

Texas Register

Volume 17, Number 34, May 8, 1992

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Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711. Subscriptions costs: one year - printed, \$95 and electronic, \$90; six-month - printed, \$75 and electronic, \$70. Single copies of most issues are available at \$5 per copy.

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Information Available: The ten sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

- Governor - Appointments, executive orders, and proclamations
- Attorney General - summaries of requests for opinions, opinions, and open records decisions
- Secretary of State - opinions based on the election laws
- Texas Ethics Commission - summaries of requests for opinions and opinions
- Emergency Sections - sections adopted by state agencies on an emergency basis
- Proposed Sections - sections proposed for adoption
- Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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: "17 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 17 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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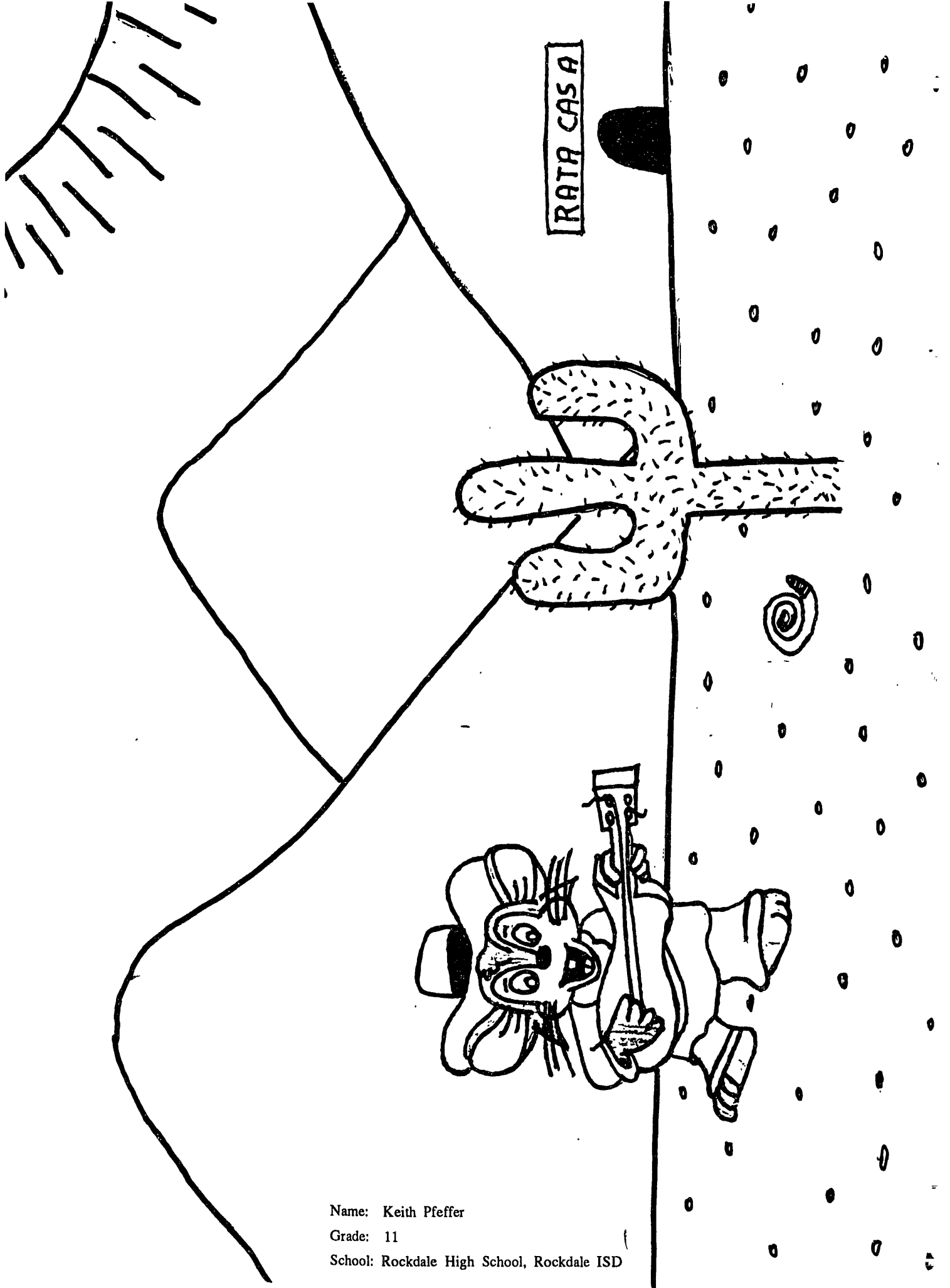
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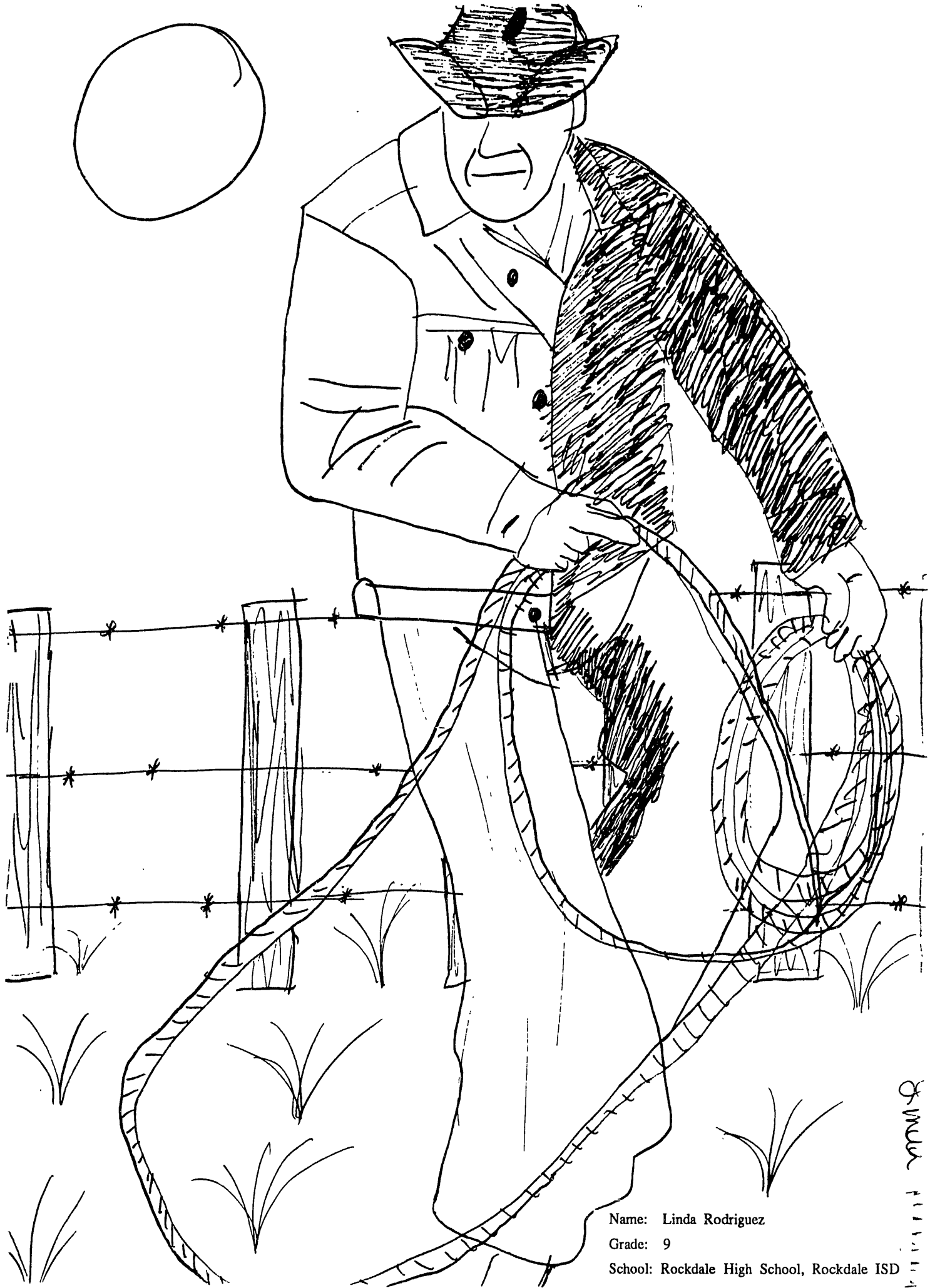
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Grade: 11
School: Rockdale High School, Rockdale ISD

