmacist must prepare a written report for quarterly review. This report may consist of the monthly summaries (see §19.1301(5) of this title (relating to Pharmacy Services)).

(c)-(f) (No change.)

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

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Subchapter O. Infection Control

• 40 TAC §19.1401

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1401. Infection Control. The facility must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and

to help prevent the development and transmission of disease and infection. See also §19.1920 of this title (relating to Operating Policies and Procedures).

(1) (No change.)

(2) Preventing spread of infection.

(A) (No change.)

(B) The facility must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

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

(3)-(4) (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.

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Subchapter P. Physical Plant and Environment

• 40 TAC §19.1501

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1501. General Requirements. The facility must be designed, constructed, equipped, and maintained to protect the health and ensure the safety of residents, personnel, and the public. (See also §19.505 of this title (relating to Environment).)

(1) Life safety from fire. The facility must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference). Incorporation of the 1985 edition of the National Fire Protection Association's Life Safety Code (published February 7, 1985; ANSI/NFPA) was approved by the director of the *Federal Register* in accordance with 5 United State Code 552(a) and 1 Code of Federal Regulation, Part 51 that govern the use of incorporation by reference. The code

is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1110 L Street NW, Washington, D.C. Copies may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02200. If any changes in this code are also to be incorporated by reference, a notice to that effect will be published in the *Federal Register*.

(A) After consideration of the state survey agency findings, the Health Care Financing Administration (HCFA) or in the case of a nursing facility (including a dually participating facility), the state survey agency, may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility but only if the waiver does not adversely affect the health and safety of residents or personnel.

(B) The provisions of the Life Safety Code do not apply in a state in which HCFA finds, in accordance with applicable provisions of the Social Security Act §1819(d)(2)(B)(ii) and §1919(d)(2)(B)(ii), that a fire and safety code imposed by state law adequately protects patients, residents, and personnel in long term care facilities.

(2) Emergency power.

(A) An emergency electrical power system must supply power adequate at least for lighting all entrances and exits; equipment to maintain the fire detection, alarm, and extinguishing systems; and life support systems in the event the normal electrical supply is interrupted. (See §19.1510 of this title (relating to Emergency Electrical Services).)

(B) (No change.)

(3) (No change.)

(4) Resident rooms. Resident rooms must be designed and equipped for adequate nursing care, comfort, and privacy of residents.

(A) Bedrooms must:

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

(iii) have direct access to an exit corridor;

(iv) (No change.)

(v) in facilities initially certified after September 30, 1990, except in private rooms, have ceiling-suspended curtains for each bed, which extend around the bed to provide total visual privacy, in combination with adjacent walls and curtain (see clause (iv) of this subparagraph);

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

(B) (No change.)

(C) HCFA or the state survey agency may permit variations in requirements specified in paragraph (4)(A)(i) and (ii) of this section relating to rooms in individual cases when the facility demonstrates in writing that the variations:

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

(D)-(N) (No change.)

(5)-(19) (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.

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Subchapter Q. Medical Review and Re-evaluation

• 40 TAC §19.1606

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment is adopted in compliance with federal requirements effective April 1, 1992.

§19.1606. *Utilization Review Effective Dates.* When the recipient is admitted to or discharged from the Medicaid nursing facility vendor payment system, the administrator of the facility must submit, within 72 hours, a resident transaction notice form.

(1) The administrator of the facility must submit to the Utilization Review Committee a new Texas nursing facility CARE form within 20 calendar days following admission to the Medicaid nursing facility vendor payment system. See §19.1603(2)(B)(iv) of this title (relating to the Utilization Review Process) for instructions on when to submit admission assessments.

(A) The CARE form must be completed and signed by the physician within 20 working days following admission to the nursing facility vendor payment system.

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

(2)-(5) (No change.)

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

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Subchapter T. Administration

• 40 TAC §19.1903

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The repeal is adopted in compliance with federal requirements effective April 1, 1992.

§19.1903. *Required Training of Nurse Aides.*

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.

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Subchapter T. Administration

• 40 TAC §§19.1903, 19.1906, 19.1908-19.1910, 19.1914, 19.1915, 19.1917, 19.1918

The new and amended sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The new and amended sections are adopted in compliance with federal requirements effective April 1, 1992.

§19.1903. *Required Training of Nurse Aides.* See also § 19.1929 of this title (relating to Staff Development).

(1) Definitions. The following words and terms, when used in this chapter,

shall have the following meanings, unless the context clearly indicates otherwise.

(A) Licensed health professional—A physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; or licensed or certified social worker.

(B) Nurse aide—An individual providing nursing or nursing-related services to residents in a facility under the supervision of a licensed nurse. This definition does not include an individual who is a licensed health professional or a registered dietitian or someone who volunteers such services without monetary compensation.

(2) General rule. A facility must not use any individual working in the facility as a nurse aide for more than four months, on a full-time basis, unless:

(A) that individual is competent to provide nursing and nursing related services; and

(B) that individual:

(i) has completed a training and competency evaluation program, or a competency evaluation program approved by the state as meeting the requirements of 42 Code of Federal Regulations, §§483.151-493.154; or

(ii) has been deemed or determined competent as provided in 42 Code of Federal Regulations, §483.150(a) and (b).

(3) Nonpermanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the requirements in paragraph (2)(A) and (B) of this section.

(4) Competency. A facility must not use any individual who has worked less than four months as a nurse aide in that facility unless the individual:

(A) is a full-time employee in a state-approved training and competency evaluation program;

(B) has demonstrated competence through satisfactory participation in a state-approved nurse aide training and competency evaluation program, or competency evaluation program; or

(C) has been deemed or determined competent as provided in 42 Code

of Federal Regulations, §483.150(a) and (b).

(5) Registry verification. Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements, unless:

(A) the individual is a full-time employee in a training and competency evaluation program approved by the state; or

(B) the individual can prove that he has recently successfully completed a training and competency evaluation program, or competency evaluation program approved by the state and has not yet been included in the registry. Facilities must follow up to ensure that such an individual actually becomes registered.

(6) Multi-state registry verification. Before allowing an individual to serve as a nurse aide, a facility must seek information from every state registry, established under the Social Security Act, §1819(e)(2)(A) or §1919(e)(2)(A), that the facility believes will include information about the individual.

(7) Required retraining. If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(8) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must:

(A) be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year;

(B) address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff; and

(C) for nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(9) Training and registry rules. The facility must comply with the nurse

aide training and registry rules found in 25 TAC Chapter 151 (relating to Nurse Aides).

§19.1906. Use of Outside Resources.

(a) (No change.)

(b) Arrangements as described in the Social Security Act, §1861(W) or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:

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

(c) (No change.)

§19.1908. Laboratory Services.

(a) The facility must provide or obtain clinical laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(1) If the facility provides its own laboratory services, the services must meet the applicable conditions for coverage of the services furnished by laboratories specified in 42 Code of Federal Regulations, Part 493.

(2) If the facility provides blood bank and transfusion services, it must meet the requirements for laboratories specified in 42 Code of Federal Regulations, Part 493.

(3) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be approved or licensed to test specimens in the appropriate specialties and/or subspecialties of services in accordance with 42 Code of Federal Regulations, Part 493.

(4) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of 42 Code of Federal Regulations, Part 493, or from a physician's office.

(b) The facility must:

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

(4) file in the resident's clinical record laboratory reports that are dated and contain the name and address of the issuing laboratory;

(5) (No change.)

§19.1909. Radiology and Other Diagnostic Services.

(a) The nursing facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(1) (No change.)

(2) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.

(b) (No change.)

§19.1910. Clinical Records.

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

§19.1914. Disaster and Emergency Preparedness.

(a) (No change.)

(b) The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

§19.1915. Transfer Agreement.

(a) In accordance with the Social Security Act, §1861(1), the facility (other than a nursing facility which is located in a state on an Indian Reservation) must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that:

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

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

§19.1917. Quality Assessment and Assurance.

(a) (No change.)

(b) The Quality Assessment and Assurance Committee:

(1) (No change.)

(2) develops and implements appropriate plans of action to correct identified quality deficiencies.

(c) Texas or the secretary of health and human services may not require disclosure of the records of the Quality Assessment and Assurance Committee except insofar as such disclosure is related to the compliance of the committee with the requirements of subsection (b) of this section.

(d) The Quality Assessment and Assurance Committee, or a subcommittee thereof, will establish and monitor an infection control program according to §19.1401 of this title (relating to Infection Control), and will monitor the pharmaceutical services of the facility according to §19.1301 of this title (relating to Pharmacy Services)

(e) See §19.701(12) and (13) of this title (relating to Quality of Care) and §19.1923 of this title (relating to Incident or Accident Reporting) for additional items

that should be monitored by the Quality Assessment and Assurance Committee.

§19.1918. Disclosure of Ownership.

(a) (No change.)

(b) The facility must provide written notice to the Texas Department of Health at the time of change if a change occurs in:

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

(c)-(e) (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.

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Chapter 27. Intermediate Care Facility for the Mentally Retarded (ICF-MR)

Subchapter G. Additional Facility Responsibilities

• 40 TAC §27.701

The Texas Department of Human Services (DHS) adopts an amendment to §27.701, concerning agreements with local school districts, without changes to the proposed text as published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 840).

The justification for the amendment is to comply with Senate Bill 417, passed by the 71st Texas Legislature. This legislation requires DHS and the Texas Education Agency (TEA) to develop a memorandum of understanding concerning educational space and education-related services for school-age residents of intermediate care facilities for the mentally retarded (ICFs-MR).

The amendment will function by citing the memorandum of understanding which DHS and TEA developed to clarify the responsibilities of the ICFs-MR and the school districts. The responsibilities include providing space for educational activities, treatment and education-related services, and coordination of services between the ICFs-MR and school districts. The memorandum of understanding also delineates the respective responsibilities of TEA and DHS for assisting in the resolution of problems between school districts and ICFs-MR.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the

authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on March 9, 1992.

TRD-9203388

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: April 15, 1992

Proposal publication date: January 31, 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 adopts amendments to §50.6903 and §50.6905, concerning reimbursement methodology, in its Day Activity and Health Services chapter, without changes to the proposed text as published in the February 4, 1992, issue of the *Texas Register* (17 TexReg 935).

The amendments are justified because they better reflect the activities of the Day Activity and Health Services program. The amendments also help providers better understand the department's rules, thus resulting in better cost reporting.

The amendments will function by clarifying and correcting existing rule language.

During the public comment period, the department received one written comment commending the department for proposing the amendments.

The amendments are 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 March 9, 1992.

TRD-9203389

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: April 1, 1992

Proposal publication date: February 4, 1992

For further information, please call: (512) 450-3765



Name: Mike Walker

Grade: 11

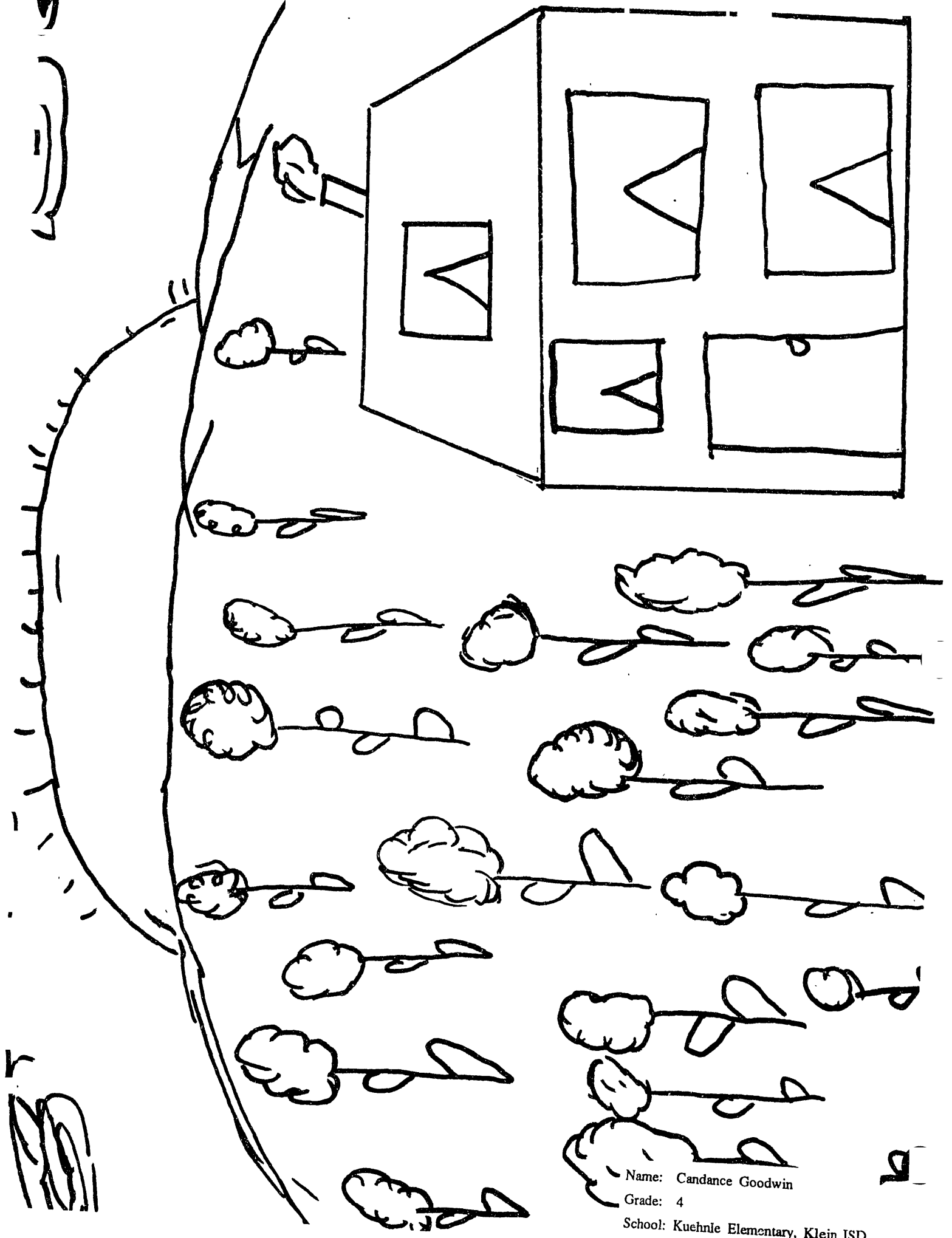
School: Plano East Senior High, Plano ISD



Name: Yomaide Andrade

Grade: 12

School: Plano East Senior High, Plar



Name: Candance Goodwin

Grade: 4

School: Kuehnie Elementary, Klein 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 Alcoholic Beverage Commission

Friday, March 13, 1992, 10 a.m. The Texas Alcoholic Beverage Commission will meet at 5806 Mesa, Austin. According to the complete agenda the commission will discuss mission statement and auxiliary documents developed by TABC pursuant to House Bill 2009, 72nd Legislature, Regular Session; and action on selection of permanent administrator.