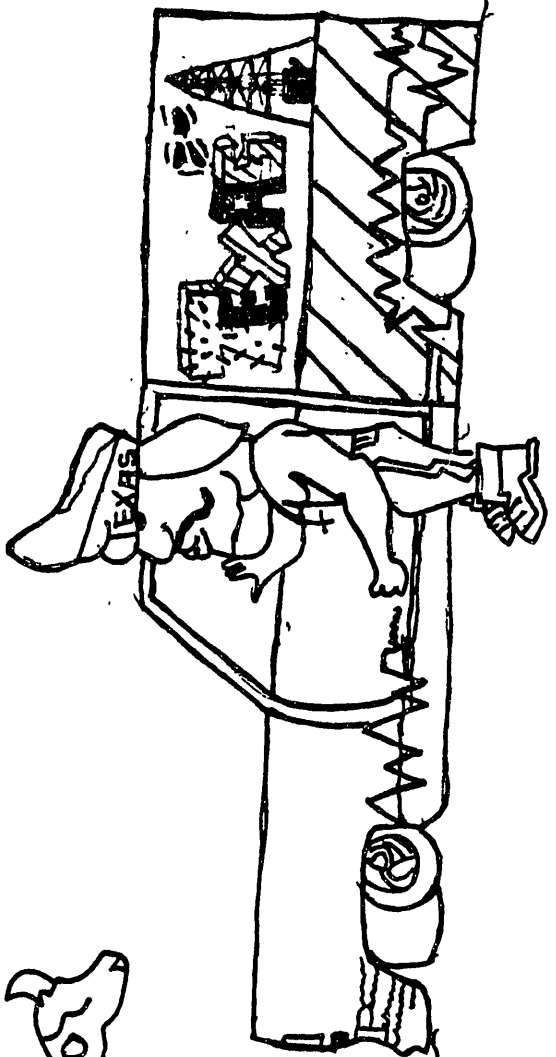
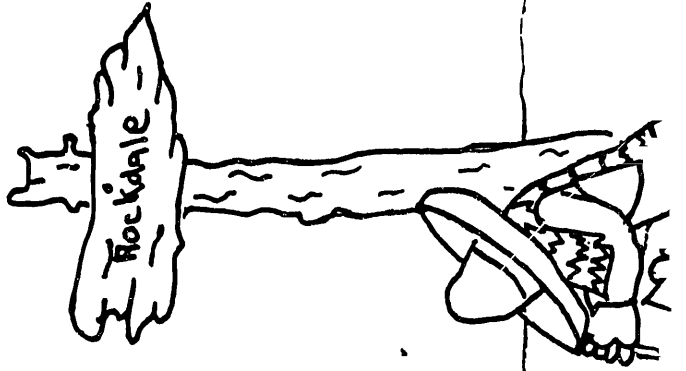
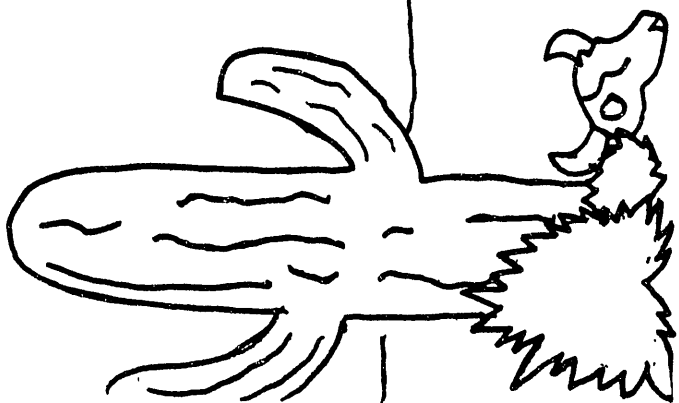
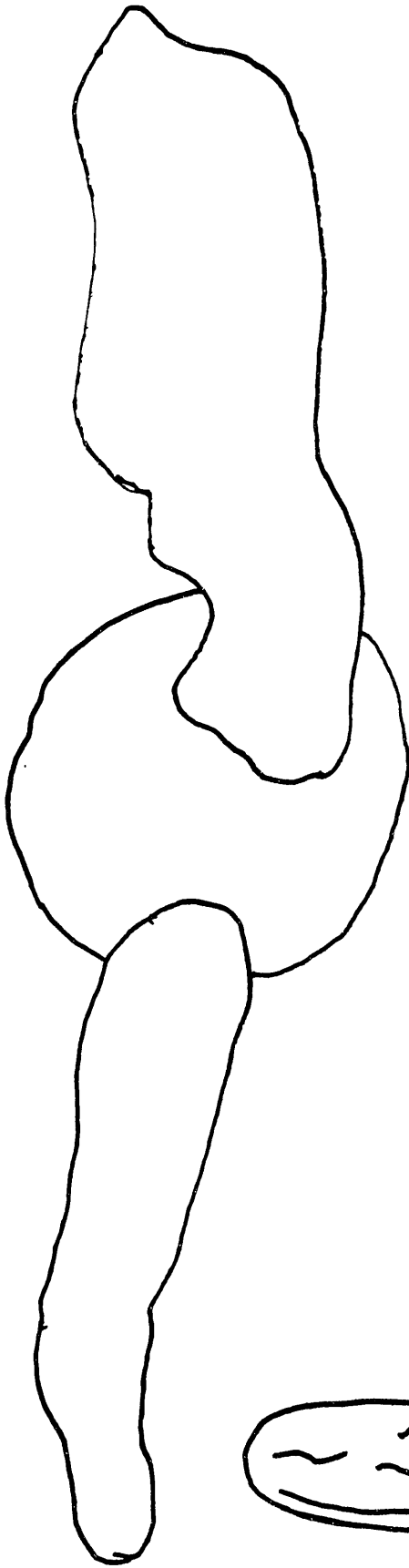


Name: Linda Rodriguez

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School: Rockdale High School, Rockdale ISD

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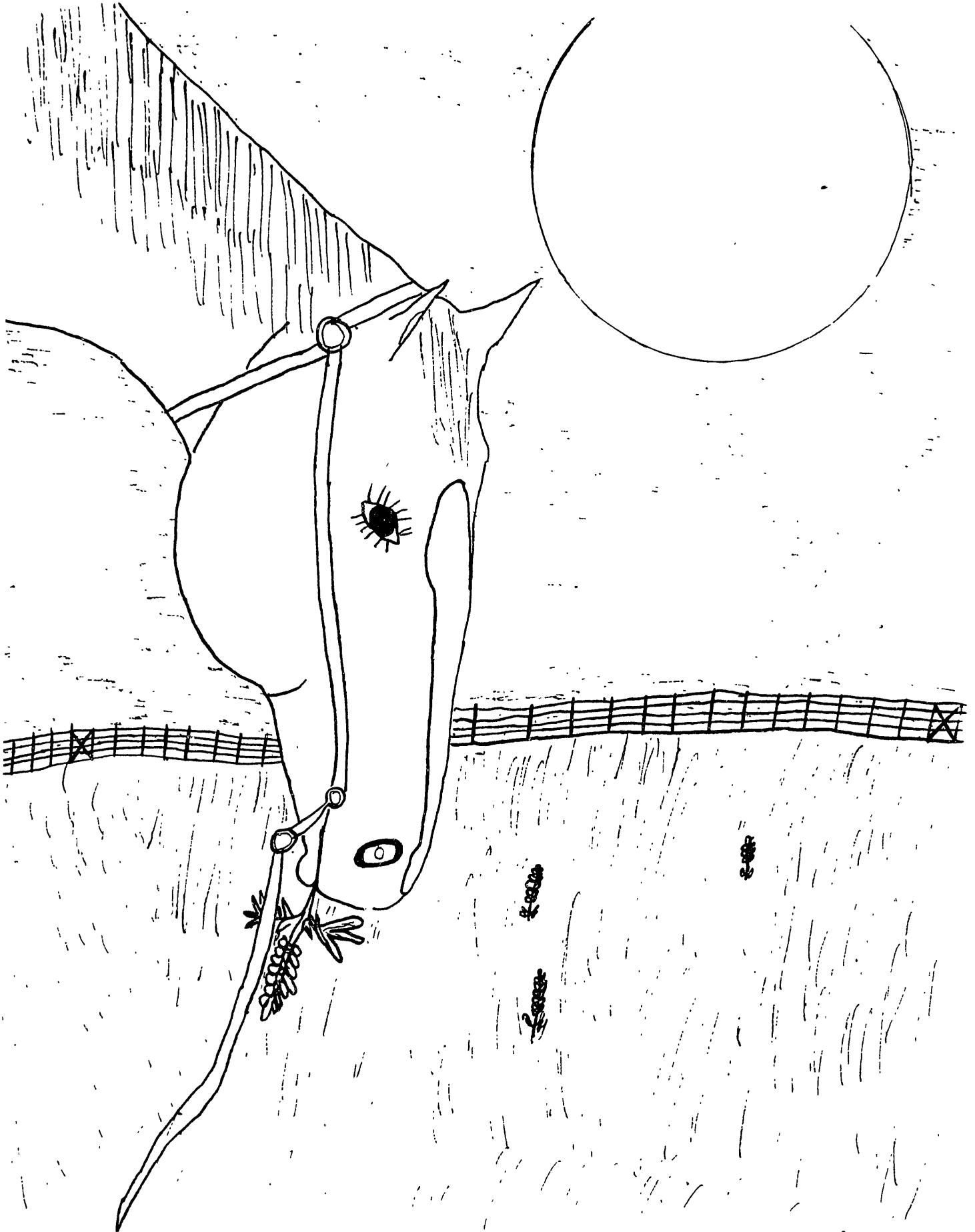


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4.7

Name: Quincy Alonzo

Grade: 9

School: Rockdale High School, Rockdale ISD



Name: Gaylon Morgan

Grade: 12

School: Rockdale High School, Rockdale 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 April 22, 1992

To be a member of the **Texas Board of Criminal Justice** for a term to expire February 1, 1993: Carol S. Vance, 5758 Indian Circle, Houston, Texas 77002. Mr. Vance will be filing the unexpired term of James M. Eller of Bryan, who resigned.

Appointments Made April 24, 1992

To be **Judge of the 25th Judicial District Court, Guadalupe, Gonzales, Colorado, and Lavaca Counties**, until the next General Election and until his successor shall be duly elected and qualified: Dwight E. Peschel, 306 Westbend Circle, Seguin, Texas 78155. Mr. Peschel will be replacing Judge B.B. Schraub of Seguin, who retired.

To be **Judge of the 48th Judicial District Court, Tarrant County**, until the next General Election and until his successor shall be duly elected and qualified: John Street, 5608 Sandy Lane, Fort Worth, Texas 76114. Judge Street will be replacing Judge William L. Hughes, Jr. of Fort Worth, who retired.

Appointments Made April 27, 1992

To be a member of the **Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids** for a term to expire December 31, 1995: Richard W. Stream, Ph.D., 2029 Pembroke, Denton, Texas 76205. Dr. Stream will be filling the unexpired term of Dr. Richard L. Riess of College Station, who resigned.

To be a member of the **Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids** for a term to expire December 31, 1997: Jane Wofford Porter, 2809 North Britain Road, Irving, Texas 75062. Ms. Porter will be replacing Tom C. Lucenay of Waco, whose term expired.

To be a member of the **State Committee of Examiners for Speech Language Pathology and Audiology** for a term to expire August 31, 1997: Charles K. Kuratko, 7715 Louisville, Lubbock, Texas 79423. Mr. Kuratko will be replacing Harold G. Beaver of Temple, whose term expired.

To be a member of the **State Committee of Examiners for Speech Language Pathology and Audiology** for a term to expire

August 31, 1997: Jane Dean McConnell, 6951 Lakeshore Drive, Dallas, Texas 75214. Ms. McConnell will be replacing Carol M. Hering of Austin, whose term expired.

Appointments Made April 29, 1992

To be **Judge of the 166th Judicial District Court, Bexar County**, until the next General Election and until her successor shall be duly elected and qualified: Martha B. Tanner, 421 Hildebrand, San Antonio, Texas 78212. Ms. Tanner will be replacing Judge Peter Michael Curry of San Antonio, who retired.

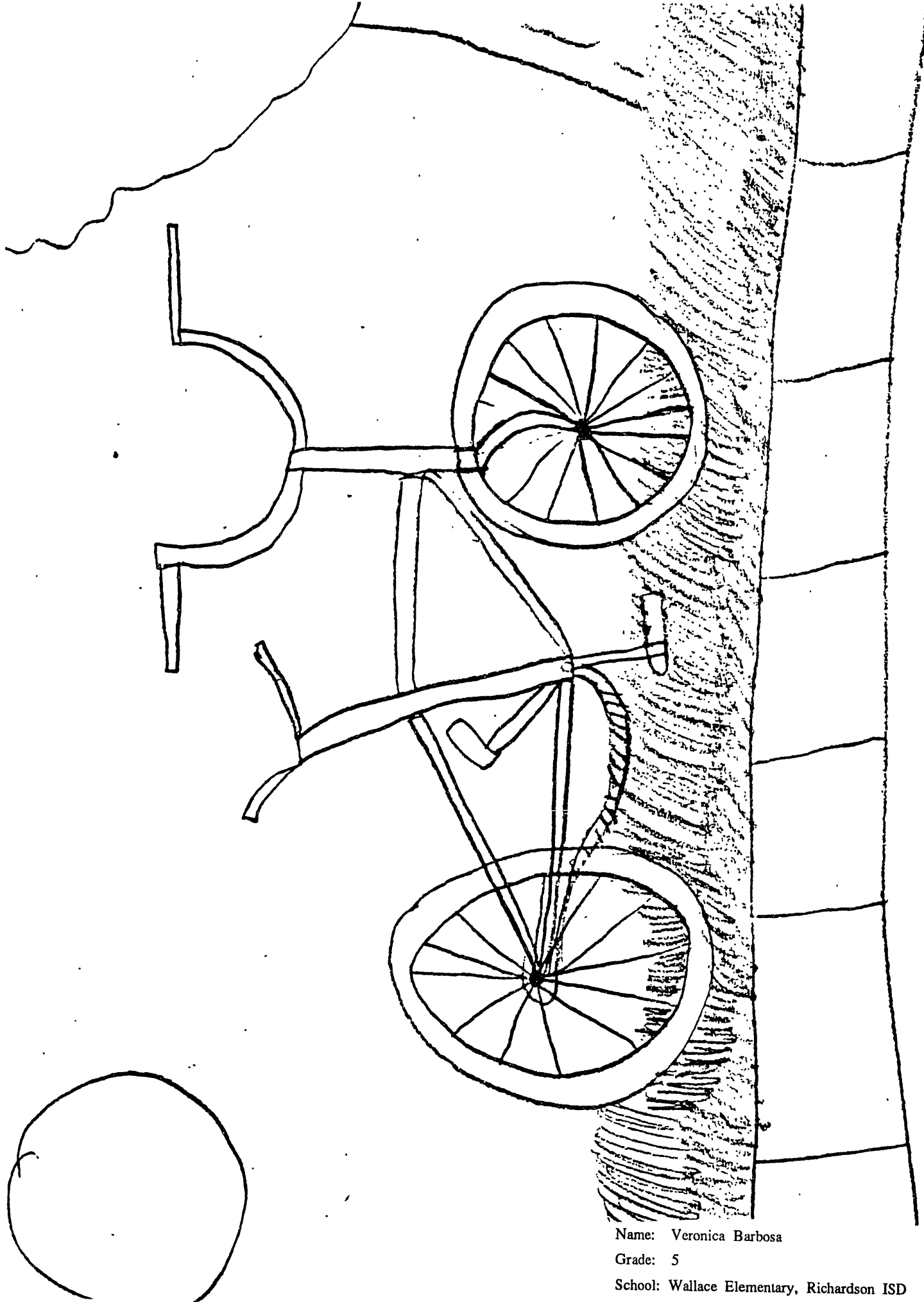
To be a member of the **Lower Colorado River Authority Board of Directors** for a term to expire February 1, 1993: Wanda Garner Cash, P.O. Box 368, Hunt, Texas 78024. Ms. Cash will be filling the unexpired term of Raymond F. Barker of Kerrville, who resigned.

Issued in Austin, Texas on April 29, 1992.

TRD-9205919

Ann W. Richards
Governor of Texas





Name: Veronica Barbosa

Grade: 5

School: Wallace Elementary, Richardson 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 II. Texas Ethics Commission

Chapter 3. Practice and Procedure

Subchapter C. Sworn Complaints

- 1 TAC §§3.111, 3.113, 3.115, 3.117, 3.119, 3.131, 3.133, 3.135, 3.137

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §§3.111, 3.113, 3.115, 3.117, 3.119, 3.131, 3.133, 3.135, and 3.137, for a 60-day period effective June 17, 1992. The text of new §§3.111, 3.113, 3.115, 3.117, 3.119, 3.131, 3.133, 3.135, and 3.137 was originally published in the February 25, 1992, issue of the *Texas Register* (17 TexReg 1489).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206021 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: June 17, 1992

Expiration date: August 16, 1992

For further information, please call: (512) 463-5800

Subchapter B. Forms

Sworn Complaint and Affidavit

- 1 TAC §3.211

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §3.211, for a 60-day period effective June 12, 1992. The text of new §3.211 was originally published in the February 21, 1992, issue of the *Texas Register* (17 TexReg 1423).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206022 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: June 12, 1992

Expiration date: August 11, 1992

For further information, please call: (512) 463-5800

Notices

- 1 TAC §§3.213, 3.215, 3.217, 3.219

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §§3.213, 3.215, 3.217, and 3.219, for a 60-day period effective June 12, 1992. The text of new §§3.213, 3.215, 3.217, and 3.219 was originally published in the February 21, 1992, issue of the *Texas Register* (17 TexReg 1431).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206023 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: June 12, 1992

Expiration date: August 11, 1992

For further information, please call: (512) 463-5800

Chapter 5. Campaign Financing

Subchapter A. Contribution and Expenditure Reports

- 1 TAC §5.1

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.1, for a 60-day period effective May 12, 1992. The text of new §5.1 was originally published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 356).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206029 Jim Mathieson
Assistant General Counsel
agency

Effective date: May 12, 1992

Expiration date: July 11, 1992

For further information, please call:

Subchapter B. Reporting Forms

Appointment of General-Purpose Committee Campaign Treasurer

- 1 TAC §5.2

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption

of new §5.2, for a 60-day period effective May 15, 1992. The text of new §5.2 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 505).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206006 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

Appointment of Candidate's Campaign Treasurer

- 1 TAC §5.3

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.3, for a 60-day period effective May 15, 1992. The text of new §5.3 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 508).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206007 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

Appointment of Specific-Purpose Committee Campaign Treasurer

- 1 TAC §5.4

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.4, for a 60-day period effective May 15, 1992. The text of new §5.4 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 511).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206008 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Designation of Final Report
By Candidate**

• 1 TAC §5.5

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.5, for a 60-day period effective May 15, 1992. The text of new §5.5 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 515).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206009 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Designation of Final Re-
port/Affidavit of Dissolution
by Specific Purpose Com-
mittee**

• 1 TAC §5.6

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.6, for a 60-day period effective May 15, 1992. The text of new §5.6 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 518).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206010 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Affidavit of Dissolution For
General-Purpose Committee**

• 1 TAC §5.7

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.7, for a 60-day period effective May 15, 1992. The text of new §5.7 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 520).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206011 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**General Purpose Committee
Monthly Sworn Report of
Contributions and Expendi-
tures**

• 1 TAC §5.8

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.8, for a 60-day period effective May 15, 1992. The text of new §5.8 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 522).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206012 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
• 1 TAC §5.9

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.9, for a 60-day period effective May 20, 1992. The text of new §5.9 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 537).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206013 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 20, 1992

Expiration date: July 19, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Specific-Purpose Committee
Sworn Report of Contribu-
tions and Expenditures**

• 1 TAC §5.10

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.10, for a 60-day period effective May 20, 1992. The text of new §5.10 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 551).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206014 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 20, 1992

Expiration date: July 19, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Candidate/Officeholder Sworn
Report of Contributions and
Expenditures**

• 1 TAC §5.11

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.11, for a 60-day period effective May 23, 1992. The text of new §5.11 was originally published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 741).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206015 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 23, 1992

Expiration date: July 22, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Notice of Intent to File
Monthly Sworn Reports of
Contributions and Expendi-
tures or Notice of Intent to
Revert to the Regular Filing
Schedule**

• 1 TAC §5.12

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §5.12, for a 60-day period effective May 23, 1992. The text of new §5.12 was originally published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 756).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206016 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 23, 1992

Expiration date: July 22, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Subchapter C. Rules Concern-
ing Reports**

• 1 TAC §§5.21, 5.23, 5.25

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §§5.21, 5.23, and 5.25, for a 60-day period effective July 1, 1992. The text of new §§5.21, 5.23, and 5.25 was originally published in the March 10, 1992, issue of the *Texas Register* (17 TexReg 1795).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206024 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 1, 1992

Expiration date: August 30, 1992

For further information, please call: (512) 463-5800

◆ ◆ ◆
**Chapter 6. Campaign
Financing**

Subchapter B. Reporting Forms

• 1 TAC §6.13

The Texas Ethics Commission adopts on an emergency basis new §6.13 which establishes the form for appointing a state chair candidate's campaign treasurer.

The Texas Ethics Commission has determined that the emergency adoption of the new section is necessary and in the public interest in order to comply with Title 15, Texas Election Code, as amended by Texas Civil Statutes, Article 6252-9d.1.

The Texas Ethics Commission finds that an emergency exists in that: Title 15, Texas Election Code, as amended effective January 1, 1992, requires certain information to be filed with the appropriate filing authority. Whereas failure to file those reports may result in the imposition of criminal and civil penalties, it is necessary to adopt forms for the filing of those reports.

The Texas Constitution, Article III, §24a, created the Texas Ethics Commission and gives the commission such powers and duties as the Legislature may provide. The Legislature has enacted Article 6252-9d.1, effective January 1, 1992, which confers on the commission the power to administer and enforce Title 15, Texas Election Code, and the power to prescribe forms for reports.

The new section is adopted on an emergency basis under Title 15, Texas Election Code, by Article 6252-9d.1, §1.11(b)(9) which confers upon the Commission the authority to adopt rules.

§6.13. Appointment of State Chair Candidate's Campaign Treasurer. The Texas Ethics Commission adopts the *Appointment of State Chair Candidate's Campaign Treasurer* form prescribed by the commission on April 23, 1992. This form is published by and available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

T15 920014
 Texas Ethics Commission
 P.O. Box 12070
 Austin, Texas 78711-2070
 4/92

USE ONLY BLACK INK OR BLACK TYPEWRITER
 RIBBON WHEN COMPLETING THIS FORM

SC

**APPOINTMENT OF STATE CHAIR
 CANDIDATE'S CAMPAIGN TREASURER
 (Title 15, Texas Election Code)**

FOR OFFICE USE ONLY

File # _____

AMENDED FILING _____

If amended filing, please identify the type of information that has been changed by checking the appropriate box(es) below:

- Name of Campaign Treasurer
- Address/telephone number of campaign treasurer
- Address/telephone number of candidate
- Other _____

PM	HD
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NOTE TO CURRENT OFFICEHOLDER: you may be required to file a sworn report of contributions and expenditures no later than 15 days after this appointment. ¹

Name of Candidate	Candidate's mailing address
Candidate's telephone number*	Office currently held
Office sought*	Term of office sought* _____, 19____, to _____, 19____
Name of campaign treasurer	Telephone number of campaign treasurer ()
Residence or business street address of campaign treasurer	

I, the undersigned candidate, am aware of the nepotism law, articles 5996a through 5996g of the Texas Revised Civil Statutes.²

 Signature of State Chair Candidate

 Signature of Campaign Treasurer*

* OPTIONAL

COMPLETE THE FOLLOWING ONLY IF APPLICABLE

Date of Election

**DECLARATION OF INTENT TO FOLLOW MODIFIED
REPORTING PROCEDURE BY NOT EXCEEDING \$500**
(Sections 254.181-254.184 of the Texas Election Code)

I do hereby declare that I do not intend to accept political contributions that in the aggregate exceed \$500 in this election or to make expenditures that in the aggregate exceed \$500 in this election. If I do not exceed the \$500 maximum, I am not required to file the sworn reports due 30 days before and 8 days before the election, but will file the semiannual reports due July 15 and January 15. However, I understand that if the \$500 maximum is exceeded for either contributions or expenditures in connection with this election during the period covered by a semiannual report, sworn reports must be filed in accordance with sections 254.183 and 254.064 of the Texas Election Code.