Contact: Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: March 5, 1992, 4:08 p.m.

TRD-9203262

Texas Department of Banking

Thursday, March 19, 1992, 9 a.m. The Prepaid Funeral Guaranty Fund Advisory Council will meet at the State Finance Commission Building, 2601 North Lamar Boulevard, Austin. According to the complete agenda the council will review and discuss approval of minutes of previous meeting; consider proposed rules providing the procedures for making a claim against the guaranty fund and the guidelines for determining the eligibility of submitted claims; discussion regarding hiring an actuary to perform an actuarial study; and dates and times of future meetings.

Contact: Anna E. Gonzales, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: March 5, 1992, 4:10 p.m.

TRD-9203265

Texas Bond Review Board

Tuesday, March 17, 1992, 9 a.m. The Staff of the Texas Bond Review Board will meet at the Sam Houston Building, 201

East 14th Street, Room 710, Austin. According to the complete agenda, the staff will call the meeting to order; discuss Agency Strategic Plan; Capital Improvement Plan; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 15th Street, Austin, Texas 78701, (512) 463-1741.

Filed: March 9, 1992, 3:07 p.m.

TRD-9203449

Texas Board of Criminal Justice

Friday, March 13, 1992, 9 a.m. The Texas Board of Criminal Justice will meet at the Department of Public Safety Training Academy Auditorium, 5805 North Lamar Boulevard, Austin. According to the agenda summary the board will meet in executive session: hold discussion with board attorney's concerning litigation; and acquisition of real property. Regular Session: discuss consent items; board members reports; introduction of new senior staff, Ruiz Issues, Prison Management Act, Director's Report, G. Dual Employment Requests, Regulations-amendment and final approval (performance reward program); construction (authorization for and architect selection), prior pending business; Windham School Board; meet in executive session; and discuss consent items in open session.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: March 5, 1992, 2:57 p.m.

TRD-9203221

Interagency Council on Early Childhood Intervention

Monday, March 16, 1992, 10 a.m. The Advisory Committee of the Interagency Council on Early Childhood Intervention

will hold an emergency meeting at Advocacy, Inc., 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will discuss approval of minutes of previous meeting and consider and possibly act on: council report; new rules governing advisory committee; governor's letter status; parent nominee; reauthorization; budget update; executive committee report (annual report); executive director's report; and briefing on early childhood intervention strategic plan. The emergency status is necessary due to unforeseeable circumstances.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: March 9, 1992, 4:08 p.m.

TRD-9203458

Tuesday, March 17, 1992, 8:30 a.m. The Advisory Committee of the Interagency Council on Early Childhood Intervention will meet at Advocacy, Inc., 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will conduct subcommittee meetings on services, public awareness, research and evaluation; and consider and possibly act on subcommittee reports.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: March 9, 1992, 4:08 p.m.

TRD-9203459

Texas Council on Vocational Education

Saturday, March 28, 1992, 10 a.m. The Texas Council on Vocational Education will meet at the Wyndham Southpark Hotel, I-35 at Ben White Boulevard, (Wyndham A Meeting Room), Austin. According to the agenda summary, the council will hear public comments/testimony from individuals on issues relevant to vocational education. The

council will review and approve the minutes of the council's February 20-21 meeting in Huntsville; discuss school finance issues; review proposed federal funding program improvement projects; discuss future council meeting dates and locations; hear reports from council members and council staff on meetings attended; discuss plans for the Texas Vocational Education Awards Banquet; discuss the council's schedule of work; budget and expenditure report; and conduct other business.

Contact: Will Reece, P.O. Box 1886, Austin, Texas 78767, or 1717 West Sixth Street, Suite 360, Austin, Texas 78703, (512) 463-5490.

Filed: March 9, 1992, 2:37 p.m.

TRD-9203446

Texas Education Agency

Thursday, March 12, 1992, 9:30 a.m. The State Board of Education Ad Hoc Committee on Textbooks of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the emergency revised agenda summary, the committee reviewed and discussed textbook adoption process; heard report of the commissioner of education on recommended guidelines outlining the responsibilities of the Textbook Proclamation Advisory Committees and staff regarding the development of the textbook proclamations; heard report of the commissioner of education concerning corrections of errors of fact in the United States history textbooks submitted by Glencoe Division of Macmillan/McGraw-Hill. The emergency status was necessary as the agency found it of urgent public necessity for these items to be added to the committee schedule for discussion to enable the board to receive additional information necessary to review and improve the textbook adoption process.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: March 6, 1992, 4:22 p.m.

TRD-9203370

Thursday, March 19, 1992, 10 a.m. The Driver Training School Advisory Commission (DTSAC) of the Texas Education Agency will meet at the John H. Reagan Building, 105 West 15th Street, Room 106, Austin. According to the complete agenda, the commission will review and discuss resignation of member; procedures for public comments at commission meeting; Department of Public Safety-Medical Advisory Board-incompetency; driver education instructors; hear director's reports; reports by: Maury Dennis; rule status with the State

Board of Education; Attorney General's Opinion; DTSAC membership; and legislative issues.

Contact: Dee Bednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3560.

Filed: March 6, 1992, 4:22 p.m.

TRD-9203369

Texas Department of Health

Saturday, March 14, 1992, 1 p.m. The Budget and Finance Committee of the Texas Board of Health of the Texas Department of Health will meet at the Lubbock Room, Holiday Inn Beaumont-Plaza, Beaumont. According to the complete agenda, the committee will approve signature authority for the central office, San Antonio State Chest Hospital, and South Texas Hospital.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:55 p.m.

TRD-9203323

Saturday, March 14, 1992, 1:30 p.m. The Texas Board of Health Long Term Care Committee of the Texas Department of Health will meet at the El Paso Room, Holiday Inn Beaumont-Plaza, Beaumont. According to the complete agenda, the committee will discuss and possibly act on: withdrawal and reproposal of grading rules for nursing facilities; proposed rule to adopt by reference a memorandum of understanding between the Texas Department on Aging, Texas Department of Human Services, Texas Department of Health and Texas Mental Health and Mental Retardation concerning long-term care coordination for the elderly; final adoption under federal mandate of amendments to rules jointly developed by the Texas Department of Health and Texas Department of Human Services concerning requirements for nursing facility licensure and medicaid certification; and final adoption of rules concerning nurse aide registry and training.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:55 p.m.

TRD-9203322

Saturday, March 14, 1992, 3:30 p.m. The Texas Board of Health Environmental Health Committee of the Texas Department of Health will meet at the Lubbock Room, Holiday Inn Beaumont-Plaza, Beaumont. According to the complete agenda, the committee will discuss and possibility act on: proposed repeal of existing rules, and pro-

posed new rules concerning occupational health; and proposed addition to the Texas Regulations for Control of Radiation concerning licensing of naturally occurring radioactive materials (NORM).

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:54 p.m.

TRD-9203320

Saturday, March 14, 1992, 4:30 p.m. The Texas Board of Health Public Health Promotion Committee of the Texas Department of Health will meet at the El Paso Room, Holiday Inn Beaumont-Plaza, Beaumont. According to the complete agenda, the committee will consider and possibly act on: monthly update of three year public information plan; and new regional staff positions and duties.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:54 p.m.

TRD-9203321

Sunday, March 15, 1992, 8 a.m. The Texas Board of Health Executive Committee of the Texas Department of Health will meet at the Lubbock Room, Holiday Inn Beaumont-Plaza, Beaumont. According to the complete agenda, the committee will discuss items of procedure for the March 15, 1992, Texas Board of Health meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:42 p.m.

TRD-9203319

Sunday, March 15, 1992, 9 a.m. The Board of Health of the Texas Department of Health will meet at the Austin I and II Rooms, Beaumont Plaza Holiday Inn, 3950 I-10 South at Walden Road, Beaumont. According to the agenda summary, the board will discuss approval of the minutes of previous meeting; hear acting commissioner's report; discuss and possibly act on: committee reports; approval of signature authority for central office, San Antonio chest hospital, state chest hospital and South Texas hospital; rules (occupational health; radiation concerning licensing of naturally occurring radioactive materials; grading rules for nursing facilities; long term care coordination for the elderly; nursing facility licensure and medicaid certification; nurse aide registry and training); and hear announcements and comments.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: March 6, 1992, 12:51 p.m.

TRD-9203318

Thursday, March 19, 1992, 9:30 a.m. The Family Planning Interagency Advisory Council of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the council will discuss approval of the December 12, 1991 minutes and discuss and possibly act on: Title XX budget adjustments for fiscal year 1993 CAP plans; funding for nurse practitioner training; proposed revision of joint family planning agency standards; department patient encounter data; proposed provider enrollment/participation criteria (new implementation schedule); Texas Department of Human Services worker's family planning activities (client self-support services policy-worker functions rule change); ad hoc medical subcommittee report; Texas status report on summit meeting on adolescent pregnancy prevention; legislative initiatives 1994-1995 (strategic plan); advisory committee report; and feedback on family planning motions.

Contact: Walter Peter, Jr., M.D., 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: March 9, 1992, 4:08 p.m.

TRD-9203457

Texas Department of Housing and Community Affairs

Friday, March 13, 1992, 2:30 p.m. The Board of the Texas Department of Housing and Community Affairs will meet at the Vista Grande Resort and Compliance Center, Lago Vista. According to the agenda summary, the board will consider and possibly act on the election and/or appointment of board secretary, vice chairperson and committee members.

Contact: Mario Aguilar, 811 Barton Springs Road, Austin, Texas 78704, (512) 474-2974.

Filed: March 5, 1992, 6:12 p.m.

TRD-9203276

Friday-Saturday, March 13-14, 1992, 2:30 p.m. and 8:30 a.m. The Board of the Texas Department of Housing and Community Affairs will meet at 1918 American Drive, Vista Grande Resort and Conference Center, Lago Vista. According to the revised agenda summary, the board will consider and possibly act on the following items: election of officers; discuss approval of minutes; staff briefing/training session; public comment period; single family program; multi-family program; request for proposals; HOME Program; Community Affairs Division; discuss financial issues; trouble projects; Housing Trust Fund; audit

reports; Senate Bill 546; mortgage revenue bonds; and extension of mortgage revenue bonds and low income tax credits.

Contact: Mario Aguilar, 811 Barton Springs, Suite 300, Austin, Texas 78711, (512) 474-2974.

Filed: March 6, 1992, 5:13 p.m.

TRD-9203373

Texas Department of Human Services

Tuesday, March 17, 1992, 1:30 p.m. The Adolescent Pregnancy and Parenthood Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, Fifth Floor, West Tower, Conference Room 5W, Austin. According to the complete agenda, the council will welcome guests; discuss approval of minutes; feedback on recommendations; discuss strategic plan; update on TexNet; Texas summit on adolescent pregnancy prevention status report and APPAC assignments; agency updates: Texas Department of Health; Texas Education Agency; Texas Department of Human Services; open discussion on future agenda topics; and wrap-up.

Contact: Kent Gummerman, P.O. Box 149030, Austin, Texas 78714-9030.

Filed: March 9, 1992, 4:26 p.m.

TRD-9203467

Department of Information Resources

Friday, March 13, 1992, 9 a.m. The Services Delivery Alternatives Advisory of the Department of Information Resources will meet at 300 West 15th, Austin. According to the agenda summary the advisory will welcome members; discuss qualitative analysis model; status report on budget reforms affecting quantitative model; next meeting date and agenda items; and adjourn.

Contact: Debra Williams, 300 West 15th Street, Austin, Texas 78701, (512) 475-4744.

Filed: March 5, 1992, 3 p.m.

TRD-9203223

Texas Department of Insurance

Friday, March 6, 1992, 1:45 p.m. The State Board of Insurance of the Texas Department of Insurance held an emergency meeting at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the

board considered a request by the Farmers Insurance Group for a determination by the State Board of Insurance of a weather related event, occurring on March 4, 1992 in Harris County, and Fort Bend, as a catastrophe in accordance with Article 21.55, §5(d), Insurance Code in order to extend the claims handling process for 15 additional days. The emergency status was necessary to protect public welfare and confidence by designating certain areas of Texas as catastrophe due to recent flooding conditions.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 6, 1992, 11:30 a.m.

TRD-9203310

Tuesday, March 17, 1992, 2 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, 13th Floor Board Conference Room, Tower I, Austin. According to the complete agenda, the board will conduct a litigation meeting with representatives of the Attorney General's Office.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: March 9, 1992, 3:34 p.m.

TRD-9203454

Wednesday, March 18, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Don E. Davis, Dallas, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11425.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 9, 1992, 9:31 a.m.

TRD-9203381

Wednesday, March 18, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against James Ray Dean, also known as Jimmy Ray Dean of Camp Wood, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Local Recording Agent's license. Docket Number 11430.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

Filed: March 9, 1992, 9:32 a.m.

TRD-9203382

◆ ◆ ◆
Texas Commission on Jail Standards

Wednesday, March 25, 1992, 9 a.m. The Texas Commission on Jail Standards will meet at the John H. Reagan Building, Room 105, 15th and Congress Avenue, Austin. According to the agenda summary the commission will call the meeting to order; take role call of members; discuss old business: Bexar County, Bowie County, McLennan County, Potter County, payment to counties, transfer of felony backlog, procedures rules-adopt, changes to standards-adopt, change to standards, completed jail projects, jail population report, active remedial orders. New Business. Angelina County, Brazoria County, Ector County, El Paso County, Grimes County, Hardin County, Hidalgo County, Madison County, Tarrant County, Titus County, Washington County, education committee report, audit committee report, change to standards, felony backlog held over 45 days. Applications for variances: El Paso County, McLennan County, Madison County, Robertson County, Tarrant County, and Young County. Administrative Hearing: McLennan County; hear directors report; other business; executive session; and adjourn.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: March 5, 1992, 11:08 a.m.

TRD-9203187

◆ ◆ ◆
Texas Juvenile Probation Commission

Friday, March 13, 1992, 9 a.m. The Board of the Texas Juvenile Probation Commission will meet at 1100 West 49th Street, Morton Building, Seventh Floor Room M739, Austin. According to the complete agenda the commission will make introductions; hear minutes of February 21, 1992 meeting; discuss excused absences; hear resolution committee report; discuss certification of secure residential facilities; hear public comments; discuss community corrections plan for fiscal year 1993; hear director's report; set date for next meeting; and adjourn.