Signature of Candidate indicating intent to follow modified reporting
procedure set forth in Sec. 254.181 of the Texas Election Code

NOTE: The amount of the filing fee paid by the candidate is excluded from the \$500 maximum expenditure. "Election" includes the main election and any runoff.

FOOTNOTES AND INSTRUCTIONS

¹ A person who holds a statewide, legislative, multi-county district office, or is on the State Board of Education must file a report not later than the 15th day after the date he or she appoints a campaign treasurer. Persons who hold other offices (including county or political subdivision offices) must file this 15th-day-after report only if: they have accepted political contributions that, in the aggregate, exceed \$500; or they have made political expenditures that, in the aggregate, exceed \$500 during the period covered by that report. (Tex. Elec. Code Ann. secs. 254.094, 254.095)

² The candidate must sign this statement indicating his awareness of the nepotism law. (Tex. Elec. Code Ann. sec. 252.0032(a)) The nepotism prohibitions of article 5996a, Vernon's Texas Civil Statutes, are summarized as follows:

No officer may appoint, or vote for or confirm the appointment or employment of, any person related within the second degree by affinity (marriage) or the third degree by consanguinity (blood) to the officer, or to any other member of the governing body or court on which he or she serves when the compensation of that person is to be paid out of public funds or fees of office. However, nothing in the law prevents the appointment, voting for, or confirmation of anyone who has been continuously employed in the office, position, or employment for the following periods prior to the election or appointment of the officer or member related to the employee in the prohibited degree: (1) thirty days, if the officer or member is appointed; (2) six months, if the officer or member is elected at an election other than the general election for state and county officers; or (3) one year, if the officer or member is elected at the general election for state and county officers. No candidate may take action to influence an employee of the office to which the candidate is seeking election or an employee or officer of the governmental body to which the candidate is seeking election regarding the appointment or employment of a person related to the candidate in a prohibited degree as noted above. This prohibition does not apply to a candidate's actions with respect to a bona fide class or category of employees or prospective employees. Examples of relatives within the third degree of consanguinity are as follows: (1) First degree: parent, child; (2) Second degree: brother, sister, grandparent, grandchild; (3) Third degree: great-grandparent, great-grandchild, uncle, aunt, nephew, niece. These include relatives by blood, half-blood, and legal adoption. Examples of relatives within the second degree of affinity are as follows: (1) First degree: spouse, spouse's parent, son-in-law, daughter-in-law; (2) Second degree: spouse's brother, spouse's sister, brother's spouse, sister's spouse, spouses grandparent. Persons related by affinity (marriage) include spouses of relatives by consanguinity, and, if married, the spouse and the spouse's relatives by consanguinity. These examples are not all-inclusive.

TREASURER REQUIRED. A candidate may not knowingly accept a political contribution or make a political expenditure at a time when a campaign treasurer appointment is not in effect. A candidate may appoint himself or herself as his or her campaign treasurer. (Tx. Elec. Code Ann. sec 253.031)

RECORDKEEPING REQUIRED. Each candidate is required to keep records of the information that is necessary for filing the reports required under Title 15, Texas Election Code. The candidate must maintain the records for two years after the deadline for filing the report. (Tx. Elec. Code Ann. sec. 254.001)

REPORTS OF CONTRIBUTIONS AND EXPENDITURES. All candidates must file semiannual reports each January 15th and July 15th. An opposed candidate must make two additional reports for each election in which the candidate has an opponent whose name is to appear on the ballot, unless the candidate has filed an intent to follow modified reporting under sec. 254.181. These two additional reports are due not later than the 30th day before and the 8th day before the election. If involved in a runoff election, another report is due not later than the 8th day before the runoff election. (Tx. Elec. Code Ann. secs. 254.063, 254.064)

CHANGE IN OFFICE SOUGHT. Once the appointment is filed, if the candidate decides to seek a different office that would require filing the appointment with a different authority, the candidate must comply with the provisions of section 252.010. (Tex. Elec. Code Ann. sec. 252.010)

[graphic]

Issued in Austin, Texas, on April 30, 1992.

TRD-9205999

Jjm Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: April 30, 1992

Expiration date: September 27, 1992

For further information, please call: (512)
463-5800

◆ ◆ ◆
• 1 TAC §6.14

The Texas Ethics Commission adopts on an emergency basis new §6.14 which establishes the form for the reporting of contributions and expenditures by a candidate or officeholder for state chair of a political party.

The Texas Ethics Commission has determined that the emergency adoption of the new section is necessary and in the public interest in order to comply with Title 15, Texas Election Code, as amended by Texas Civil Statutes, Article 6252-9d.1.

The Texas Ethics Commission finds that an emergency exists in that: Title 15, Texas Election Code, as amended effective January 1, 1992, requires certain information to be filed with the appropriate filing authority. Whereas failure to file those reports may result in the imposition of criminal and civil penalties, it is necessary to adopt forms for the filing of those reports.

The Texas Constitution, Article III, §24a, created the Texas Ethics Commission and gives the commission such powers and duties as the Legislature may provide. The Legislature has enacted Article 6252-9d.1, effective January 1, 1992, which confers on the commission the power to administer and enforce Title 15, Texas Election Code, and the power to prescribe forms for reports.

The new section is adopted on an emergency basis under Title 15, Texas Election Code, by Article 6252-9d.1, §1.11(b)(9) which confers upon the Commission the authority to adopt rules.

§6.14. State Chair Candidate/Officeholder Sworn Report of Contributions and Expenditures. The Texas Ethics Commission adopts the *State Chair Candidate/Officeholder Sworn Report of Contributions and Expenditures* form prescribed by the commission on April 23, 1992. This form is published by and available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

USE ONLY BLACK INK
 OR BLACK TYPEWRITER RIBBON
 WHEN FILLING OUT THIS FORM

FOR OFFICE USE ONLY	
File # _____	
PM	HD

SC

Please complete: Total pages in this report: _____ Total pages of contributions only: _____

**STATE CHAIR CANDIDATE/OFFICEHOLDER
 SWORN REPORT OF
 CONTRIBUTIONS AND EXPENDITURES**
 (Title 15, Texas Election Code)

Full name of candidate or officeholder	Address of candidate or officeholder	
Office held ¹	Office sought ²	
Name of campaign treasurer ³	Residence or business street address of campaign treasurer	
Telephone number of campaign treasurer ()	Date of election, if applicable	Type of election, if applicable

For the period _____, 19_____, through _____, 19_____.

Type of report (check the appropriate selection):

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 30th day before an election ^{4,5}
<input type="checkbox"/> 8th day before an election ^{4,6}
<input type="checkbox"/> 8th day before a runoff ^{4,7}
<input type="checkbox"/> July 15 ⁸
<input type="checkbox"/> January 15 ⁹
<input type="checkbox"/> Final report (attach Part SC-08) ¹⁰
<input type="checkbox"/> 48 hr. report required by modified reporting procedure (Sec. 254.183(b), Texas Election Code) ¹¹ | <input type="checkbox"/> 15th day after appointment of campaign treasurer by an officeholder ¹²
<input type="checkbox"/> Annual report of unexpended contributions ¹³
(Complete the following information:)
a) Total of unexpended political contributions as of December 31: \$ _____
b) Amount of interest or other income earned during calendar year: \$ _____
<input type="checkbox"/> Amended report ¹⁴ |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

 (Specify type of report you are amending)

COMPLETE THE FOLLOWING, if applicable: I have been notified by the following that they accept political contributions or they make political expenditures for me. (Tex. Elec. Code Ann. secs. 254.061(3), (4); 254.091(2).) Attach additional pages if necessary.	
Full name and address of political committee. State whether the committee is a general-purpose (GP) or specific-purpose (SP) committee.	Full name and address of the committee's campaign treasurer

If no reportable activity occurred during this reporting period, indicate that fact below; you may then proceed to Part SC-07 and complete the affidavit. If activity occurred, continue with Parts SC-02, SC-03, SC-04, SC-05, SC-06, and SC-07.

_____ NO REPORTABLE ACTIVITY OCCURRED DURING THIS REPORTING PERIOD.

See Reverse Side for Footnotes and Instructions

FOOTNOTES

1. If you are a current officeholder, complete this section.
2. If you are a candidate, complete this section.
3. Officeholders are not required to have a campaign treasurer in order to accept officeholder contributions or to make officeholder expenditures. (Tex. Elec. Code Ann. secs. 253.036, 253.031, 252.001)
4. This report is filed by a candidate who has an opponent whose name is to appear on the ballot, by a write-in candidate whose opponent's name is to appear on the ballot, and by an opposed candidate who withdraws his or her candidacy after becoming a candidate. (Tex. Elec. Code Ann. secs. 254.064, 251.001(1)) This report is not filed by those opposed candidates who have properly declared their intent to follow the modified reporting procedure and who have not exceeded the \$500 maximum. (Tex. Elec. Code Ann. sec. 254.184)
5. This report covers the period beginning on the day of campaign treasurer appointment or the first day after the period covered by the last required report, as applicable, and continuing through the 40th day before the election. (Tex. Elec. Code Ann. sec. 254.064(b))
6. This report covers the period beginning on the 39th day before election day and continuing through the 10th day before the election. (Tex. Elec. Code Ann. sec. 254.064(c))
7. This report covers the period from the ninth day before the date of the main election and continuing through the 10th day before the runoff election. (Tex. Elec. Code Ann. sec. 254.064(e))
8. The July 15 semiannual report is required to be filed by every candidate and all but certain local officeholders. (If local officeholder, see Instructional Note below.) This report covers the period beginning January 1, the day of the appointment of campaign treasurer, or the first day after the period covered by the last required report, as applicable, and continuing through June 30. (Tex. Elec. Code Ann. secs. 254.063(b), 254.093(b))
9. The January 15 semiannual report is required to be filed by every candidate and all but certain local officeholders. (If local officeholder, see Instructional Note below.) This report covers the period beginning July 1, the day of the appointment of campaign treasurer, or the first day after the period covered by the last required report, as applicable, and continuing through December 31. (Tex. Elec. Code Ann. secs. 254.063(c), 254.093(c))
10. If a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a required report, the candidate may designate the report as a "final" report by attaching Part SC-08. The designation of a report as a final report relieves the candidate of the duty to file additional reports as a candidate and terminates the candidate's campaign treasurer appointment. However, if, after a candidate's final report is filed, reportable activity with respect to the candidacy occurs, the candidate shall file the appropriate regularly required reports and is otherwise subject to the provision of Title 15. A subsequent required report may be designated as a final report. (Tex. Elec. Code Ann. sec. 254.065) Note that a candidate who files a "final" report may still be required to file reports if: (1) the candidate retains unexpended contributions; or (2) the candidate is also an officeholder.
11. This report is filed by candidates who have opted for the modified reporting procedure but have exceeded the \$500 maximum after the filing deadline for the first report required by sec. 254.064. This report must be filed not later than 48 hours after the maximum is exceeded. The report covers the period beginning the day of the campaign treasurer appointment and continuing through the day the maximum is exceeded. A candidate who exceeds the \$500 maximum is also required to file reports as required by sec. 254.064. The reporting period for the next report filed by the candidate begins on the day after the last day of the period covered by the report filed within 48 hours. (Tex. Elec. Code Ann. sec. 254.183)
12. This statement must be filed by an officeholder who appoints a campaign treasurer. (If local officeholder, see Instructional Note below.) This report covers the period beginning the first day after the end of the period covered by the last required report and continuing through the day before the date the campaign treasurer is appointed. (Tex. Elec. Code Ann. sec. 254.094)
13. The annual report of unexpended contributions is required to be filed by a former officeholder or a former unsuccessful candidate who has unexpended political contributions. The report must be filed between January 1 and January 15 and covers the period beginning the first day after the end of the period covered by the last required report and continuing through December 31 of the preceding year. (Tex. Elec. Code Ann. secs. 254.201, 254.202)
14. The filing of an amended report is an administrative procedure that may be used to correct a deficiency on a previously filed report. The filing of an amended report does not relieve the person responsible for filing the report of any criminal penalties or civil liabilities that may arise under the Act.

INSTRUCTIONAL NOTES

REPORT NOT REQUIRED BY CERTAIN LOCAL OFFICEHOLDERS. If at the end of the reporting period for a semiannual officeholder report or a report due 15 days after filing a campaign treasurer appointment, an officeholder who is required to file Title 15 reports with an authority other than the Texas Ethics Commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period. NOTE: This exemption only applies to those reports required to be filed as a result of officeholder status; if the local officeholder is also a candidate under Title 15, he must still file semiannual reports and otherwise comply with the filing requirements placed on candidates.

FILING DEADLINE. The deadline for filing a report, other than the 48-hour report filed by candidates under the modified procedure and the special telegram reports filed by legislative candidates, is 5 p. m. on the last day permitted for filing the report. (Tex. Elec. Code Ann. sec. 254.037) Such report is timely filed if it is hand-delivered to the appropriate authority or placed in first-class mail with the U.S. Post Office or with a common or contract carrier, properly addressed and with postage or handling charges prepaid, before the filing deadline. (Tex. Elec. Code Ann. sec. 251.007) If a report required to be filed with the Texas Ethics Commission is determined to be late, the person required to file the report is civilly liable to the state for a late penalty to be set by the commission. (Tex. Elec. Code Ann. sec. 254.042)

STATEWIDE OFFICEHOLDERS AND MEMBERS OF THE LEGISLATURE. You may not accept a political contribution during the period beginning on the 30th day before the date of a regular legislative session convenes and continuing through the day of final adjournment. If a political contribution is received during that period, it must be returned within 30 days. A contribution mailed prior to the beginning of the period may be accepted. Report the date of the mailing as the date of the contribution. (Tex. Elec. Code Ann. sec. 253.034(b))

**STATE CHAIR CANDIDATE/OFFICEHOLDER
CONTRIBUTIONS OTHER THAN LOANS**

Name of candidate/officerholder:

Date	Contributions (List full name and complete address of contributor(s))	List the amount of the contribution in the appropriate column	
		(1) Money or Equivalent	(2) Market value and descrip- tion of gifts, use of prop- erty, or services (in-kind contribution)
TOTAL			

NOTE: If you accept a contribution from an out-of-state political committee, you must comply with the provisions of section 253.032, Texas Election Code. The provisions of this section are outlined in the instructions on the reverse side.

See Reverse Side for Instructions

INSTRUCTIONS

List all political contributions (whether for campaign or officeholder purposes) aggregating more than \$50 from any one person (or group) during this reporting period, the date, and the full name and complete address of each contributor. (Tex. Elec. Code Ann. secs. 254.031(a)(1), 254.062)

In Column (2) give the market value of a gift of property or services and the rental value of the use of property if the value is more than \$50. If the gift of property or services is classified as unique so that the market value cannot be ascertained, show the estimated market value.

A political contribution consisting of an individual's personal service or personal travel expense incurred by an individual is not required to be reported if the individual receives no compensation or reimbursement for the service or expense. (Tex. Elec. Code Ann. secs. 254.032, 254.033)

Note that contributions aggregating \$50 or less from any one person (or group) during this reporting period may also be listed individually on Part SC-02. If they are not individually listed, the total amount of all such contributions must be disclosed on line 4, Part SC-07 of this form. (Tex. Elec. Code Ann. sec. 254.031(a)(5))

A contribution received but not accepted is not required to be reported but must be returned to the contributor not later than the 30th day after the deadline for filing the report that covers the period during which the contribution is received. If the determination to accept or refuse the contribution is not made by the end of the reporting period, the contribution is considered accepted and must be reported. (Tex. Elec. Code Ann. sec. 254.034)

A candidate or officeholder may not maintain officeholder contributions accepted by that person in an account separate from campaign contributions accepted by that person. (Tex. Elec. Code Ann. sec. 253.040) This prohibition requires an officeholder to deposit any officeholder contributions in an account that also contains campaign contributions. It does not require all campaign contributions and officeholder contributions to be combined in one bank account.

LIMITATION ON CONTRIBUTIONS FROM OUT-OF-STATE COMMITTEES (Tex. Elec. Code Ann. sec. 253.032)

CONTRIBUTIONS TOTALING MORE THAN \$500. In a reporting period, the candidate or officeholder may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless the candidate or officeholder receives from the out-of-state committee:

- (1) a written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or
- (2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by the commission.

The candidate or officeholder must include this statement of contributors or copy of the committee's federal statement of organization with the report that covers the applicable reporting period.

CONTRIBUTIONS TOTALING \$500 OR LESS. If the candidate or officeholder accepts political contributions totaling \$500 or less from an out-of-state political committee, he or she must include as part of the report that covers the reporting period in which the contribution is accepted:

- (1) the name, address, and telephone number of the out-of-state political committee's campaign treasurer and the name of the person who appointed the campaign treasurer; the full name, and any acronym of the name that will be used in the name of the committee, of each corporation or other organization that administers or controls the committee, if applicable, or the name of each person who determines to whom the committee makes contributions or who determines for what purposes the committee makes expenditures; the name and address of each general-purpose committee to whom the committee intends to make political contributions; and, if the name of the committee is an acronym, the words the acronym represent; or
- (2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by the commission.

INSTRUCTIONS

For each loan that in the aggregate exceeds \$50 during the reporting period, give the full name of each person, other than a financial institution, making the loan; the full name and complete address of each guarantor of the loan, the principal occupation of each guarantor, and the name of the guarantor's employer; the amount of the loan guaranteed by each guarantor; interest rate; maturity date; type of collateral for the loan; and the date of the loan. (Tex. Elec. Code Ann. sec. 254.031(2))

The full name and complete address of any individual or person, other than a financial institution, making the loan for candidate or officeholder purposes should be reported in Column 1.

The full name and complete address of each guarantor, if any, the guarantor's principal occupation, and the name of the guarantor's employer should be reported in Column 1.

A description of the collateral securing the loan should be reported in Column 2.

The date the loan was made should be reported in Column 3.

The maturity date of the loan should be reported in Column 4.

The interest rate of the loan should be reported in Column 5.

The amount of the loan (not including interest) should be reported in Column 6.

That amount of the loan guaranteed by a guarantor, if any, should be reported in Column 7.

Note that loans aggregating \$50 or less from any one person (or group or other entity), other than from a financial institution, made during this reporting period may also be listed individually on Part SC-03. If they are not individually listed, the total amount of all such loans must be disclosed on line 4, Part SC-07 of this form. (Tex. Elec. Code Ann. sec. 254.031(a)(5))

USE ONLY BLACK INK OR BLACK TYPEWRITER
RIBBON WHEN FILLING OUT THIS FORM

Complete: Pg. _____ of _____

**STATE CHAIR CANDIDATE/OFFICEHOLDER LOANS
FROM FINANCIAL INSTITUTIONS**

Name of candidate/officeholder:						
(1) Full name and complete address of financial institution making the loan Full name and complete address of guarantor, guarantor's principal occupation, and name of guarantor's employer (if applicable)	(2) Description of collateral (if any)	(3) Date of loan	(4) Maturity date of loan	(5) Interest rate	(6) Amount of loan	(7) Amount of loan guaranteed by guarantor
TOTAL						

See Reverse Side for Instructions

INSTRUCTIONS

For each loan that in the aggregate exceeds \$50 during the reporting period, give the full name of each financial institution making the loan; the full name and complete address of each guarantor of the loan, the principal occupation of each guarantor, and the name of the guarantor's employer; the amount of the loan guaranteed by each guarantor; interest rate; maturity date; type of collateral for the loan; and the date of the loan. (Tex. Elec. Code Ann. sec. 254.031(2))

The full name of the financial institution (legally engaged in such business for more than one year) making the loan for candidate or officeholder purposes should be reported in Column 1.

The full name and complete address of each guarantor, if any, the guarantor's principal occupation, and the name of the guarantor's employer should be reported in Column 1.

A description of the collateral securing the loan should be reported in Column 2.

The date the loan was made should be reported in Column 3.

The maturity date of the loan should be reported in Column 4.

The interest rate of the loan should be reported in Column 5.

The amount of the loan (not including interest) should be reported in Column 6.

That amount of the loan guaranteed by a guarantor, if any, should be reported in Column 7.

**STATE CHAIR CANDIDATE/OFFICEHOLDER
EXPENDITURES AND PAYMENTS**

Name of candidate/officeholder:

Date	Payee or creditor Full name, complete address	Purpose of expenditure or payment (see instructions) * If another candidate/officeholder is receiving the benefits of a direct campaign expenditure, list the name of the candidate/ officeholder and the office sought or held by that person in this column *	(a) Check () this column if payment was from personal funds	(b) Check () this column if you expect to be reimbursed from political contributions	Enter the amount of the expenditure or payment in the appropriate column		
					(1) Disbursements of cash or property and unpaid bills (except loans) not previ- ously reported	(2) Repayments of loans of money	(3) Payments that were not political expenditures* (Tex. Elec. Code Ann. sec. 254.031(e)(4))
TOTAL							

**Payments that were not political expenditures* are payments that were not involved in an election or in the performance of officeholder duties or activities but were made from political contributions.

See Reverse Side for Instructions

INSTRUCTIONS

List all expenditures (whether for campaign or officeholder purposes) aggregating more than \$50 to any one person (or group) during this reporting period. Give the full name and address of the person to whom the expenditure was made and the date, amount, and purpose of the expenditure. (Tex. Elec. Code Ann. sec. 254.031(a)(3))

NOTE: if a candidate or officeholder is receiving the benefits of a direct campaign expenditure, list under the "Purpose of Expenditure or Payment" column the name of the candidate or officeholder who is receiving the benefit of the expenditure, and the office sought or held. (Tex. Elec. Code Ann. sec. 254.031(a)(7))

List the full name and address of each person to whom any payment that is not a political expenditure was made, if the payment was made from a contribution, and the date, amount, and purpose of the payment. (Tex. Elec. Code Ann. sec. 251.031(a)(4))

Please enter a check mark in Column (a) if the expenditure or payment was made from your personal funds.