Contact: Bernard Licarione, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: March 5, 1992, 4:13 p.m.

TRD-9203266

Texas Commission on Law Enforcement

March 24, 1992, 9 a.m. The Officer Standards and Education Texas Peace Officers' Memorial Advisory Committee of the Texas Commission on Law Enforcement will meet at the Doubletree Hotel, 6505 IH 35, Austin. According to the complete agenda the committee will call the meeting to order and take roll call of members; recognize visitors; discuss approval of the minutes of the November 21, 1991 meeting; introduce new committee members (if new appointments made); election of vice-chairman and secretary (if necessary); receive the director's activity report; discuss and adopt fund raising plan (plan includes recognition of major donors); recess for lunch; discuss and adopt eligibility criteria for inclusion of names on the memorial; determine next meeting date; and adjourn.

Contact: Edward T Laine, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: March 6, 1992, 8:41 a.m.

TRD-9203280

◆ ◆ ◆
Texas State Library and Archives Commission

Thursday, March 26, 1992, 10 a.m. The Texas State Library and Archives Commission will meet at the Lorenzo de Zavala Archives and Library Building, 1201 Brazos Street, Room 314, Austin. According to the complete agenda, the commission will discuss approval of the minutes of the December 12, 1991 meeting in Liberty; meet in executive session to discuss personnel matter; appoint members to the Library Systems Act Advisory Board and the Library Services and Construction Act Advisory Council; receive recommendations for the Records Management and Preservation Advisory Committee; approve commission's strategic plan submission; approve amendments to the commission's productivity/bonus plan for fiscal year 1992 and the estimated savings for its fiscal year 1993 plan; approve fiscal year 1993 budget reductions; award contract for internal auditing services for the commission; appoint an internal auditing committee; and hear committee reports.

Contact: Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440.

Filed: March 9, 1992, 11:18 a.m.

TRD-9203418

Wednesday, April 1, 1992, 1 p.m. The Library Systems Act Advisory Board of the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala Archives and Library Building, 1201

Brazos Street, Room 314, Austin. According to the complete agenda, the board will discuss possible changes to Rule 1.64, cash reserves, regional library systems; discuss Texas State Library and Archives Commission Strategic Plan; State Uniform Service Regions; and adjourn.

Contact: Edward Seidenberg, P.O. Box 12927, Austin, Texas 78711, (512) 463-5459

Filed: March 9, 1992, 11:18 a.m.

TRD-9203419

◆ ◆ ◆
Texas Department of Licensing and Regulation

Wednesday, March 18, 1992, 9 a.m. The Property Tax Consultants Advisory Council of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Room 1012, Austin. According to the agenda summary, the council will hear remarks by the executive director; department briefing; hear public comment; discuss and consider manner of proceeding/committee appointment; consider possible changes to Article 8886; schedule next meeting; and adjourn.

Contact: Jim Brush, P.O. Box 121257, Austin, Texas 78711, (512) 463-7348.

Filed: March 10, 1992, 8:44 a.m.

TRD-9203476

Wednesday, March 25, 1992, 9 a.m. The Inspections and Investigations, Air Conditioning of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Shawn Lamont McDonnell for violation of Texas Civil Statutes, Articles 8861 and 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 475-2899.

Filed: March 6, 1992, 8:36 a.m.

TRD-9203278

Wednesday, March 25, 1992, 10 a.m. The Inspections and Investigations, Talent Agencies of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Phyllis Lidenton doing business as D'Lynn Academy for violation of Texas Civil Statutes, Articles 5221a-9 and 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 475-2899.

Filed: March 6, 1992, 8:36 a.m.

TRD-9203279

Texas State Board of Medical Examiners

Friday-Saturday, March 6-7, 1 p.m. and 8 a.m., respectively The Texas State Board of Medical Examiners met at 1812 Centre Creek Drive, Suite 300, Austin. According to the emergency revised agenda summary the board will consider approval of additional agreed board orders. The board met in executive session under the 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 the Attorney General 1974, Number H-484. The emergency meeting was necessary because information had come to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: March 5, 1992, 4:39 p.m.

TRD-9203274

Friday, March 6, 1992, 5:30 p.m. The Executive Committee of the Texas State Board of Medical Examiners met in an emergency meeting at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary the committee considered temporary suspension of the license of Richard Brookshire Hunter, M.D. The committee met in executive session under the 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 the Attorney General 1974, Number H-484. The emergency meeting was necessary because information had come to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: March 5, 1992, 4:41 p.m.

TRD-9203275

Board of Nurse Examiners

Tuesday-Wednesday, March 24-25, 1992, 8 a.m. The Board of Nurse Examiners will meet at the Sheraton Mockingbird Hotel, 1893 West Mockingbird Lane, Dallas. According to the agenda summary the board will receive the minutes from the January 1992 meeting; consider acceptance of December 1991 and January 1992 financial statements; receive an update on the task force committees, ANP advisory committee and NEAC committee; consider possible ac-

tion on disciplinary matters and other action as recommended by the executive director in relation to hearings; receive a report from the education/examination department regarding faculty petitions, annual report data, and receive a report from the February 1992 NCLEX-RN. The board will consider adoption of six proposed rules and hold an open forum on March 24, 1992 at 1:30 p.m. to receive public comment.

Contact: Louise Waddill, Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: March 5, 1992, 11:05 a.m.

TRD-9203181

Texas Department of Public Safety

Thursday, March 19, 1992, 11 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters (Commission Room), 5805 North Lamar Boulevard, Austin. According to the complete agenda, the commission will discuss approval of minutes; discuss budget matters; personnel matters; pending and contemplated litigation; real estate matters; approval of revision of vehicle inspection manual to conform to current policy and law on glasscoating; miscellaneous and other unfinished business; and cooperation with private entities regarding public safety announcements.

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: March 9, 1992, 11:12 a.m.

TRD-9203416

Public Utility Commission of Texas

Wednesday, March 25, 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 hearing on the merits in Docket Number 9728-application of Texas-New Mexico Power Company for a certificate of convenience and necessity for a transmission line within Galveston County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 6, 1992, 2:49 p.m.

TRD-9203362

Wednesday, March 25, 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 10776-application of Southwestern Bell Telephone Company to revise the access service tariff.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 6, 1992, 2:48 p.m.

TRD-9203361

Monday, April 13, 1992, 2 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 conduct a hearing in Docket Number 10904-appeal of Tri-County Electric Cooperative, Inc. from rates set by the City of Haslet.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:42 p.m.

TRD-9203225

Friday, May 15, 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 conduct a hearing on the merits in Docket Number 10958-application of Hill Country Telephone Cooperative, Inc. for temporary waiver of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:45 p.m.

TRD-9203240

Friday, May 15, 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 conduct a hearing in Docket Number 10941-application of United Telephone Company of Texas for temporary waiver from Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:45 p.m.

TRD-9203239

Friday, May 15, 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 conduct a hearing in Docket Number 10923-application of Colorado Valley Telephone Cooperative, Inc. from requirements of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:45 p.m.

TRD-9203238

Friday, May 15, 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 conduct a hearing in Docket Number 10916-application of Central Telephone Company of Texas for temporary waiver from requirements of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:44 p.m.

TRD-9203237

Friday, May 15, 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 conduct a hearing in Docket Number 10896-joint petition of Big Bend Telephone Company, Inc. et al for temporary waiver of Public Utility Commission, Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:44 p.m.

TRD-9203236

Friday, May 15, 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 conduct a hearing in Docket Number 10892-application of South Plains Telephone Cooperative, Inc. for waiver from requirements of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:44 p.m.

TRD-9203235

Friday, May 15, 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 conduct a hearing in Docket Number 10891-application of Taylor Telephone Cooperative, Inc. for waiver from requirements of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:44 p.m.

TRD-9203234

Friday, May 15, 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 conduct a hearing in Docket Number 10890-application of Valley Telephone Cooperative, Inc. for waiver from requirements of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:44 p.m.

TRD-9203233

Friday, May 15, 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 conduct a hearing in Docket Number 10889-application of Kerrville Telephone Company for waiver from the requirements of Public Utility Company Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203232

Friday, May 15, 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 conduct a hearing in Docket Number 10876-petition for waiver from requirements of Substantive Rule 23.55(e)(1) and (2) of La Ward Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203231

Friday, May 15, 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 conduct a hearing in Docket Number 10875-petition for waiver from requirements of Substantive Rule 23.55(e)(1) and (2) of Fort Bend Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203230

Friday, May 15, 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 conduct a hearing in Docket Number 10874-petition for waiver from requirements of Substantive Rule 23.55(e)(1) and (2) of Ganado Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203229

Friday, May 15, 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 conduct a hearing in Docket Number 10827-petition of Lufkin-Conroe Telephone Exchange, Inc. requesting a temporary waiver of Public Utility Commission, Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203228

Friday, May 15, 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 conduct a hearing in Docket Number 10763-petition of GTE Southwest Incorporated for request of temporary waiver of Substantive Rule 23.55(e)(1) and (2).

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:43 p.m.

TRD-9203227

Monday, July 13, 1992, 10 a.m. (rescheduled from Thursday, May 28, 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 conduct a hearing in Docket Number 10762, complaint of Network Billing and Collections, Inc. doing business as NBC Telecommunications, Inc. against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:42 p.m.

TRD-9203226

Thursday, July 16, 1992, 10 a.m. (re-scheduled from Wednesday, June 3, 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 conduct a hearing in Docket Number 10762, complaint of Network Billing and Collections, Inc. doing business as NBC Telecommunications, Inc. against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 5, 1992, 3:42 p.m.

TRD-9203224

Tuesday, September 22, 1992, 10 a.m. The Hearings Division of the Public Utility Commission 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 10802-complaint of International Claim Service Corporation against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 9, 1992, 3:12 p.m.

TRD-9203452



Railroad Commission of Texas

Monday, March 16, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room 12-126, Austin. Agendas follow.

The commission will consider various matters within the 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 action, including, but not limited to, scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act, including to receive legal advice regarding pending and/or contemplated litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711, (512) 463-7274.

Filed: March 6, 1992, 11:11 a.m.

TRD-9203308

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: March 6, 1992, 11:08 a.m.

TRD-9203294

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schable, P.O. Box 12967, Austin, Texas 78711, (512) 463-6710.

Filed: March 6, 1992, 11:08 a.m.

TRD-9203295

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-7257.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203296

The commission will consider category determination under §§102(c)(1)(B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711, (512) 463-6755.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203297

The commission will consider and act on the Division Director's report on budget and personnel matters related to organization of the Alternative Fuels Research and Education Division; and consider the appointment of a Liquefied Petroleum Gas Advisory Committee for the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203298

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203299

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. Consideration of appointment, reassignment and/or termination of various positions, including division directors. Consideration of reorganization of the well plugging program. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203300

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: March 6, 1992, 11:09 a.m.

TRD-9203301



Texas Real Estate Commission

Monday-Tuesday, March 16-17, 1992, 10 a.m. and 9:30 a.m. respectively. The Texas Real Estate Commission will meet at the TREC Headquarters, 1101 Camino La Costa, Conference Room #235, Austin. According to the revised agenda summary, the commission will hold a hearing on proposed amendments to 22 TAC §§537.11, 537.13, 537.23, 537.28, 537.29 and 537.33 concerning standard contract forms; discuss Senate Bill 3; discuss proposed amendments to 22 TAC §§523.10, 533.18, 533.25 concerning practice and procedure, to §335.41 concerning the commission, and to §535.141 concerning initiation of investigations; possible action to adopt proposed amendments to 22 TAC Chapter 527 concerning standard contract forms; possible action to approve MCE providers and courses; or to approve accredited schools or courses; meet in executive session to discuss pending litigation.

pursuant to Texas Civil Statutes, Article 6252-17, §2(e); reconvene in open meeting to discuss authorization of payments from recovery funds or other matters discussed in executive session; motions for rehearing and/or probation; and entry of orders in contested cases.

Contact: Camilla Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: March 6, 1992, 4:12 p.m.

TRD-9203368

Texas Municipal Retirement System

Saturday, March 28, 1992, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 1200 North IH-35, Austin. According to the complete agenda, the board will hear and approve minutes of the December 7, 1991 regular meeting; discuss approval of the minutes of the January 17, February 7, and February 28, 1992 special meetings; review and approve service retirements; disability retirements; review and approve supplemental death benefits payments; consider extended supplemental death benefits; review and act on financial statements; consider resolution regarding acting director for the system as of March 31, 1992, and establishing that person's duties; report by actuary; report by legal counsel; special meeting called for April 10, 1992; and consider any other business to come before the board.

Contact: Jimmie L. Mormon, 1200 North IH-35, Austin, Texas 78701, (512) 476-7577.

Filed: March 9, 1992, 10:59 a.m.

TRD-9203414

Friday, April 10, 1992, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 1200 North IH-35, Austin. According to the complete agenda, the board will consider and act upon personnel matters related to the potential recruitment or selection of a director for the system; to consider and act upon establishment of policies relating to the system's employees and adoption of a manual setting forth these policies.

Contact: Jimmie L. Mormon, 1200 North IH-35, Austin, Texas 78701, (512) 476-7577.

Filed: March 9, 1992, 11 a.m.

TRD-9203415

School Land Board

Tuesday, March 17, 1992, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building,

1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will review and discuss approval of previous board meeting minutes; pooling applications, Mesquite Bay, Aransas County; Lost Fork (Yegua 6800), Wharton County; Brown-Bassett (Ellenburger), Terrell County; lease suspension applications, Brazos River, state lease M-90466, Young County and state leases M-63542, M-63543, M-64034, M-68897, M-70383, M-90575 and M-93976; and state lease M-69020; applications to lease highway rights of way for oil and gas; Brazos, Washington and Fayette Counties; direct land sales, Val Verde County and Kerr County; coastal public lands-easement applications, Corpus Christi Bay, Nueces County; Laguna Madre, Cameron County; Tres Palacios Bay, Matagorda County; West Bay, Galveston County; Old Brazos River, Brazoria County; Turtle Bay, Matagorda County; structure permit terminations, Laguna Madre, Kennedy County; structure permit request, Laguna Madre, Kennedy County; and structure permit amendment, Laguna Madre, Kleberg County; consideration and approval of land trade and acquisition, Bexar County; meet in executive session to consider and approve land trade and acquisition in Bexar County; and discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: March 9, 1992, 4:29 p.m.