Please enter a check mark in Column (b) if the expenditure or payment was made from personal funds and you expect to be reimbursed from political contributions.

NOTE: a candidate or officeholder who makes political expenditures from his/her personal funds may reimburse his/her personal funds from political contributions only if those expenditures are fully reported as political expenditures during the period covered by the report, and those expenditures are disclosed as having been made from the person's personal funds, and that the expenditures are subject to reimbursement. (Tex. Elec. Code Ann. sec. 253.035(h))

A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution to purchase real property or to pay the interest on or principal of a note for the purchase of real property. (Tex. Elec. Code Ann. sec. 253.038(a))

Expenditures aggregating \$50 or less to any one person (or group) during this reporting period may be listed individually on Part SC-05 or the total amount of all such expenditures must be disclosed on line 9, Part SC-07 of this form. (Tex. Elec. Code Ann. sec. 254.031(a)(5))

An expenditure need not be considered to have been made until the amount is readily determinable or until the date of receipt of the periodic bill, if normal business practice is such that the amount is not disclosed until the date the next periodic bill is received (Tex. Elec. Code Ann. sec. 254.035)

NOTE: IF A CANDIDATE OR OFFICEHOLDER IS RECEIVING BENEFITS OF A DIRECT CAMPAIGN EXPENDITURE FROM THIS CANDIDATE OR OFFICEHOLDER, LIST UNDER THE "PURPOSE OF EXPENDITURE OR PAYMENT" COLUMN THE NAME OF THE CANDIDATE OR OFFICEHOLDER WHO IS RECEIVING THE BENEFIT OF THE EXPENDITURE, AND THE OFFICE SOUGHT OR HELD BY THAT CANDIDATE.

If more space is needed, simply reproduce this form. Please do not write outside the border.

INSTRUCTIONS

Identify any payment from political contributions made to each business in which the candidate/officeholder serves as an officer and/or holds a position on the governing board, and/or in which the candidate/officeholder has a participating interest of more than ten percent (10%). (Tex. Elec. Code Ann. secs. 254.061(5), 254.091(3))

These payments must also be disclosed on Part SC-05, Candidate/Officeholder Expenditures and Payments.

NOTE: Sec. 253.041 Texas Election Code. RESTRICTIONS ON CERTAIN PAYMENTS. (a) A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution if the payment is made for personal services rendered by the candidate or officeholder or by the spouse or dependent child of the candidate or officeholder to: (1) a business in which the candidate or officeholder has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business; or (2) the candidate or officeholder or the spouse or dependent child of the candidate or officeholder. (b) A payment that is made from a political contribution to a business described by Subsection (a) and that is not prohibited by that subsection may not exceed the amount necessary to reimburse the business for the actual expenditures made by the business. (c) A person who violates this section commits an offense. An offense under this subsection is a Class A misdemeanor.

**STATE CHAIR CANDIDATE/OFFICEHOLDER
CONTRIBUTIONS AND EXPENDITURES TOTALS**

Name of candidate/officeholder: _____

TOTALS

Contributions	Expenditures
1. Total from Column 1, Part SC-02 (money or equivalent) \$ _____	7. Total from Column 1, Part SC-05 (disbursements of cash or property and unpaid bills, except loans) \$ _____
2. Total from Column 2, Part SC-02 (market value of gifts, services, use of property) \$ _____	8. Total from Column 2, Part SC-05 (repayments of loans of money) \$ _____
3. Total from Column 6, Part SC-03 (total amount of loans from persons other than financial institutions) \$ _____	9. Total political expenditures of \$50 and less, unless itemized \$ _____
4. Total contributions of \$50 and less, unless itemized, (include money, gifts, services, use of property and loans of money from persons other than financial institutions) \$ _____	10. Total political expenditures for this reporting period (add lines 7, 8, and 9) \$ _____
5. Total contributions for this reporting period (add lines 1, 2, 3, and 4) \$ _____	11. Total from Column 3, Part SC-05 (payments that were not political expenditures) (optional) \$ _____
6. Total principal amount of loans excluding interest \$ _____	

AFFIDAVIT ²

State of Texas, County of _____

Before me, the undersigned authority, on this day personally appeared _____
who being known by me here and now duly sworn, upon oath says: "I swear or affirm that the accompanying report is true and correct
and includes all information required to be reported by me under Title 15, Election Code."

TREASURER OF CANDIDATE IS NOT
AUTHORIZED TO SIGN

Signature of candidate or officeholder

Sworn to and subscribed before me, by the said _____, this _____ day of
_____, 19_____, to certify which, witness my hand and seal of office.

See Reverse Side for Instructions

Signature of officer administering oath ³

Print name of officer administering oath

Print title of officer administering oath
(as listed in footnote 3 on back)

FOOTNOTE

- .. Candidates and officeholders must report the aggregate principal amount of all outstanding loans as of the last day of the reporting period. (Tex. Elec. Code Ann. sec. 254.031(a)(2))
- .. This report must contain a properly executed oath. (Tex. Elec. Code Ann. sec. 254.036) An unsworn report filed with the Texas Ethics Commission does not satisfy the requirement to timely file a sworn report for purposes of Section 254.042; a civil penalty to be set by the commission will be assessed for a late report.
- .. The following are some of the persons that may administer oaths, affidavits, or affirmations made within this state:
 - a. a judge, clerk, or commissioner of any court of record;
 - b. a notary public;
 - c. a justice of the peace; and
 - d. any member of any board or commission created by the laws of this state, in matters pertaining to the duties thereof. (V.T.C.S. art. 26)

920015.SC7

Issued in Austin, Texas on April 30, 1992.

TRD-9206001 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: April 30, 1992

Expiration date: September 27, 1992

For further information, please call: (512)
463-5800

uary 1, 1992, which confers on the commission the power to administer and enforce Title 15, Texas Election Code, and the power to prescribe forms for reports.

The new section is adopted on an emergency basis under Title 15, Texas Election Code, by Article 6252-9d.1, §1.11(b)(9), which confers upon the Commission the authority to adopt rules.

◆ ◆ ◆
• 1 TAC §6.15

The Texas Ethics Commission adopts on an emergency basis new §6.15 which establishes the form for designating a final report by a candidate for state chair of a political party.

The Texas Ethics Commission has determined that the emergency adoption of the new section is necessary and in the public interest in order to comply with Title 15, Texas Election Code, as amended by Texas Civil Statutes, Article 6252-9d.1.

The Texas Ethics Commission finds that an emergency exists in that: Title 15, Texas Election Code, as amended effective January 1, 1992, requires certain information to be filed with the appropriate filing authority. Whereas failure to file those reports may result in the imposition of criminal and civil penalties, it is necessary to adopt forms for the filing of those reports.

The Texas Constitution, Article III, §24a, created the Texas Ethics Commission and gives the commission such powers and duties as the Legislature may provide. The Legislature has enacted Article 6252-9d.1, effective Jan-

§6.15. *Designation of Final Report by State Chair Candidate.* The Texas Ethics Commission adopts the *Designation of Final Report by State Chair Candidate* form prescribed by the commission on April 23, 1992. This form is published by and available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

T15 920016
Texas Ethics Commission
P.O. Box 12070
Austin, Texas 78711-2070
4/92
Part SC-08

USE ONLY BLACK INK OR BLACK TYPEWRITER
RIBBON WHEN COMPLETING THIS FORM

SC

**DESIGNATION OF FINAL REPORT
BY STATE CHAIR CANDIDATE
(Title 15, Texas Election Code)**

FOR OFFICE USE ONLY

File # _____

PM

HD

NOTE: Attach this form to a completed sworn report of contributions and expenditures

Name of candidate

I, the undersigned candidate, do not expect the occurrence of any further reportable activity relating to this election or series of elections. I state that all reportable activity has been reported. I understand that designating a report as a final report terminates the status of campaign treasurer. I further understand that a new appointment of campaign treasurer must first be filed before I can once again accept campaign contributions or make campaign expenditures. (Tex. Elec. Code Ann. sec. 254.065)

Check the appropriate statement:

NO SURPLUS OR DEFICIT

I, the candidate, have not reported unexpended contributions nor do I have any campaign debt.

SURPLUS^{1,2}

I, the candidate, understand that I may not use any surplus of funds from this campaign for purposes involved in the election unless I first file a new appointment of campaign treasurer.

DEFICIT³

I, the candidate, understand that the effect of any deficit reported in any reports required by involvement in a particular campaign will be personally assumed by me and that I may not accept contributions to offset the deficit unless I first file a new appointment of campaign treasurer.

CANDIDATE'S CAMPAIGN TREASURER
IS NOT AUTHORIZED TO SIGN FOR
CANDIDATE

Signature of Candidate

SEE REVERSE SIDE FOR FOOTNOTES AND INSTRUCTIONS

FOOTNOTES

1. If the surplus consists of contributions accepted by the candidate on or after September 1, 1983, the candidate may not convert such funds to personal use and must dispose of these funds within six (6) years after the candidate ceases to be a candidate or officeholder. (Tex. Elec. Code Ann. secs. 253.035, 253.203)
2. All former officeholders and unsuccessful candidates who file a final report with a surplus must file an annual report by January 15th for each year they retain unexpended contributions. (Tex. Elec. Code Ann. sec. 254.201)
3. A candidate who intends to continue accepting contributions to pay off a campaign debt should **not** file a final report.

INSTRUCTIONS

To terminate the campaign treasurer appointment of a candidate, complete and attach this form to a completed sworn report of contributions and expenditures that has been marked as a "final report."

A candidate who files a final report terminates the requirement to file future reports as a candidate unless a new treasurer appointment is filed or reportable activity otherwise occurs. Note, however, that a candidate who is also holding public office must continue to file reports as an officeholder. In addition, former officeholders and candidates who retain a surplus of political contributions upon either leaving office or filing a final report (as applicable) must continue to file an annual report of unexpended contributions for each year contributions are retained. (Tex. Elec. Code Ann. secs 254.065(b),(c); 254.125(b),(c); 254.021)

920016.SC8

Issued in Austin, Texas on April 30, 1992.

TRD-9206003

Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: April 30, 1992

Expiration date: September 27, 1992

For further information, please call: (512) 463-5800



• 1 TAC §6.17

The Texas Ethics Commission adopts on an emergency basis new §6.17, which establishes the form for the reporting of contributions and expenditures by political parties accepting contributions from corporations and labor unions.

The Texas Ethics Commission has determined that the emergency adoption of the

new section is necessary and in the public interest in order to comply with Title 15, Texas Election Code, as amended by Texas Civil Statutes, Article 6252-9d.1.

The Texas Ethics Commission finds that an emergency exists in that: Title 15, Texas Election Code, as amended effective January 1, 1992, requires certain information to be filed with the appropriate filing authority. Whereas failure to file those reports may result in the imposition of criminal and civil penalties, it is necessary to adopt forms for the filing of those reports.

The Texas Constitution, Article III, §24a, created the Texas Ethics Commission and gives the commission such powers and duties as the Legislature may provide. The Legislature has enacted Article 6252-9d.1, effective January 1, 1992, which confers on the commission the power to administer and enforce Title 15, Texas Election Code, and the power to prescribe forms for reports.

The new section is adopted on an emergency basis under Title 15, Texas Election Code, by Article 6252-9d.1, §1.11(b)(9), which confers upon the Commission the authority to adopt rules.

§6.17. *Political Party Sworn Report of Contributions and Expenditures.* The Texas Ethics Commission adopts the *Political Party Sworn Report of Contributions and Expenditures* form prescribed by the commission on April 23, 1992. This form is published by and available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

T15 920006
 Texas Ethics Commission
 P.O. Box 12070
 Austin, TX 78711-2070
 2/92
 Part P-01

P

**USE ONLY BLACK INK
 OR BLACK TYPEWRITER RIBBON
 WHEN FILLING OUT THIS FORM**

Please complete:
 Total pages in this report: _____
 Total pages of Part P-02 only: _____

FOR OFFICE USE ONLY	
File # _____	
PM	HD

**POLITICAL PARTY
 SWORN REPORT OF
 CONTRIBUTIONS AND EXPENDITURES**¹
 (Title 15, Texas Election Code)

Name of political party:	Complete address of political party:
Name of party chair:	Mailing address of political party (if different from above):
Telephone number of political party:	

For the period _____, 19____, through _____, 19____.

Type of Report: ^{2,3} _____ 8th day before primary runoff election ⁸
 _____ July 15 ⁴ _____ 50th day before general election ⁹
 _____ January 15 ⁵ state and county officers ¹⁰
 _____ 30th day before primary election ⁶ _____ Amended report ¹¹
 _____ 8th day before primary election ⁷ _____
 (Specify type of report you are amending)

If no reportable activity occurred during this reporting period, indicate that fact below; you may then proceed directly to Part P-05 and complete the affidavit. If activity occurred, continue with Parts P-02, P-03, P-04, and P-05.

_____ NO REPORTABLE ACTIVITY OCCURRED DURING THIS REPORTING PERIOD.

See Reverse Side for Footnotes and Instructions

FOOTNOTES

1. There is no fee for filing this form. (Tex. Elec. Code Ann. sec. 251.003)
2. There should be no gap or overlap in the periods covered by the reports.
3. A political party that has accepted corporate or labor union contributions shall file the following reports that become due until the political party is no longer accepting corporate or labor union contributions and the acceptance and expenditure of all such funds has been reported. (Tex. Elec. Code Ann. sec. 257.003)

The beginning date of the period that the reports are to cover is the later of: the stated date, the day the political party began accepting corporate or labor union contributions, and the first day after the period covered by the last required report. (Texas Ethics Commission Rule)

4. This report covers the period beginning January 1 and continuing through June 30.
5. This report covers the period beginning July 1 and continuing through December 31.
6. This report covers the period beginning January 1 and continuing through the 40th day before the primary election.
7. This report covers the period beginning the 39th day before the primary election and continuing through the 10th day before the primary election.
8. This report covers the period beginning the 9th day before the primary election and continuing through the 10th day before the primary runoff election.
9. This report covers the period beginning July 1 and continuing through the 61st day before the general election for state and county officers.
10. A political party may not knowingly accept a contribution from a corporation or labor union, or make an expenditure of such funds, beginning on the 60th day before the date of the general election for state and county officers and continuing through the day of the election.
11. The filing of an amended report is an administrative procedure that may be used to correct a deficiency on a previously filed report. The filing of an amended report does not relieve the person responsible for filing the report of any criminal penalties or civil liabilities that may arise under the Act.

INSTRUCTIONAL NOTES

FILING DEADLINE. The deadline for filing a report is 5 p.m. on the last day permitted for filing the report. (Tex. Elec. Code Ann. sec. 254.037) Such report is timely filed if it is hand-delivered to the Texas Ethics Commission or is placed in first-class mail with the U.S. Post Office or with a common or contract carrier, properly addressed and with postage or handling charges prepaid, before the filing deadline. (Tex. Elec. Code Ann. sec. 251.007)

**POLITICAL PARTY CONTRIBUTIONS FROM
CORPORATIONS AND/OR LABOR UNIONS OTHER THAN LOANS**

Name of political party:

Date	Contributor: List full name, complete address	Amount of Contribution
TOTAL		

See Reverse Side for Instructions

INSTRUCTIONS

1. List all contributions from each corporation and/or labor union that in the aggregate exceed \$50 during this reporting period. Give the date of the contribution, the full name and complete address of each contributor, and the amount of the contribution. (Tex. Elec. Code Ann. secs. 254.031(a)(1), 257.003)
2. For contributions of goods, services, or any other thing of value (other than money) state what the contribution is and give an estimated market value of the contribution. (Tex. Elec. Code Ann. sec. 251.001(2))
3. Note that contributions aggregating \$50 or less from any one corporation and/or labor union accepted during this reporting period may also be listed individually on Part P-02, or the total amount of all such contributions must be reported on line 4, Part P-05 of this form. (Tex. Elec. Code Ann. secs. 254.031(a)(5), 257.003)
4. A contribution received but not accepted is not required to be reported but must be returned to the contributor not later than the 30th day after the deadline for filing the report that covers the period during which the contribution is received. If the determination to accept or refuse the contribution is not made by the end of the reporting period, the contribution is considered accepted and must be reported. (Tex. Elec. Code Ann. secs. 254.034, 257.003)

USE ONLY BLACK INK OR BLACK TYPEWRITER
RIBBON WHEN FILLING OUT THIS FORM

Complete: Pg. _____ of _____

**POLITICAL PARTY LOANS FROM CORPORATIONS
AND/OR LABOR UNIONS OTHER THAN FINANCIAL INSTITUTIONS**

Name of political party:						
(1) Full name and complete address of corporation and/or labor union making the loan. 2. Full name and complete address of guarantor, guarantor's principal occupation, and name of guarantor's employer if any.	(2) Description of collateral (if any)	(3) Date of loan	(4) Maturity date of loan	(5) Interest rate	(6) Amount of loan	(7) Amount of loan guaranteed by guarantor
TOTAL						

See Reverse Side for Instructions

INSTRUCTIONS

1. List all loans from each corporation, other than a financial institution, and/or labor union that in the aggregate exceed \$50 during this reporting period made to defray normal overhead and administrative or operating costs incurred by the party; or to administer a primary election or convention held by the party. Give the date of the loan; the full name of each corporation and/or labor union, other than a financial institution, making the loan; the full name and complete address of each guarantor of the loan, the principal occupation of each guarantor, and the name of the guarantor's employer; the amount of the loan guaranteed by each guarantor; the interest rate; the maturity date; and the type of collateral for the loan. (Tex. Elec. Code Ann. secs. 254.031(2), 257.003)
2. The full name and complete address of any corporation and/or labor union, other than a financial institution, making the loan should be reported in Column 1.
3. The full name and complete address of each guarantor, if any, the guarantor's principal occupation, and the name of the guarantor's employer should be reported in Column 1.
4. A description of the collateral securing the loan should be reported in Column 2.
5. The date the loan was made should be reported in Column 3.
6. The maturity date of the loan should be reported in Column 4.
7. The interest rate of the loan should be reported in Column 5.
8. The amount of the loan (not including interest) should be reported in Column 6.
9. That amount of the loan guaranteed by a guarantor, if any, should be reported in Column 7.
10. Note that loans aggregating \$50 or less from any one person, other than from a financial institution, made during this reporting period may also be listed individually on Part P-03, or the total amount of all such loans must be reported on line 4, Part P-05 of this form. (Tex. Elec. Code Ann. secs. 254.031(a)(5), 257.003)

POLITICAL PARTY EXPENDITURES

Name of political party:

Date	Payee or Creditor Full name, complete address	Purpose of Expenditure (see instructions)	Amount of Expenditure
TOTAL			

See Reverse Side for Instructions

INSTRUCTIONS

1. List all expenditures to each person that in the aggregate exceed \$50 made during this reporting period. Give the date of the expenditure, the full name and complete address of the person to whom the expenditure was made, the purpose of the expenditure, and the amount of the expenditure. (Tex. Elec. Code Ann. secs. 254.031(a)(3), 257.003)
2. Expenditures aggregating \$50 or less to any one person during this reporting period may be also listed individually on Part P-04, or the total amount of all such expenditures must be reported on line 9, Part P-05 of this form. (Tex. Elec. Code Ann. secs. 254.031(a)(5), 257.003)
3. An expenditure need not be considered to have been made until the amount is readily determinable or until the date of receipt of the periodic bill, if normal business practice is such that the amount is not disclosed until the date the next periodic bill is received. (Tex. Elec. Code Ann. sec. 254.035)

POLITICAL PARTY CONTRIBUTIONS AND EXPENDITURES TOTALS

Name of political party: _____

TOTALS

Contributions	Expenditures
1. Total contributions other than loans from, Part-02 (money or equivalent) \$ _____	6. Total from Expenditures, Part P-0 \$ _____
2. Total loans from corporations and labor unions other than financial institution, from Column 6, Part P-03 \$ _____	7. Total expenditures of \$50 and less, unless itemized \$ _____
3. Total contributions of \$50 and less, unless itemized (include loans of money from corporations and labor unions other than financial institutions) \$ _____	8. Total expenditures for this reporting period (add lines 6, 7, and 8) \$ _____
4. Total contributions for this reporting period (add lines 1, 2, and 3) \$ _____	
5. Total principal amount of loans excluding interest ¹ \$ _____	

Affidavit ²

State of Texas, County of _____

Before me, the undersigned authority, on this day personally appeared _____ who being known by me here and now duly sworn, upon oath or affirmation says: "I swear or affirm that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

TREASURER OF CANDIDATE IS
NOT AUTHORIZED TO SIGN

Signature of Candidate or Officeholder

Sworn to and subscribed before me, by the said _____ this _____ day of 19 ____ .

Signature of Officer administering oath ³

Printed name of Officer administering oath

See Reverse Side for Instructions

Printed title of Officer administering oath as listed in footnote 3 on reverse side

FOOTNOTE

1. Report the aggregate principal amount of all outstanding loans as of the last day of the reporting period. (Tex. Elec. Code Ann. sec. 254.031(a)(2))
2. This report must contain a properly executed oath. (Tex. Elec. Code Ann. sec. 254.036)
3. The following persons are some who can administer oaths, affidavits, or affirmations made within this state:
 - a. a judge, clerk, or commissioner of any court of record;
 - b. a notary public;
 - c. a justice of the peace; and
 - d. any member of any board or commission created by the laws of this state, in matters pertaining to the duties thereof. (V.T.C.S art. 26)

[graphic]

Issued in Austin, Texas, on April 30, 1992.