TRD-9203468

Texas State Soil and Water Conservation Board

Wednesday, March 18, 1992, 8 a.m. The Texas State Soil and Water Conservation Board will meet at 311 North Fifth Street, Conference Room, Temple. According to the complete agenda, the board will review and take appropriate action on the following: minutes of the February 26, 1992 board meeting; district director appointments; consider division and reorganization of Hood-Parker SWCD #529; allocation of FY 1992 technical assistance funds; FY 1992 expenditure report ending February 29, 1992; agency strategic plan; report on Uniform Statewide Accounting System; report on PL 566 watershed planning; consider planning priority on Gunsolus Creek Watershed; low interest loans for nonpoint source management practices; EPA Wetland Conservation Program; nonpoint source management program status report; Joint Interim Committee on the Environment; reports from agencies and guests; Gulf of Mexico Program; Galveston Bay National Estuary Program; 1994-1995 Legislative Appropriation request; board member travel; and plan next board meeting for May 20, 1992.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, SCS 820-1250.

Filed: March 9, 1992, 9:50 a.m.

TRD-9203392

Board for Lease of State-owned Lands

Wednesday, March 11, 1992, 4:30 p.m. The Board of Lease of Texas Department of Criminal Justice of the Board for Lease of State-owned Lands met at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin. According to the emergency revised agenda summary, the board considered an amendment to state oil and gas lease form to include proportionate reduction provision for delay rentals. The emergency status was necessary to include proportionate reduction provision on leases offered for the April 7, 1992 oil and gas lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016

Filed: March 9, 1992, 4:29 p.m.

TRD-9203469

Structural Pest Control Board

Thursday, April 2, 1992, 9 a.m. The Continuing Education Committee of the Structural Pest Control Board will meet in the Texas Agricultural Extension Service, Classroom in Education Building, 17360 Coit Road, Dallas. According to the complete agenda the committee will meet at the Texas Agricultural Extension Service, Classroom in Education Building, 17360 Coit Road, Dallas. According to the complete agenda, the committee will review course approval 1992; discuss approved courses; discuss technician training courses; and discuss new recertification cycle beginning January 1, 1992.

Contact: Benny M. Mathis, Jr., 9101 Burnett Road, #201, Austin, Texas 78758, (512) 835-4066.

Filed: March 5, 1992, 11:07 p.m.

TRD-9203186

Wednesday, April 15, 1992, 1:30 p.m. The Structural Pest Control Board will meet at the William B. Travis Building, 1701 North Congress Avenue, #1-100, Austin. According to the complete agenda, the board will hold a public hearing on the following proposed rules and regulations: §§591.21, 591.3, 593.3, 593.7, 593.13, 593.23, 593.24, 595.6, and 595.8.

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: March 9, 1992, 11:23 a.m.

TRD-9203435

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**Teacher Retirement System
of Texas**

Monday, March 16, 1992, 9:30 a.m. The Investment Advisory Committee of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Fifth Floor Board Room, Austin. According to the agenda summary, the committee will discuss approval of the December 12, 1991 minutes; discuss investment outlook and market conditions; consider recommended allocation of cash flow for current quarter; review of investments; consider changes to approved common stock list; consider changes to smaller company growth stock list; review of portfolio performance; report of Real Estate Finance Committee; report on status of Texas Growth Fund; and report of equity and fixed income subcommittee. A quorum of the board of trustees may attend and enter into discussions, but no official board action will take place.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: March 6, 1992, 3:05 p.m.

TRD-9203364

Tuesday, March 17, 1992, 9 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 agenda summary, the board will present appreciation awards; consider petition of Gary Baltis; consider petition of Robert E. Simpson; discuss approval of minutes; consider Texas Public School Retired Employees Group Insurance Program resolution; report of Texas Public School Retired Employees Group Insurance Program; report on renovation of First City Centre; review of investments for quarter ending February 29, 1992; review and consideration of discussion and recommendations of Investment Advisory Committee; report of nominations committee and consider appointment to IAC; report on activity within investment related bank account; report of audit committee; consider revised ethics policy; consider preliminary strategic plan; consider proposed rule changes relating to actuarial tables used for disability retirement options; report of member benefits division; discuss litigation; consider frequency of board of trustees meetings; report of executive secretary; inquiries and comments by board members; and consider suggested future agenda items.

Contact: Mary Godzik, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

Filed: March 9, 1992, 3 p.m.

TRD-9203447

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**The Texas A&M University
System**

Wednesday, March 11, 1992, 9 a.m. The Executive Committee of the Board of Regents of The Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee confirmed terminations, appointments and promotions; tenure; confirmed appointment of interim provost and vice president for academic affairs at Texas A&I University; appointment of Dean of the College of Architecture at Texas A&M University; disposition and acquisition of real estate; naming of facilities; selection of architects/engineers; and heard reports from system administration.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 10:33 a.m.

TRD-9203291

Wednesday, March 11, 1992, 1:15 p.m. The Strategic Objectives and Long Range Planning Committee of the Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the complete agenda, the committee discussed infrastructure for the George Bush Presidential Library; and received a report on the update on the Capital Plan and Capital Budget.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 11:10 a.m.

TRD-9203302

Wednesday, March 11, 1992, 1:30 p.m. The Facilities Planning and Building Committee of the Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee discussed construction items for the Texas A&M University System; and selected architects/engineers.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 11:10 a.m.

TRD-9203303

Wednesday, March 11, 1992, 2 p.m. The Committee for Academic Campuses of the Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee authorized an offer of a Bachelor of Science Degree in Health Sciences, CCSU; approved a new mission (role and scope) statement; authorized to establish Quasi-Endowments, TAMU; authorized to create the Center for Distance Learning Research, TAMU; and granting of emeritus titles.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 11:10 a.m.

TRD-9203304

Wednesday, March 11, 1992, 2:15 p.m. The Committee for Service Units of the Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee discussed approval of Texas Honey Bee Industry Protection Plan; authorized license agreements; authorized nonexclusive licenses; establishment of institutes; and granting of emeritus titles.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 10 a.m.

TRD-9203305

Wednesday, March 11, 1992, 2:45 p.m. The Finance and Audit Committee of the Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee adopted resolutions; revised authorization for revolving bank account designating amount, sources of funds, depository bank, and officers and employees to sign checks for withdrawal; authorization to establish and collect laboratory fees; confirmation of increased field trip fees for CCSU and TAMU; discussed approval of fee changes; appropriation from the AUF; authorization for transfer of funds; confirmation of budget and fiscal transfers, salary increases and new positions; acceptance of gifts, grants, loans and bequests; heard report on update of FY 1992-1993 budget guidelines.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 11:10 a.m.

TRD-9203306

Wednesday, March 11, 1992, 3:15 p.m. The Land and Minerals Committee of the

Board of Regents of the Texas A&M University System met at the IBT Building, Suite 1103, 2121 Holcombe Boulevard, Houston. According to the agenda summary, the committee discussed adoption of a policy; dedication of real property proceeds; authorization for the sale of land; and for the acquisition of lots.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 6, 1992, 11:10 a.m.

TRD-9203307

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Texas State Technical College

Thursday, March 12, 1992, 2 p.m. The Executive Committee of the Texas State Technical College held a teleconference call at TSTC-System Building, 3801 Campus Drive, Waco. According to the complete agenda, the committee discussed grant of easement to Century; assignment of rentals to pay cost of sewer installation; appointed architect for TSTC-Sweetwater; and modification of chiller at TSTC-Harlingen.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 9, 1992, 1:12 p.m.

TRD-9203461

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The University of Texas at Austin

Wednesday, March 11, 1992, 11:45 a.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin met at the Alumni Center, Nowotny Room, 21st and San Jacinto Streets, Austin. According to the agenda summary, the council met in executive session; open session; discussed approval of the minutes of November 25, 1991; discussed items from executive session; reviewed and discussed development; academics; budget and budget items; construction; tickets and ticket policy; schedules and schedule changes; awards; and new and old business.

Contact: Betty Corley, P.O. Box 7399, Austin, Texas 78713, (512) 471-5757.

Filed: March 6, 1992, 2:16 p.m.

TRD-9203350

University of Texas Health Science Center at San Antonio

Wednesday, March 18, 1992, 3 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet at the History of Medicine Conference Room 5.070LIB, 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee will discuss approval of the minutes; protocols for review; hear subcommittee reports; and discuss other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 467-3717.

Filed: March 9, 1992, 10:50 a.m.

TRD-9203413

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Texas Water Commission

Thursday, April 9, 1992, 10 a.m. The Office of Hearings Examiner of 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 office will hold a public hearing on assessment of administrative penalties and requiring certain actions of Schu-Tex, Inc.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 9, 1992, 11:21 a.m.

TRD-9203429

Tuesday, April 14, 1992, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1030, Austin. According to the agenda summary, the office will hold a public hearing on assessment of administrative penalties and requiring certain actions of Industrial Road/Industrial Metals site.

Contact: Joseph O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 9, 1992, 11:21 a.m.

TRD-9203428

Thursday, April 16, 1992, 10 a.m. The Office of Hearings Examiner of 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 office will hold a public hearing on assessment of administrative penalties and requiring certain actions of Applied Coating Services, Inc.

Contact: Debra Parker, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 9, 1992, 11:21 a.m.

TRD-9203427

Wednesday, April 22, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider an application submitted by Tom and Judy Wade for a water right permit to divert not to exceed 10 acre-feet of water per annum from an existing reservoir on an unnamed tributary of South Bosque River, tributary of Bosque River, tributary of the Brazos River, Brazos River Basin. Water will be diverted to an existing off-channel reservoir and used for subsequent irrigation or placed directly on land not to exceed 22 acres (nursery of Live Oak and Red Oak trees). The land is located in the J. S. Rutland Survey, Abstract Number 747, and the Catharine Rhodes Survey, Abstract Number 763, approximately 11 miles southwest of Waco, McLennan County.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 371-6386.

Filed: March 9, 1992, 11:18 a.m.

TRD-9203420

Wednesday, April 22, 1992, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing to consider Application Number 5395 submitted by Renato and Mariabella G. Martinez for a water right permit to divert and use 300 acre-feet of water per annum from the San Antonio River, San Antonio River Basin to irrigate 150 acres of coastal bermuda grass out of a 248.85 acre tract of land in the Manuel Barrera Survey Number 25, Abstract Number 3, approximately 9 miles southeast of Floresville. The maximum diversion rate will be 2.2 cfs (1,000 gpm).

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 371-6385.

Filed: March 9, 1992, 11:19 a.m.

TRD-9203421

Tuesday, April 28, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149B, Austin. According to the agenda summary, the commission will hold a hearing on a petition for the creation of Corpus Christi Downtown Management District, Nueces County.

Contact: William C. Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: March 9, 1992, 11:19 a.m.

TRD-9203423

Wednesday, May 13, 1992, 9 a.m. The Texas Water Commission will meet at the

Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing on Application Number 5399 submitted by Gary E. and Ida Mae Pogue for a water use permit to impound and divert water into and from an existing dam and 447.5 acre-foot reservoir on Doe Creek, tributary of Escondido Creek, tributary of the San Antonio River, San Antonio River Basin, to irrigate 122.897 acres of pasture grassland within a 590.27-acre tract in the Carlos Martinez Grant, Abstract Number 6, approximately 6.2 miles southwest of Kenedy, Karnes County. The amount of water to be diverted from the reservoir would be 223 acre-feet per annum.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

Filed: March 9, 1992, 11:19 a.m.

TRD-9203422

Texas Workers' Compensation Commission

Thursday, March 12, 1992, 9 a.m. The Texas Workers' Compensation Commission met at the Southfield Building, 4000 South IH-35, Rooms 910-911, Austin. According to the agenda summary, the commission called the meeting to order; discussed approval of minutes for the meeting of February 20, 1992; discussed and considered rules for adoption; discussed and considered adoption of amendments to existing rules; discussed and considered commission procedure C-5000, adoption of TWCC fee schedule; heard report on donations and gifts received; action, if any, on matters considered in executive session; general reports of issues relating to commission activities; discuss future public meeting; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: March 6, 1992, 11:13 a.m.

TRD-9203309

Texas Workers' Compensation Research Center

Friday, March 13, 1992, 9 a.m. The Board of Directors of the Texas Workers' Compensation Research Center will meet at the Sid Richardson Hall, Room 3.110, in the LBJ School of Public Affairs, University of Texas, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of the minutes; elect officers; committee reports will be given; work session on the research agenda; and adjourn.

Contact: June L. Karp, 1005 Sam Houston Building, Austin, Texas 78701, (512) 475-4991.

Filed: March 9, 1992, 10:39 a.m.

TRD-9203412

Regional Meetings

Meetings Filed March 5, 1992

The Bandera County Appraisal District Appraisal Review Board met at the Appraisal District Office at the North End of Ninth Street, Bandera, March 12, 1992, at 9 a.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (512) 796-3039. TRD-9203185.

The Coleman County Water Supply Corporation Board of Directors met at the Corporation's Office, 214 Santa Anna Avenue, Coleman, March 11, 1992, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9203222.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, March 18, 1992, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9203197.

The Denton Central Appraisal District Board of Directors will meet at 3911 Morse Street, Denton, March 19, 1992, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904. TRD-9203198.

The Ellis County Appraisal District Board of Directors met at 406 Sycamore Street, Waxahachie, March 9, 1992, at 7 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9203273.

The El Oso Water Supply Corporation Board of Directors met at their office, FM 99, Karnes City, March 10, 1992, at 7 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539. TRD-9203208.

The Fort Bend Parkway Association met at 11111 Brooklet Drive, Suite 100, Houston, March 12, 1992, at 6 p.m. Information may be obtained from Robert R. Randolph, 2801 First City Tower, 1001 Fannin Street, Houston, Texas 77002-6760, (713) 758-2380. TRD-9203184.

The Johnson County Rural Water Supply Corporation Board met at the Cleburne High School, Performing Arts Center, 1601

Harlin, Cleburne, March 10, 1992, at 9:30 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9203271.

The Johnson County Rural Water Supply Corporation Membership met at the Cleburne High School, Performing Arts Center, 1601 Harlin, Cleburne, March 10, 1992, at 7 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9203272.

The Sharon Water Supply Corporation 21st Annual Membership Meeting will be held at the Winnsboro City Auditorium, Near the Rodeo Area, Winnsboro, March 16, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, P.O. Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9203180.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, March 10, 1992, at 9 a.m. Information may be obtained from Jerry D. Castevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9203182.

The South Plains Association of Governments Board of Directors met at 1323 58th Street, Lubbock, March 10, 1992, at 10 a.m. Information may be obtained from Jerry D. Castevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9203183.

The Nueces-Jim Wells-Kleberg-Kennedy Soil and Water Conservation District Board of Directors will meet at 710 East Main Street, Robstown, March 17, 1992, at 7 a.m. Information may be obtained from Denise Lawhon, 710 East Main Street, Robstown, Texas 78380, (512) 668-8363. TRD-9203207.

Meetings Filed March 6, 1992

The Alamo Area Council of Governments Community Affairs Committee met at 118 Broadway Street, Suite 420, San Antonio, March 12, 1992, at 10 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway Street, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9203366.

The Blanco County Appraisal District 1992 Board of Directors met at the Blanco County Courthouse Annex, Avenue G and Seventh Street, Johnson City, March 10, 1992, at 6 p.m. Information may be obtained from Hollis Boatright, P. O. Box 338, Johnson City, Texas 78636, (512) 868-4013. TRD-9203359.

The Comal Appraisal District Board of Directors will meet at 430 West Mill Street,

New Braunfels, March 16, 1992, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9203288.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, March 9, 1992, at 9 a.m. Information may be obtained from Dorothy J. Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9203277.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, March 12, 1992, at 6 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9203372.

The Gray County Appraisal District Appraisal Review Board met at 815 North Sumner Street, Pampa, March 11, 1992, at 5 p.m. Information may be obtained from Sherry Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9203290.

The Hays County Appraisal District Appraisal Review Board met at 632 A. East Hopkins Street, Municipal Building, San Marcos, March 12, 1992, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 A. East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400. TRD-9203355.

The Hays County Appraisal District Board of Directors met at 632 A. East Hopkins Street, Municipal Building, San Marcos, March 12, 1992, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632 A. East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400. TRD-9203356.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston, Levelland, March 9, 1992, at 6 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9203293.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, March 12, 1992, at 6:30 p.m. Information may be obtained from Triena Rogers, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9203292.

The Johnson County Rural Water Supply Corporation Board met at the Johnson County Rural Water Supply Corporation Office, Highway 171 South, Cleburne, March 11, 1992, at 6 p.m. Information may be obtained from Charlene SoRelle, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9203370.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson Street, Suite B, Mt. Pleas-

ant, March 11, 1992, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson Street, Suite B, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9203289.

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, March 18, 1992, at 7 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9203358.

The Texas Municipal Power Agency ("TMPA") Board of Directors Workshop met at the College Station Hilton, 801 University Drive E, Second Floor, Board Room, College Station, March 11, 1992, at 7 p.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9203341.

The Texas Municipal Power Agency ("TMPA") Personnel Committee met at the Gibbons Creek Steam Electric Station, Administration Building, Conference Room, 2 1/2 Miles North of Carlos, FM 244, Carlos, March 12, 1992, at 8 a.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9203345.

The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2 1/2 Miles North of Carlos, FM 244, Carlos, March 12, 1992, at 9 a.m. (revised agenda). Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9203367.

The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2 1/2 Miles North of Carlos, FM 244, Carlos, March 12, 1992, at 9 a.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9203346.

The Texas Regional Planning Commissions Employee Benefit Plan Agency Board of Trustees will meet at the Radisson Plaza Hotel, Rotunda Room, Austin, March 18, 1992, at 3:30 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730 Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9203357.

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Meetings Filed March 9, 1992

The Austin Travis County Mental Health and Mental Retardation Center Board of Trustees, Personnel Committee will meet at

1430 Collier Street, Board Room, Austin, March 17, 1992, at 6 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 440-4031. TRD-9203455.

The Bexar Appraisal District Appraisal Review Board will meet at 535 South Main Street, San Antonio, March 13, 1992, at 9 a.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9203391.

The Cash Water Supply Corporation held an emergency meeting at the Administrative Office, FM 1564E, Greenville, March 10, 1992, at 7 p.m. The emergency status was necessary as meeting was certified on March 4, 1992 and was not received until March 9, 1992, and due to prior scheduling must meet. Information may be obtained from Donna Mohon, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9203442.

The Dallas Area Rapid Transit Corporate Location Ad Hoc Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 10, 1992, at 1 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203410.

The Dallas Area Rapid Transit Audit Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 10, 1992, at 11:30 a.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203409.

The Dallas Area Rapid Transit Audit Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 10, 1992, at 11:30 a.m. (revised agenda). The emergency status was necessary as it was of utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203441.

The Dallas Area Rapid Transit Search Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, March 10, 1992, at 1 p.m. The emergency status was

necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203407.

The Dallas Area Rapid Transit Bus Planning, Development and Operations Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 10, 1992, at 2:30 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203411.

The Dallas Area Rapid Transit Joint Meeting Rail Planning and Development, Budget and Finance Committees held an emergency meeting at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 10, 1992, at 4:30 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203408.

The Dallas Area Rapid Transit Board of Directors' held an emergency meeting at the DART Office, 601 Pacific Avenue, Board Room, Dallas, March 10, 1992, at 6:30 p.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203405.

The Dallas Area Rapid Transit Personnel Committee held an emergency meeting at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, March 10, 1992, at 8 a.m. The emergency status was necessary as it was of the utmost importance that the DART Board of Directors take immediate action in implementing the DART Service Plan. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9203406.

The Grayson Appraisal District Board of Directors will meet at 205 North Travis Street, Sherman, March 18, 1992, at 7:15 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090, (903) 893-9673. TRD-9203443.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis Street, Sherman, March 26, 1992, at 9 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090, (903) 893-9673. TRD-9203444.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise Street, Athens, March 16, 1992, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9203470.

The Houston-Galveston Area Council Natural Resources Advisory Committee met at 3555 Timmons Lane, Fourth Floor, Board of Directors Conference Room, Houston, March 12, 1992, at 3 p.m. Information may be obtained from Ann Weinle, 3555 Timmons Lane, Suite 500, Houston, Texas 77027, (713) 627-3200, ext. 566. TRD-9203417.

The Jones County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, March 19, 1992, at 8:30 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9203434.

The Lower Colorado River Authority Special Pricing Committee met at 3700 Lake Austin Boulevard, General Manager's Conference Room, Austin, March 12, 1992, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9203456.

The Lower Neches Valley Authority Board of Directors, Industrial Development Corporation will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, March 17, 1992, at 10:15 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9203440.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, March 17, 1992, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9203439.

The Lower Neches Valley Authority Insurance Committee will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, March 16, 1992, at 2 p.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9203460.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, March 18,

1992, at 3 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9203433.

The San Antonio River Authority Employees Retirement Trust-Board of Trustees will meet at the SARA General Office, Second Floor Conference Room, 100 East Guenther Street, San Antonio, March 18, 1992, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9203425.

The San Antonio River Authority Board of Directors will meet at the SARA General Office, Second Floor Conference Room, 100 East Guenther Street, San Antonio, March 18, 1992, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9203424.

The South East Texas Regional Planning Commission Executive Committee will meet at the City of Beaumont Council Chambers, Beaumont, March 18, 1992, at 7 p.m. Information may be obtained from Jackie Vice, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9203432.

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Meetings Filed March 10,
1992

The Bexar Appraisal District Board of Directors met at 535 South Main Street, San Antonio, March 10, 1992, at 5 p.m. Information may be obtained from Beverly Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9203481.

The Deep East Texas Council of Governments Executive Committee will meet at the Crown Colony Country Club, 900 Crown Colony Drive, Lufkin, March 13, 1992, at 11 a.m. Information may be obtained from Joan Draper, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704. TRD-9203478.

The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees held an emergency meeting at 3801 Avenue J, Board Room, Lubbock, March 12, 1992, at noon. The emergency status was necessary as budget adjustments had to be approved. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9203483.

The Manville Water Supply Corporation Board of Directors met at the Manville Water Supply Corporation Office, Spur 277, Coupland, March 12, 1992, at 7 p.m. Information may be obtained from LaVerne Rohlack, Spur 277, Coupland, Texas 78615, (512) 856-2488. TRD-9203477.

The Multimodal Transportation Planning Gulf Coast State Planning Region Transportation Planning Committee will meet at 3555 Timmons, Fourth Floor Conference Room, Houston, March 20, 1992, at 9:30 a.m. Information may be obtained from LaDawn, P.O. Box 1386, Houston, Texas 77251, (713) 869-4571. TRD-9203479.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, March 26, 1992, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9203480.



**OFFICE OF THE ATTORNEY GENERAL
1992 TAX CHARTS**

Pursuant to Texas Family Code 14.053(h), the Attorney General of Texas as the "agency charged with enforcing child support orders under Part D of Title IV of the federal Social Security Act" has promulgated the following charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security tax and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, Section 14.053 provides for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. Computation of the obligee's net resources should follow similar steps.

**EMPLOYED PERSONS
1992 TAX CHART**

Monthly Gross Wages	Social Security Taxes		Federal Income Taxes**	Net Monthly Income
	Old-age, Survivors and Disability Insurance Taxes (6.2%)*	Hospital (Medicare) Insurance Taxes (1.45%)*		
100.00	6.20	1.45	-0-	92.35
200.00	12.40	2.90	-0-	184.70
300.00	18.60	4.35	-0-	277.05
400.00	24.80	5.80	-0-	369.40
500.00	31.00	7.25	1.25	460.50
600.00	37.20	8.70	16.25	537.85
700.00	43.40	10.15	31.25	615.20
800.00	49.60	11.60	46.25	692.55
900.00	55.80	13.05	61.25	769.90
1,000.00	62.00	14.50	76.25	847.25
1,100.00	68.20	15.95	91.25	924.60
1,200.00	74.40	17.40	106.25	1,001.95
1,300.00	80.60	18.85	121.25	1,079.30
1,400.00	86.80	20.30	136.25	1,156.65
1,500.00	93.00	21.75	151.25	1,234.00
1,600.00	99.20	23.20	166.25	1,311.35
1,700.00	105.40	24.65	181.25	1,388.70
1,800.00	111.60	26.10	196.25	1,466.05
1,900.00	117.80	27.55	211.25	1,543.40
2,000.00	124.00	29.00	226.25	1,620.75
2,100.00	130.20	30.45	241.25	1,698.10
2,200.00	136.40	31.90	256.25	1,775.45
2,300.00	142.60	33.35	273.96	1,850.09
2,400.00	148.80	34.80	301.96	1,914.44
2,500.00	155.00	36.25	329.96	1,978.79
2,600.00	161.20	37.70	357.96	2,043.14
2,700.00	167.40	39.15	385.96	2,107.49
2,800.00	173.60	40.60	413.96	2,171.84
2,900.00	179.80	42.05	441.96	2,236.19
3,000.00	186.00	43.50	469.96	2,300.54
3,100.00	192.20	44.95	497.96	2,364.89
3,200.00	198.40	46.40	525.96	2,429.24
3,300.00	204.60	47.85	553.96	2,493.59
3,400.00	210.80	49.30	581.96	2,557.94
3,500.00	217.00	50.75	609.96	2,622.29
3,600.00	223.20	52.20	637.96	2,686.64
3,700.00	229.40	53.65	665.96	2,750.99
3,800.00	235.60	55.10	693.96	2,815.34
3,900.00	241.80	56.55	721.96	2,879.69
4,000.00	248.00	58.00	749.96	2,944.04
4,250.00	263.50	61.63	819.96	3,104.91
4,500.00	279.00	65.25	889.96	3,265.79
4,750.00	286.75***	68.88	959.96	3,434.11
5,000.00	286.75	72.50	1,035.46	3,605.29
5,250.00	286.75	76.13	1,112.96	3,774.16
5,500.00	286.75	79.75	1,190.46	3,943.04
5,750.00	286.75	83.38	1,267.96	4,111.91
6,000.00	286.75	87.00	1,345.46	4,280.79
6,250.00	286.75	90.63	1,422.96	4,449.66
6,500.00	286.75	94.25	1,500.46	4,618.54
6,750.00	286.75	97.88	1,577.96	4,787.41
7,000.00	286.75	101.50	1,655.46	4,956.29
7,500.00	286.75	108.75	1,810.46	5,294.04
8,000.00	286.75	116.00	1,965.46	5,631.79
8,500.00	286.75	123.25	2,120.46	5,969.54

9,000.00	286.75	130.50	2,277.84	6,304.91
9,500.00	286.75	137.75	2,435.21	6,640.29
10,000.00	286.75	145.00	2,592.59	6,975.66
10,500.00	286.75	152.25	2,751.15	7,309.85
11,000.00	286.75	157.33****	2,908.53	7,647.39
11,500.00	286.75	157.33	3,067.10	7,988.82
12,000.00	286.75	157.33	3,224.47	8,331.45
12,500.00	286.75	157.33	3,381.85	8,674.07
13,000.00	286.75	157.33	3,540.41	9,015.51

Footnotes to Employed Persons 1992 Tax Chart:

- * An employed person not subject to the Old-age, Survivors and Disability Insurance/Hospital (Medicare) Insurance taxes will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.
- ** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,300.00, subject to reduction in certain cases, as described in the next paragraph of this footnote) and taking the standard deduction (\$3,600.00).
For a single taxpayer with an adjusted gross income in excess of \$105,250.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$105,250.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly gross wages of \$9,500.00 times 12 months equals \$114,000.00. The excess over \$105,250.00 is \$8,750.00. \$8,750.00 divided by \$2,500.00 equals 3.50. The 3.50 amount is rounded up to 4. The reduction percentage is 8% (4 x 2% = 8%). The \$2,300.00 deduction for one personal exemption is reduced by \$184.00 (\$2,300.00 x 8% = \$184.00) to \$2,116.00 (\$2,300.00 - \$184.00 = \$2,116.00).
- *** For annual gross wages above \$55,500.00, this amount represents a monthly average of the Old-age, Survivors and Disability Insurance tax based on the 1992 maximum Old-age, Survivors and Disability Insurance tax of \$3,441.00 per person (6.2% of the first \$55,500.00 of annual gross wages equals \$3,441.00). One-twelfth (1/12) of \$3,441.00 equals \$286.75.
- **** For annual gross wages above \$130,200.00, this amount represents a monthly average of the Hospital (Medicare) Insurance tax based on the 1992 maximum Hospital (Medicare) Insurance tax of \$1,887.90 per person (1.45% of the first \$130,200.00 of annual gross wages equals \$1,887.90). One-twelfth (1/12) of \$1,887.90 equals \$157.33.

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References Relating to Employed Persons 1992 Tax Chart:

1. Old-age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 21, 1991, and appearing in 56 Fed. Reg. 55,325 (October 25, 1991)
- (2) Section 3121(x)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(x)(1))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 21, 1991, and appearing in 56 Fed. Reg. 55,325 (October 25, 1991)
- (2) Section 3121(x)(2) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(x)(2))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))

3. Federal Income Tax

(a) Inflation Adjusted Tax Rate Table for 1992 for Single Taxpayers

- (1) Revenue Procedure 91-65, Section 2, Table 3, which appears at page 13 of Internal Revenue Bulletin 1991-50, dated December 16, 1991
- (2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))

(b) Standard Deduction

- (1) Revenue Procedure 91-65, Section 3, which appears at page 14 of Internal Revenue Bulletin 1991-50, dated December 16, 1991
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) Revenue Procedure 91-65, Section 4, which appears at page 14 of Internal Revenue Bulletin 1991-50, dated December 16, 1991
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

**SELF-EMPLOYED PERSONS
1992 TAX CHART**

Monthly Net Earnings From Self- Employment*	Social Security Taxes		Federal Income Taxes***	Net Monthly Income
	Old-age, Survivors and Disability Insurance Taxes (12.4%)**	Hospital (Medicare) Insurance Taxes (2.9%)**		
100.00	11.45	2.68	-0-	85.87
200.00	22.90	5.36	-0-	171.74
300.00	34.35	8.03	-0-	257.62
400.00	45.81	10.71	-0-	343.48
500.00	57.26	13.39	-0-	429.35
600.00	68.71	16.07	9.89	505.33
700.00	80.16	18.75	23.83	577.26
800.00	91.61	21.43	37.77	649.19
900.00	103.06	24.10	51.71	721.13
1,000.00	114.51	26.78	65.65	793.06
1,100.00	125.97	29.46	79.59	864.98
1,200.00	137.42	32.14	93.53	936.91
1,300.00	148.87	34.82	107.47	1,008.84
1,400.00	160.32	37.49	121.41	1,080.78
1,500.00	171.77	40.17	135.35	1,152.71
1,600.00	183.22	42.85	149.29	1,224.64
1,700.00	194.67	45.53	163.23	1,296.57
1,800.00	206.13	48.21	177.18	1,368.48
1,900.00	217.58	50.88	191.12	1,440.42
2,000.00	229.03	53.56	205.06	1,512.35
2,100.00	240.48	56.24	219.00	1,584.28
2,200.00	251.93	58.92	232.94	1,656.21
2,300.00	263.38	61.60	246.88	1,728.14
2,400.00	274.83	64.28	260.82	1,800.07
2,500.00	286.29	66.95	280.51	1,866.25
2,600.00	297.74	69.63	306.53	1,926.10
2,700.00	309.19	72.31	332.55	1,985.95
2,800.00	320.64	74.99	358.57	2,045.80
2,900.00	332.09	77.67	384.59	2,105.65
3,000.00	343.54	80.34	410.61	2,165.51
3,100.00	354.99	83.02	436.64	2,225.35
3,200.00	366.44	85.70	462.66	2,285.20
3,300.00	377.90	88.38	488.68	2,345.04
3,400.00	389.35	91.06	514.70	2,404.89
3,500.00	400.80	93.74	540.72	2,464.74
3,600.00	412.25	96.41	566.75	2,524.59
3,700.00	423.70	99.09	592.77	2,584.44
3,800.00	435.15	101.77	618.79	2,644.29
3,900.00	446.60	104.45	644.81	2,704.14
4,000.00	458.06	107.13	670.83	2,763.98
4,250.00	486.68	113.82	735.89	2,913.61
4,500.00	515.31	120.52	800.94	3,063.23
4,750.00	543.94	127.21	866.00	3,212.85
5,000.00	572.57	133.91	931.05	3,362.47
5,250.00	573.50****	140.60	1,002.27	3,533.63
5,500.00	573.50	147.30	1,078.74	3,700.46
5,750.00	573.50	153.99	1,155.20	3,867.31
6,000.00	573.50	160.69	1,231.66	4,034.15
6,250.00	573.50	167.38	1,308.12	4,201.00
6,500.00	573.50	174.08	1,384.58	4,367.84
6,750.00	573.50	180.78	1,461.05	4,534.67
7,000.00	573.50	187.47	1,537.51	4,701.52
7,500.00	573.50	200.86	1,690.43	5,035.21
8,000.00	573.50	214.25	1,843.36	5,368.89
8,500.00	573.50	227.64	1,996.28	5,702.58
9,000.00	573.50	241.03	2,149.21	6,036.26
9,500.00	573.50	254.42	2,304.51	6,367.57
10,000.00	573.50	267.82	2,459.81	6,698.87
10,500.00	573.50	281.21	2,616.30	7,028.99
11,000.00	573.50	294.60	2,771.60	7,360.30
11,500.00	573.50	307.99	2,926.90	7,691.61
12,000.00	573.50	314.65*****	3,084.43	8,027.42
12,500.00	573.50	314.65	3,241.81	8,370.04
13,000.00	573.50	314.65	3,400.37	8,711.48

Footnotes to Self-Employed Persons 1992 Tax Chart:

* Determined without regard to Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C.) (the "Coc

** In calculating each of the Old-age, Survivors and Disability Insurance tax and the Hospital (Medicare) Insurance tax, net earnings from self-employment are reduced by the deduction under Section 1402(a)(12) of the Code. The deduction under Section 1402(a)(12) of the Code is equal to net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) multiplied by one-half (1/2) of the sum of the Old-age, Survivors and Disability Insurance tax rate (12.4%) and the Hospital (Medicare) Insurance tax rate (2.9%). The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). The deduction can be computed by multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 92.35%. This gives the same deduction as multiplying the net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) by 7.65% and then subtracting the result.

For example, the Social Security taxes imposed on monthly net earnings from self-employment (determined without regard to Section 1402(a)(12) of the Code) of \$2,500.00 are calculated as follows:

(i) Old-age, Survivors and Disability Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 12.4\% = \$286.29$$

(ii) Hospital (Medicare) Insurance Taxes:

$$\$2,500.00 \times 92.35\% \times 2.9\% = \$66.95$$

*** These amounts represent one-twelfth (1/12) of the annual Federal income tax calculated for a single taxpayer claiming one personal exemption (\$2,300.00, subject to reduction in certain cases, as described below in this footnote) and taking the standard deduction (\$3,600.00).

In calculating the annual Federal income tax, gross income is reduced by the deduction under Section 164(f) of the Code. The deduction under Section 164(f) of the Code is equal to one-half (1/2) of the self-employment taxes imposed by Section 1401 of the Code for the taxable year. For example, monthly net earnings from self-employment of \$9,500.00 times 12 months equals \$114,000.00. The Old-age, Survivors and Disability Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$6,882.00 (\$55,500.00 x 12.4% = \$6,882.00). The Hospital (Medicare) Insurance taxes imposed by Section 1401 of the Code for the taxable year equal \$3,053.09 (\$114,000.00 x .9235 x 2.9% = \$3,053.09). The sum of the taxes imposed by Section 1401 of the Code for the taxable year equals \$9,935.09 (\$6,882.00 + \$3,053.09 = \$9,935.09). The deduction under Section 164(f) of the Code is equal to one-half (1/2) of \$9,935.09 or \$4,967.55.

For a single taxpayer with an adjusted gross income in excess of \$105,250.00, the deduction for the personal exemption is reduced by two percent (2%) for each \$2,500.00 or fraction thereof by which adjusted gross income exceeds \$105,250.00. In no case is the deduction for the personal exemption reduced by more than 100%. For example, monthly net earnings from self-employment of \$9,500.00 times 12 months equals \$114,000.00. The \$114,000.00 amount is reduced by \$4,967.55 (i.e., the deduction under Section 164(f) of the Code — see the immediately preceding paragraph of this footnote for the computation) to arrive at adjusted gross income of \$109,032.45. The excess over \$105,250.00 is \$3,782.45. \$3,782.45 divided by \$2,500.00 equals 1.51. The 1.51 amount is rounded up to 2. The reduction percentage is 4% (2 x 2% = 4%). The \$2,300.00 deduction for one personal exemption is reduced by \$92.00 (\$2,300.00 x 4% = \$92.00) to \$2,208.00 (\$2,300.00 — \$92.00 = \$2,208.00).

**** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$55,500.00, this amount represents a monthly average of the Old-age, Survivors and Disability Insurance tax based on the 1992 maximum Old-age, Survivors and Disability Insurance tax of \$6,882.00 per person (12.4% of the first \$55,500.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$6,882.00). One-twelfth (1/12) of \$6,882.00 equals \$573.50.

***** For annual net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) above \$130,200.00, this amount represents a monthly average of the Hospital (Medicare) Insurance tax based on the 1992 maximum Hospital (Medicare) Insurance tax of \$3,775.80 per person (2.9% of the first \$130,200.00 of net earnings from self-employment (determined with regard to Section 1402(a)(12) of the Code) equals \$3,775.80). One-twelfth (1/12) of \$3,775.80 equals \$314.65.

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References Relating to Self-Employed Persons 1992 Tax Chart:

1. Old-age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 21, 1991, and appearing in 56 Fed. Reg. 55,325 (October 25, 1991)
- (2) Section 1402(k)(1) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(k)(1))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))

(c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Social Security Administration's notice dated October 21, 1991, and appearing in 56 Fed. Reg. 55,325 (October 25, 1991)
- (2) Sections 1402(k)(2) and 3121(x)(2) of the Internal Revenue Code of 1986, as amended (26 U.S.C. §§ 1402(k)(2) and 3121(x)(2))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))

(c) **Deduction Under Section 1402(a)(12)**

(1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

3. Federal Income Tax

(a) **Inflation Adjusted Tax Rate Table for 1992 for Single Taxpayers**

(1) Revenue Procedure 91-65, Section 2, Table 3, which appears at page 13 of Internal Revenue Bulletin 1991-50, dated December 16, 1991

(2) Section 1(c) and (f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(c) and (f))

(b) **Standard Deduction**

(1) Revenue Procedure 91-65, Section 3, which appears at page 14 of Internal Revenue Bulletin 1991-50, dated December 16, 1991

(2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) **Personal Exemption**

(1) Revenue Procedure 91-65, Section 4, which appears at page 14 of Internal Revenue Bulletin 1991-50, dated December 16, 1991

(2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

(d) **Deduction Under Section 164(f)**

(1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))

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Comptroller of Public Accounts
Lottery Headquarters Telecommunications
Services

Notice of Invitation for Bids: Pursuant to the State Lottery Act, the Lottery Division of the Comptroller of Public Accounts announces its invitation for bids (IFB) for lottery telecommunications services.

Contact Person: Parties interested in submitting a bid should contact Charles C. Johnstone, Senior Legal Counsel, Comptroller of Public Accounts, 111 East 17th Street, Room 113, Austin, Texas, 78774, (512) 463-4091, for a complete copy of the IFB. The IFB will be available for pickup at the previous address on Friday, March 13, 1992, between 1 p.m. and 5 p.m. (CST), and during normal business hours thereafter.

Closing Date: Bids must be received by Charles Johnstone no later than 10 a.m. (CST), on March 30, 1992. Bids received after this date and time will not be considered.

Award Procedure: The director shall award a contract to the lowest qualified bidder who meets all specifications set forth in the IFB.

The Lottery Division reserves the right to accept or reject any or all bids submitted. The Lottery Division is under no legal or other requirements to execute a resulting contract on the basis of this notice or the distribution of the IFB.

Neither this notice nor the IFB commit the Lottery Division to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows: IFB available-March 13, 1992; letter of intent to bid due-March 18, 1992, by 10 a.m.; bidders' conference-March 18, 1992; bids due-March 30, 1992, by 10 a.m.; contract award-March 31, 1992.

Issued in Austin, Texas, on March 9, 1992.

TRD-9203394 Charles C. Johnstone
 Senior Legal Counsel
 Comptroller of Public Accounts

Filed: March 9, 1992

For further information, please call: (512) 404-3721

◆ ◆ ◆

Office of Consumer Credit
Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period</u> <u>(Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/</u> <u>Commercial (2) thru \$250,000</u>	<u>Commercial(2)</u> <u>over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/09/92-03/15/92	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on March 2, 1992.

TRD-9203135 Al Endsley
 Consumer Credit Commissioner

Filed: March 4, 1992

For further information, please call: (512) 479-1280

◆ ◆ ◆

Texas Department of Health
Clinical Health Service Fees

Under the authority of the Health and Safety Code, §12.031 and §12.032, which provides the board with the authority to charge fees to persons who receive public health services from the department or through other pub-

lic health entities who contract with the department; and the current House Bill Number 1, 72nd Legislatures, First Called Session, 1991, the board has adopted rules for the collection of fees for clinical health services provided by the Texas Department of Health or through entities which contract with the department for the provision of such services. See Title 25, Texas Administrative Code, §1.91, relating to clinical health services.

Pursuant to the authority granted in §1.91(b) (1) of these rules, the Commissioner of Health has adopted the following adjusted income guidelines for the assessment of the fees for clinical health services. These income guidelines are derived from the 1992 Poverty Income Guidelines for all States (Except Alaska and Hawaii) and the District of Columbia issued by the Secretary of Health and Human Services on February 14, 1992, and published in Vol. 57, *Federal Register* Number 31, p.5455 on February 20, 1992.

TEXAS DEPARTMENT OF HEALTH
INCOME GUIDELINES AND SCHEDULES OF CHARGES
CLINICAL HEALTH SERVICES

Family* Size	Annual Income 100% of Poverty Income	Weekly Income 000 - 132% of Poverty Income	Weekly Income 133 - 199% of Poverty Income	Weekly Income 200% of Poverty Income
1	6,810	\$ 000 - 9,057	\$ 9,058 - \$13,619	\$13,620
2	8,190	000 - 12,223	\$12,224 - \$18,379	\$18,380
3	11,570	000 - 15,388	\$15,389 - \$23,139	\$23,140
4	13,950	000 - 18,554	\$18,555 - \$27,899	\$27,900
5	16,330	000 - 21,719	\$12,720 - \$32,659	\$32,660
6	18,710	000 - 24,884	\$24,885 - \$37,419	\$37,420
7	21,090	000 - 28,050	\$28,051 - \$42,179	\$42,180
8	23,470	000 - 31,215	\$31,216 - \$46,939	\$46,940
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Charges/Visit		\$000.00	\$004.00	\$015.00
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*For each additional family member in family units with more than 8 member add:
\$2,380/100% poverty level.

March, 1992

Issued in Austin, Texas, on March 4, 1992.

TRD-9203176 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 5, 1992

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

◆ ◆ ◆

**Designation of Sites Serving Medically
Underserved Populations**

The Texas Department of Health is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as a site serving medically underserved populations: Chronic Hemodialysis Unit, Parkland Memorial Hospital, 5201 Harry Hines Boulevard, Dallas, Texas 75235. Designation is based on proven eligibility as a site serving a disproportionate number of clients eligible for federal, state, or locally funded health care programs.

Oral and written comments on the designations may be directed to Carol Daniels, Chief, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7261. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on March 4, 1992.

TRD-9203142 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 4, 1992

For further information, please call: (512) 458-7261

◆ ◆ ◆
**Notices of Intent to Revoke Certificates
of Registration**

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Hamlin Medical and Surgical Clinic, Hamlin, R07011; TFI Corporation, West Haven, Connecticut, R06672; Lee W. Coleman, Jr., D.D.S., San Antonio, R08785; R. Paul Raish, D.D.S., Dallas, R03596; Hotel Dieu Medical Center, El Paso, R00319; Leon County Hospital Inc., Buffalo, R00316.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on March 4, 1992.

TRD-9203141 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 4, 1992

For further information, please call: (512) 834-6688

◆ ◆ ◆
Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13 (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following licensee: Robert Thumwood, M.D., Houston, G01459.

The department intends to revoke the radioactive license; order the licensee to cease and desist use of such radioactive material; order the licensee to divest himself of the radioactive material; and order the licensee to present evidence satisfactory to the bureau that he has complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of the complaint, the department will not issue an order.

This notice affords the opportunity to the licensee for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material license will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on March 9, 1992.

TRD-9203143 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: March 4, 1992

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

◆ ◆ ◆
**Heart of Texas Council of
Governments**

Plan Announcement

The Heart of Texas Council of Governments (HOTCOG) announces the availability of its CY92 Title IIB Plan for public review. This plan is for the Summer Youth Employment and Training Program funded under the Job Training Partnership Act. Copies of the Title IIB Plan are available for review at the HOTCOG office, 300 Franklin Avenue, Waco, Texas 76701, between the hours of 8:30 a.m. and 4:30 p.m., Monday-Friday.

The Heart of Texas Council of Governments is the administrative entity for the Heart of Texas Service Delivery Area and serves Bosque, Falls, Freestone, Hill, Limestone, and McLennan Counties.

Approximately 650 youth, ages 14-21, will be served during the CY92 program period (June 1, 1992-August 31, 1992). Activities to be funded include Work Experience and a Classroom Training and Work Experience Mix.

Written comments on the plan may be addressed to: Dan Bankey, Director of Employment and Training, Heart of Texas Council of Governments, 300 Franklin Avenue, Waco, Texas 76701.

Issued in Waco, Texas, on February 28, 1992.

TRD-9203132 Leon A. Willhite
Executive Director
Heart of Texas Council of Governments

Filed: March 4, 1992

For further information, please call: (817) 756-7822

◆ ◆ ◆
**Texas Department of Human Services
Requests for Information (RFI)**

The Department of Human Services (DHS) is planning to implement an Accounts Receivable Tracking System (ARTS). ARTS will be a fully-integrated accounts receivable management system that not only tracks receivables

due the department from clients and providers as a result of fraud, overpayments, or agency error, but must also bill and recoup monies where possible (i.e., work in concert with the client database (SAVERR) to identify cases in which benefits can be reduced to compensate for overpayment as determined by rules maintained by ARTS).

Description of Services. The system should reside on a UNISYS 2200 mainframe. It should be capable of utilizing either a relational or network database which will accommodate an on-line history of all audit, provider, and recipient claims account and collection activities. Preference will be given to a system utilizing a relational database. The system should be capable of handling no less than 200,000 accounts with approximately 50 to 100 operators requiring access at any given point in time.

The system must have the capability to track individual clients as well as providers, and perform the basic functions of maintaining accounts, collecting and accounting for monies, and processing delinquent accounts.

Some of the data maintained by ARTS will be input while other data will be obtained from automated interfaces with existing DHS systems. ARTS must avoid duplicating processes and data available from existing systems. Existing systems include MAPPER, MSAM files, network database applications on UNISYS (DMS 1100), and Revelation based systems.

Cross-referencing features which link multiple names and/or identification numbers to any given account are necessary in order to provide easy access to the appropriate claim or collection. It will be desirable for the system to be able to handle a minimum of 17 cross-referencing numbers per account.

Reports and the communication of information contained within the system will be paperless whenever possible; information should be accessed either on-line or via microfiche. However, whenever reports are required, compliance with federal and state governmental standards is mandatory.

DHS requests the following information regarding an accounts receivable tracking system. Please respond with answers to these questions: (1) Describe the platform on which your system is operational. (2) In what language is it written? (3) Was your system developed using CASE tools, if so, please specify. (4) How long has it been in production and for how many customers? (5) Describe the basic processes and functional features of your system. (6) Has the system ever been customized and, if so, how? (7) Describe the degree of complexity in customizing the system, with respect to operating platforms, functionality, data base structures, etc. (8) Please include list prices in your response.

In your response to this RFI, please address how and/or within what parameters the product can meet the requirements outlined above.

The Department may wish to determine that the software package is currently operating successfully in sites within the mainland United States. A list identifying the names of at least three sites along with the name of a contact person and a current telephone number is requested.

Additionally, it is most important that the vendor be able to provide ongoing software support and offer a compre-

hensive training program for administrative, technical, and user staff. Detail information regarding vendor capability to meet this additional requirement is requested. Contact Person: Software vendors with products meeting the above criteria are asked to send the requested information by mail only in sufficient time to arrive no later than 5:00 p.m. Friday, April 3, 1992, Herschell Esquell, Manager; MIS Planning; Texas Department of Human Services, P.O. Box 149030, Mail Code W-631; Austin, Texas, 78713-9030.

Telephone inquiries are discouraged.

Following a review of product literature and responses provided to the questions identified above, DHS staff may contact vendors to request a product demonstration.

Issued in Austin, Texas, on March 9, 1990.

TRD-9203390 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: March 9, 1992

For further information, please call: (512) 450-3765

Request for Proposal

The Texas Department of Human Services Contract Administration Unit, Region 05, will invite request for proposal (RFP) for Preparation for Adult Living (PAL) Broker Services. The department's Families and Children Services Program will fund this project to provide Preparation for Adult Living Services to child protective clients ages 14-21. The department intends to procure one region-wide contractor as broker for PAL services and central point of delivery either directly or through sub-contracts.

Description of Services. A broker, as defined for the purpose of this RFP, is an agent or middle person who for a commission rate manages systems for payment of providers approved by TDHS and the maintenance of documentation of service delivery. A broker must be at least one of the following: public agency; private, non-profit agency/corporation/partnership; private for-profit agency/corporation; or individual.

Terms and Amount of Contract. The contract period will be September 1, 1992 through August 31, 1993. The contract allocation for this period will be \$312,634. After services are delivered, payment will be made by TDHS Fiscal Division on a monthly cost-reimbursement basis upon submitting a State of Texas Purchase Voucher (TDHS Form 4116), Purchased Services Expenditure Report (TDHS Form 2014), and Purchased Services Delivery Report (TDHS Form 2016).

Contact Person. For a copy of the RFP package, call or write: O.T. Griffin, Jr., 631 106th Street, Arlington, Texas 76011, telephone number, metro (817) 640-5090, Extension 2071. The RFP package will be available March 11, 1992. An offeror's conference will be held March 25, 1992, at the TDHS office located at 631 106th Street, Arlington, in Conference Room 195, at 10 a.m. Completed proposals must be submitted by certified mail or in person by 5 p.m. on or before April 10, 1992 to O.T. Griffin, Jr. M/C 012-5; Texas Department of Human Services; 631 106th Street; Arlington, Texas 76011.

Issued in Austin, Texas, on March 5, 1992.

TRD-9203241 Nancy Murphy
Agency liaison, Policy and Document
Support
Texas Department of Human Services

Filed: March 5, 1992

For further information, please call: (512) 450-3765

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**Department of Information Resources
Consultant Contract Award**

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. After publication of a notice of intent to contract in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7758), the Department of Information Resources on February 25, 1992, executed a contract with Plangraphics, Inc., 202 West Main Street, Suite 200, Frankfort, Kentucky 40601-1806, to provide technical advice and counsel to the Geographic Information Planning Council in preparing a need analysis study and business plan for the coordinated development of geographic information data layers.

Cost and Dates. The total amount of the contract is \$24,500. The beginning date of the contract is March 1, 1992, and the ending date is June 8, 1992.

Due Date of Documents. The business plan and technical memorandum are to be delivered to the Department of Information Resources no later than June 8, 1992.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203363 Ann S. Fuelberg
Executive Director
Department of Information Resources

Filed: March 6, 1992

For further information, please call: (512) 475-4714

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**Texas Juvenile Probation Commission
Internal Audit Service Request**

Pursuant to Texas Civil Statutes, Article 664-4, the Texas Juvenile Probation Commission invites proposals to provide internal auditing services as described below.

Description of Work. The selected accounting firm will perform internal auditing meeting the requirements of the Texas Internal Auditing Act. The internal auditor shall report directly to the Texas Juvenile Probation Commission's board, prepare audit reports for review by the Texas Juvenile Probation Commission's executive director and board and be free of any operational or management responsibilities.

Person to be Contacted. Detailed specifications are contained in request for proposal available March 4, 1992, from the Fiscal Services office, 1st Floor, 2015 South IH-35, Austin, Texas between the hours of 8 a.m. and 5 p.m., Monday-Friday. For additional information, contact Herb Hays, Financial Officer, (512) 443-2001.

Closing Date. Responses will be accepted only if actually received in writing in the Fiscal Services office no later than 5 p.m., April 13, 1992. Proposals should be submitted with an original and three copies. The Texas Juvenile Probation Commission reserves the right to reject any or all proposals.

Procedures for Selection. The Texas Juvenile Probation Commission will consider the approach to providing the required service, knowledge of governmental agencies and experience in providing internal auditing services, reasonableness of fee and work-hour estimate, and other factors such as financial stability of firm. The Texas Juvenile Probation Commission has the sole discretion and reserves the right to cancel the request for proposals if it is considered in the best interest of the agency to do so.

Issued in Austin, Texas, on March 9, 1992.

TRD-9203270 Bernard Licarione, Ph.D.
Executive Director
Texas Juvenile Probation Commission

Filed: March 5, 1992

For further information, please call: (512) 443-2001

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**Texas Parks and Wildlife Department
Correction of Error**

The Texas Parks and Wildlife Department proposed amendments to 31 TAC §§65.3, 65.13, 65.40, and 65.72, concerning the Statewide Hunting and Fishing Proclamation. The rules were published in the February 25, 1992, *Texas Register* (17 TexReg 1516).

Due to a proofreading error by the *Texas Register* the 14th paragraph in the preamble incorrectly states "There will be no effect on small businesses." In fact the Texas Parks and Wildlife Department states in this preamble that the proposed rules will have adverse effects to small businesses and beneficial effects for small businesses. The preamble addresses the effects as follows.

"...Fiscal implications to small businesses may be reduced sales of gear, supplies, etc., to persons as a result of the amended rules. Expenditures in certain locales may be increased or decreased due to the restrictions upon the targeted species...."

"Ms. Riechers also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as result of enforcing the sections as proposed will be the permitting of appropriate take of wildlife and fish resources consistent to maintain viable populations for the future. It is anticipated there will be fiscal implications to persons who are required to comply with the sections. Any person who depends upon expenditures of others that exercise their recreational or commercial privileges may find reduced income as a result of the sections as proposed. Commercial freshwater fishermen who currently are using nets will be negatively affected by these rules. They will now only be able to use nets by permit...."

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Notice of Public Hearing

Notice is hereby given that J. B. Collins, whose address is P.O. Box 12, Lake Creek, Texas 75450, on July 22, 1991 filed an application with the Texas Parks and Wildlife Department for a permit to remove 500 cubic yards of gravel per year from the North Sulphur River approximately one mile west of the Highway 24 bridge extending west for a distance of approximately 1/2 mile and adjacent to the properties of James L. Collins, Dr. Pat Cox, and Butch Burns.

This permit is requested under the authority granted to the Texas Parks and Wildlife Commission in the Parks and Wildlife Code, Chapter 86.

Pursuant to commission rule, the executive director has appointed an examiner to conduct a hearing on this application on: April 7, 1992, 2 p.m., Room A-200, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Travis County, at which time all interested parties may appear and be heard. Evidence or testimony may be presented orally or in writing by affidavit or deposition. All evidence offered must be subject to cross-examination or otherwise qualify as admissible evidence under the Texas Rules of Civil Evidence in order to be considered by the commission. Written evidence should be filed with the examiner prior to the hearing date.

This hearing will be held under the authority of Texas Civil Statutes, Article 6252-13a, §18(a) and the rules of the Texas Parks and Wildlife Commission, 31 TAC §§57.61 et seq and 31 TAC §§51.21 et seq.

The record of this proceeding will include evidence and testimony taken at the public hearing. The hearing may be continued from time to time and place to place, if necessary, to develop all relevant evidence bearing on the subject of the hearing. The examiner retains the authority to schedule or reschedule hearings as deemed necessary. Further information concerning any aspect of the application, if available, may be obtained by contacting Catherine Livingston, Staff Attorney, Legal Services Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4733, telefax (512) 389-4394. Information concerning any procedures of the hearing or scheduling may be obtained by contacting Jennifer Mellett, Hearing Examiner, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4867.

Issued in Austin, Texas, on March 6, 1992.

TRD-9203349 Jennifer Mellett
Hearing Examiner
Texas Parks and Wildlife Department

Filed: March 6, 1992

For further information, please call: (512) 389-4867

Texas Department of Transportation, Division of Aviation

Notice of Contract Award

Under the provisions of Texas Civil Statutes, Article 664-4, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for professional engineering services was published in the *Texas Register* on September 3, 1991 (16 TexReg 4863).

The consultant will provide engineering services for the design and construction administration phases for the following TxDOT project: 92/39-043, Gaines County Airport Seminole.

The engineering firm for these services is Parkhill, Smith & Cooper, Inc., 5214 Thomason Drive, Midland, Texas 79703-1447.

The total value of the contract is \$33,232 and the contract period starts on March 3, 1992, until the completion of the project.

If there are any questions, please contact Karon Wiedemann, Manager, Grant Administration, Division of Aviation, (512) 476-9262.

Issued in Austin, Texas, on March 5, 1992.

TRD-9203178 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: March 5, 1992

For further information, please call: (512) 463-8630

Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th-day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Elkhart City of (Permit 10735-01), on February 28, 1992, assessing \$4,100 in administrative penalties with \$2,050 deferred and possibly waived pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on March 4, 1992.

TRD-9203146 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: March 4, 1992

For further information, please call (512) 463-7898.

Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the board.

City of Bellaire, 7008 South Rice Avenue, Bellaire, Texas, 77401-4495, received February 20, 1992, application for financial assistance in the amount of \$1,400,000 from the State Water Pollution Control Revolving Fund.

City of Needville, P.O. Box 527, Needville, Texas, 77461-0527, received February 13, 1992, application for financial assistance in the amount of \$630,000; \$485,000 from the State Water Pollution Control Revolving Fund and \$145,000 from the Water Supply Account of the Texas Water Development Fund.

Stanley Lake Municipal Utility District, 1034 Lake View Drive, Montgomery, Texas 77356, received February 10, 1992, application for financial assistance in the amount of \$225,000; \$160,000 from the Water Supply Account of the Water Development Fund and \$65,000 from the State Water Pollution Control Revolving Fund.

City of Big Spring, P.O. Box 3190, Big Spring, Texas 79721-3190, received February 13, 1992, application for financial assistance in the amount of \$7,000, 000 from the State Water Pollution Control Revolving Fund.

City of Fort Worth, 1000 Throckmorton, Fort Worth, Texas 76102, received February 6, 1992, application for financial assistance in the amount of \$19,900, 000 from the State Water Pollution Control Revolving Fund.

Wise County, P.O. Box 393, Decatur, Texas 76234, received February 10, 1992, application for financial assistance in the amount of \$200,000 from the Research and Planning Fund.

Sabine River Authority, P.O. Box 579, Orange, Texas 77630, received February 5, 1992, application for financial assistance in the amount of \$200,000 from the Research and Planning Fund.

City of Del Rio, 109 West Broadway, Del Rio, Texas 78840, received December 30, 1991, application for financial assistance in the amount of \$23,606 from the Research and Planning Fund.

City of Pharr, P.O. Box B, Pharr, Texas 78577, received January 30, 1992, application for financial assistance in the amount of \$1,250,000 from the Colonia Plumbing Loan Program Fund.

United Irrigation District, P.O. Box 867, Mission, Texas 78572, received February 6, 1992, application for financial assistance in the amount of \$500,000 from the Agricultural Water Conservation Fund.

Panhandle Ground Water Conservation District Number 3, P.O. Box 637, White Deer, Texas, 79097, received February 18, 1992, application for financial assistance in the amount of \$500,000 from the Agricultural Water Conservation Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administration, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on March 4, 1992

TRD-9203126 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed. March 4, 1992

For further information, please call. (512) 463-7981

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**'Texas Workers' Compensation
Commission**
Correction of Error

The Texas Workers' Compensation Commission proposed amendments to 28 TAC §110.102, concerning notices required to be provided by employers, and to §152.3, concerning approval of attorney fees by the commission. The rules were printed in the February 4, 1992, *Texas Register* (17 TexReg 930, 932). Due to typographical errors by the *Texas Register* corrections are noted as follows.

In the preamble to §110.102, text was deleted from the fourth paragraph. The first sentence should read: "Mr. Thigpen has determined that for each of the first five years the amended section is in effect..."

In §152.3 (a), the reference to "form TWCC-1522" should read "form TWCC-152".

In §152.3(f), the word "contests" was misspelled. The sentence should read: "(f) **Except as provided in subsection (g) of this section**, an [An] attorney, claimant, or carrier, who contests the fee fixed and approved by the commission..."

In §152.3(f) the phrase "to the carrier" contains a typographical error "to the carrier".

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1992 Publication Schedule for the *Texas Register*

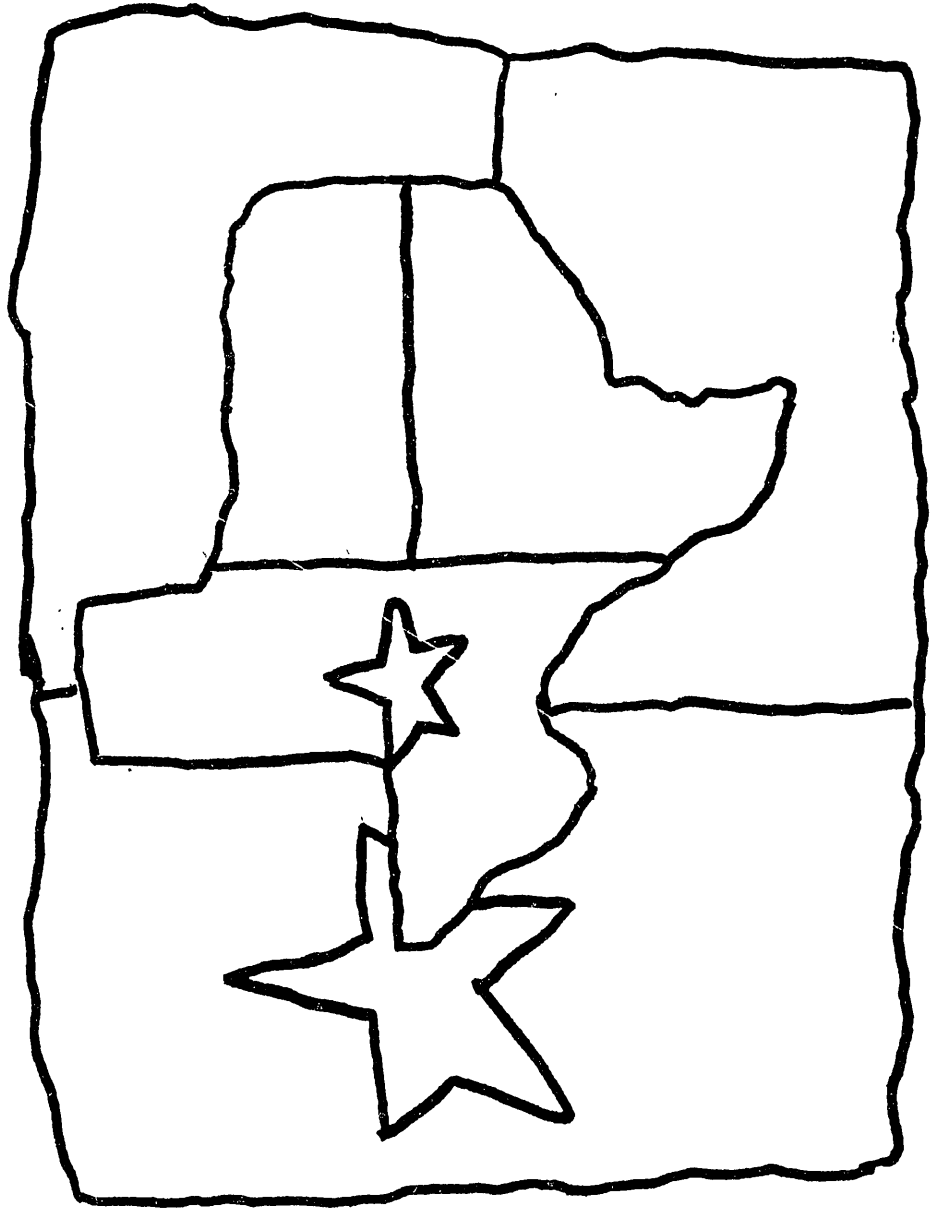
Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday 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

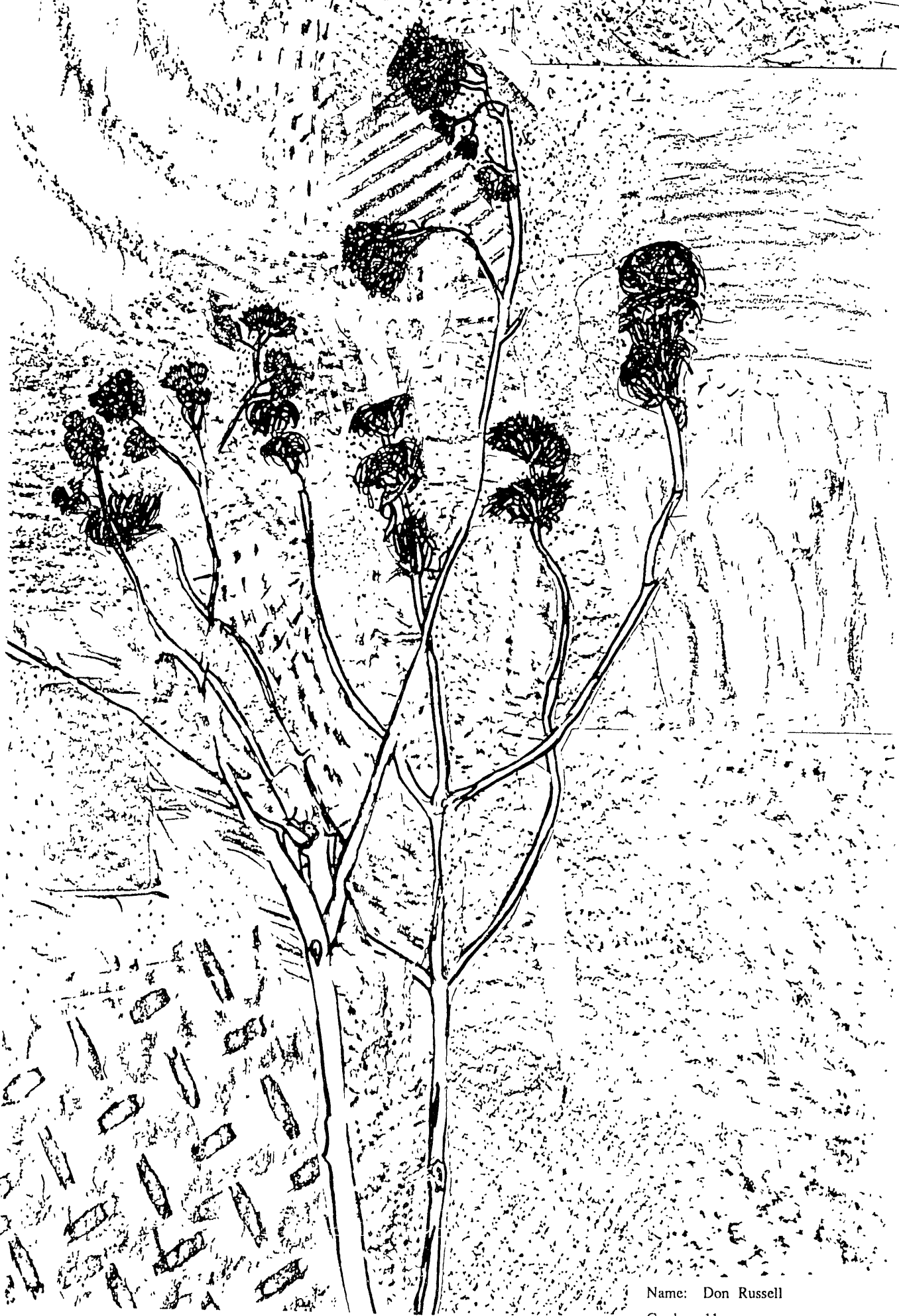
TEXAS, Our Texas



Name: Adam Winkler

Grade: 4

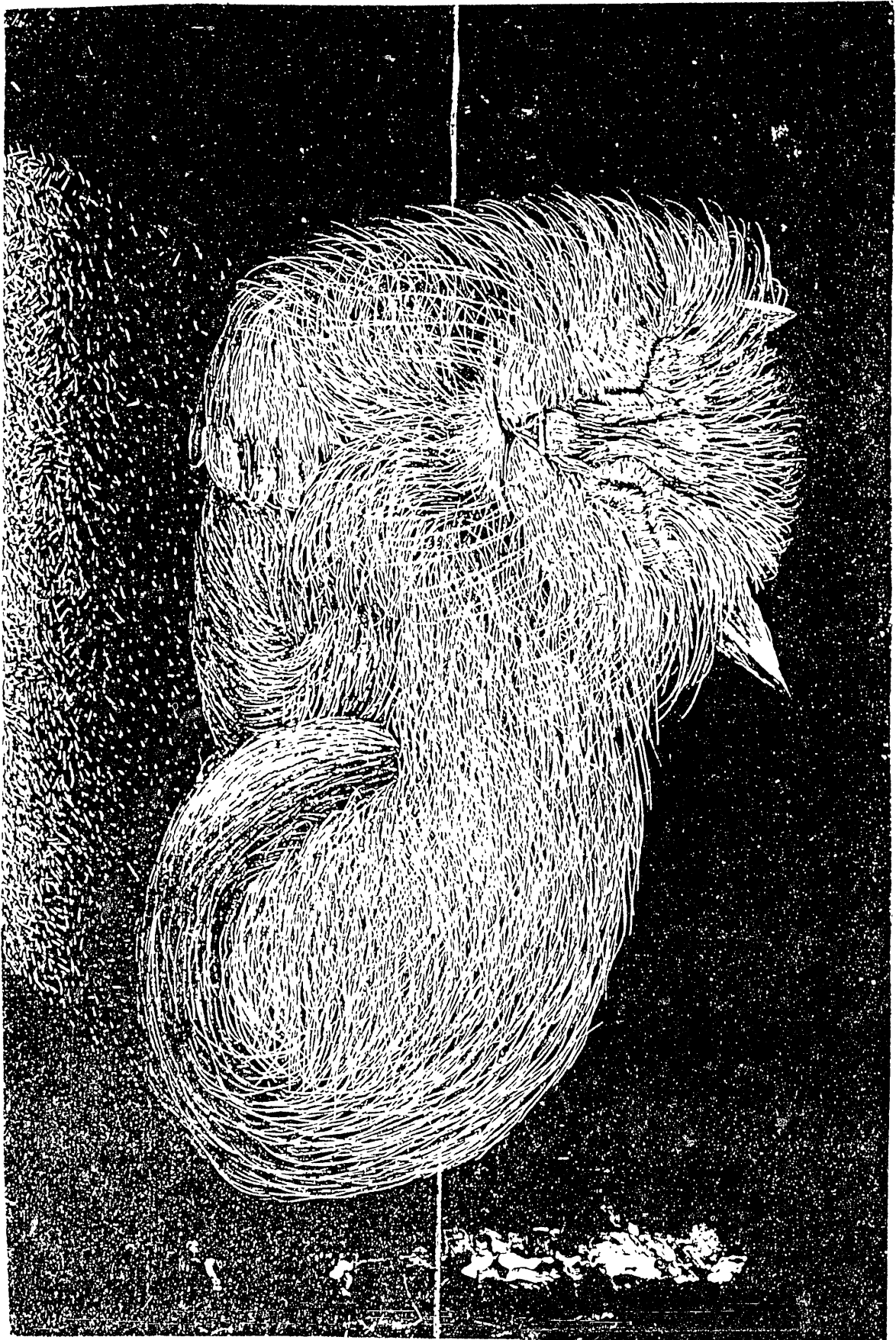
School: Kuehnle Elementary, Klein ISD



Name: Don Russell

Grade: 11

School: Plano East Senior High, Plano ISD



Name Collin Balcombe

Grade: 12

School Plano East Senior High, Plano ISD

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