TRD-9206005 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: April 30, 1992

Expiration date: September 27, 1992

For further information, please call: (512)
463-5800

Chapter 7. Personal Financial Disclosure

Subchapter A. Disclosure Statements

Penalty for Late Filing

• 1 TAC §7.1

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §7.1, for a 60-day period effective May 12, 1992. The text of new §7.1 was originally published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 356).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206017 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 12, 1992

Expiration date: July 11, 1992

For further information, please call: (512)
463-5800

Expenditures Previously Reported

• 1 TAC §7.3

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §7.3, for a 60-day period effective July 1, 1992. The text of new §7.3 was originally published in the March 10, 1992, issue of the *Texas Register* (17 TexReg 1795).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206025 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 1, 1992

Expiration date: August 30, 1992

For further information, please call: (512)
463-5800

Subchapter B. Reporting Forms Financial Statement

• 1 TAC §7.51

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §7.51, for a 60-day period effective May 16, 1992. The text of new §7.51 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 567).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206018 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 16, 1992

Expiration date: July 15, 1992

For further information, please call: (512)
463-5800

Chapter 9. Advisory Opinions

• 1 TAC §§9.1, 9.3, 9.5, 9.7

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of the new §§9.1, 9.3, 9.5, and 9.7, for a 60-day period effective July 21, 1992. The text of the new §§9.1, 9.3, 9.5, and 9.7 was originally published in the March 31, 1992, issue of the *Texas Register* (17 TexReg 2317).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206026 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: July 21, 1992

Expiration date: September 19, 1992

For further information, please call: (512)
463-5800

Chapter 10. Registration and Regulation of Lobbyists

• 1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19, 10.21, 10.23, 10.25, 10.27, 10.29, 10.31, 10.33

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19, 10.21, 10.23, 10.25, 10.27, 10.29, 10.31, 10.33, for a 60-day period effective May 7, 1992. The text of new §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15, 10.17, 10.19, 10.21, 10.23, 10.25, 10.27, 10.29, 10.31, 10.33 was originally published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 356).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206027 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 7, 1992

Expiration date: July 6, 1992

For further information, please call: (512)
463-5800

• 1 TAC §10.34

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §10.34, for a 60-day period effective

May 15, 1992. The text of new §10.34 was originally published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 583).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206019 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 15, 1992

Expiration date: July 14, 1992

For further information, please call: (512)
463-5800

• 1 TAC §10.35

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §10.35, for a 60-day period effective May 23, 1992. The text of new §10.35 was originally published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 759).

Issued in Austin, Texas on April 30, 1992.

TRD-9206020 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 23, 1992

Expiration date: July 22, 1992

For further information, please call: (512)
463-5800

Chapter 15. Legislative Per Diem

• 1 TAC §15.1

The Texas Ethics Commission is renewing the effectiveness of the emergency adoption of new §15.1, for a 60-day period effective May 7, 1992. The text of new §15.1 was originally published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 365).

Issued in Austin, Texas, on April 30, 1992.

TRD-9206028 Jim Mathleson
Assistant General Counsel
Texas Ethics Commission

Effective date: May 7, 1992

Expiration date: July 6, 1992

For further information, please call: (512)
463-5800

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 25. Division of

Maintenance and Operations

Oversize and/or Overweight

Permits

• 43 TAC §25.62

The Texas Department of Transportation adopts on an emergency basis an amendment to §25.62, concerning permit issuance

requirements and procedures previously adopted on an emergency basis on March 26, 1992 (17 TexReg 2365). Subsection (f)(1)(B)(iv) is amended to clarify: that the department, its commissioners, and its employees will be named as additional insureds, instead of jointly and severally, with the shipper and permittee; that the policy limits are per occurrence instead of per incident; and that the policy is for comprehensive general liability insurance rather than for any and all liabilities. The rewording and clarification of this subsection is necessary to assure availability of insurance coverage to the shipper and permittee by conforming the language to standard insurance terms.

Adoption on an emergency basis is necessary in order to avoid impending adverse economic impact on the state's economy during a period when the public policy of state government is to foster, encourage, and enhance the state's economic growth and its continued recovery from depressed economic conditions and high unemployment rates of recent years.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Articles 6666 and 6701a, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the

conduct of the work of the Texas Department of Transportation, and specifically to issue permits for the movement of oversize and/or overweight loads over the state highway system.

§25.62. Permit Issuance Requirements and Procedures.

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

(f) General provisions.

(1) Multiple commodities.

(A) (No change.)

(B) When the transport of more than one commodity in a single load creates or makes greater an illegal dimension of length, width, or height the department may issue an oversize permit for such load subject to each of the following conditions.

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

(iv) The shipper and the permittee must file with the department a certificate of insurance on a form prescribed

by the department, or otherwise acceptable to the department, naming the department, its commissioners, officers, and employees as named or additional insureds on its comprehensive general liability insurance policy for coverage [jointly and severally] in the amount of \$5 million per occurrence, [incident for any and all liabilities] including court costs and attorney fees, if any, which may arise from the transport of an oversized load under a permit issued pursuant to this subparagraph. Said insurance policy to be procured from a company licensed to transact insurance business in the State of Texas.

(v)-(vii) (No change.)

(2)-(7) (No change.)

Issued in Austin, Texas, on April 30, 1992.

TRD-9205993

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: April 30, 1992

Expiration date: July 24, 1992

For further information, please call: (512) 463-8630



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 II. Texas Ethics Commission

Chapter 6. Campaign Financing

Subchapter B. Reporting Forms

• 1 TAC §6.13

(Editor's Note: The Texas Ethics Commission 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 Ethics Commission proposes new §6.13, concerning the form necessary for appointing a campaign treasurer by a candidate for state chair of a political party.

Jim Mathieson, assistant general counsel, 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. Mathieson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to comply with the reporting requirements of Title 15, Election 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 proposal may be submitted to Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752. Only written comments will be accepted.

The new section is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt forms for persons to comply with the reporting requirements of Title 15, Election 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 April 30, 1992.

TRD-9205998 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5800

• 1 TAC §6.14

(Editor's Note: The Texas Ethics Commission 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 Ethics Commission proposes new §6.14, concerning the form necessary for the reporting of contributions and expenditures by a candidate or officeholder for state chair of a political party.

Jim Mathieson, assistant general counsel, 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. Mathieson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to comply with the reporting requirements of Title 15, Election Code. 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 Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752. Only written comments will be accepted.

The new section is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt forms for persons to comply with the reporting requirements of Title 15, Election 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 April 30, 1992.

TRD-9206000 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5800

• 1 TAC §6.15

(Editor's Note: The Texas Ethics Commission 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 Ethics Commission proposes new §6.15, concerning the form necessary for designating a final report by a candidate for state chair of a political party.

Jim Mathieson, assistant general counsel, 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. Mathieson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to comply with the reporting requirements of Title 15, Election Code. 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 Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752. Only written comments will be accepted.

The new section is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt forms for persons to comply with the reporting requirements of Title 15, Election 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.

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TRD-9206002 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5800

• 1 TAC §6.17

(Editor's Note: The Texas Ethics Commission 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 Ethics Commission proposes new §6.17, concerning the form necessary for the reporting of contributions and expenditures by political parties accepting contributions from corporations and labor unions.

Jim Mathieson, assistant general counsel, 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. Mathieson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to comply with the reporting requirements of Title 15, Election Code. 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 Jim Mathieson, 1101 Camino La Costa, Austin, Texas 78752. Only written comments will be accepted.

The new section is proposed under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate and adopt forms for persons to comply with the reporting requirements of Title 15, Election 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 April 30, 1992.

TRD-9206004 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5800

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 64. Employers of Certain Temporary Common Workers

• 16 TAC §64.70

The Texas Department of Licensing and Regulation proposes an amendment to §64.70, concerning the rights and duties of a license holder under Texas Civil Statutes, Article 5221(a)-10, Employers of Certain Temporary Common Workers. The amendment addresses the concern that information collected as a part of the department's inspection or investigation remain privileged and confidential for the exclusive use of the department.

James D. Brush, director, policies and stan-

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

Mr. Brush, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be better enforcement of the statute. 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 James D. Brush, Director, Policies and Standards Division, Texas Department of Licensing and Regulation, P. O. Box 12157, 920 Colorado, Room 801, Austin, Texas 78711, (512) 463-7352.

The amendment is proposed under Texas Civil Statutes, Article 5221a-10, which provide the Texas Department of Licensing and Regulation with the authority to promulgate rules necessary to regulate the Employers of Certain Temporary Common Workers Act.

§64.70. *Rights and Duties of a License Holder.*

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

(d) The license holder must allow [the] department [and] representatives [of other governmental subdivisions], as part of an inspection or investigation, to enter the business premises during regular business hours and examine and copy any records that relate directly or indirectly to the inspection or investigation being conducted. The department [and] representatives [of other governmental subdivisions] may inspect all records, books, and documents, whether paper or electronic, pertaining to the business operation. **All information collected is privileged and confidential for the exclusive use of the department for the administration of the Act.**

(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 April 27, 1992.

TRD-9205963 Jack Garlon
Acting Executive Director
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: June 8, 1992

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

TITLE 22. EXAMINING BOARDS

Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 571. Licensing

Examinations

• 22 TAC §571.3

The Texas Board of Veterinary Medical Examiners proposes an amendment to §571.3, concerning eligibility of students to sit for the State Board Exam. This rule revision would allow senior veterinary students to sit for the State Board Examination during December rather than waiting until the spring examination.

Buddy Matthijetz, 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. Matthijetz 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 none. 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 Texas Board of Veterinary Medical Examiners, 1946 South IH 35, Suite 306, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.3. *Licensing Examinations Eligibility.*

(a) To be eligible to participate in the State Board licensing examination, applicants must be certified by the Dean of the College from which they are expected to graduate that they are in the final year [last 60 days] of their veterinary college education and are expected to graduate. In the absence of a diploma or transcript certifying award of the DVM degree, the Dean must submit a letter stating the applicant did in fact graduate before the applicant is eligible to obtain a license, providing all other requirements have been met.

(b) (No change.)

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

Issued in Austin, Texas, on May 1, 1992.

TRD-9206033 Buddy Matthijetz
Executive Director
Texas Board of Veterinary
Medical Examiners

Proposed possible date of adoption: June 11, 1992

For further information, please call: (512) 447-1183

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 403. Other Agencies and the Public

Subchapter P. Public Responsibility Committees

• 25 TAC §§403.441-403.454

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

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes the repeal of §§403.441-403.454, concerning public responsibility committees. The proposal of new Chapter 410, Subchapter A of this title, also concerning public responsibility committees, is proposed contemporaneously in this edition of the *Texas Register*.

The proposed new subchapter updates provisions related to the function of public responsibility committees at TXMHMR facilities and community centers, including membership and term requirements and exhibits. In addition, the PRC's relationship to abuse and neglect investigations has been restructured in anticipation of the transfer of investigatory responsibilities to the Texas Department of Protective and Regulatory Services, expected to occur September 1, 1992.

Leilani Rose, director, Office of Financial Services, has determined that for the first five-year period the repeals are in effect there will be no significant fiscal implications for state or local government as a result of administering the sections as proposed. Local economic impact is anticipated to be insignificant.

Peg Barry, director, Public Information and Volunteer Services, has determined that for each year of the first five years the repeals are in effect the public benefit is the adoption of the repeals providing for the establishment of an independent, impartial, third-party mechanism for protecting the rights of persons receiving services at TXMHMR facilities and community centers. There will be no effect on small businesses.

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

The repeals are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§403.441. *Purpose.*

§403.442. *Application.*

§403.443. *Definitions.*

§403.444. *Functions of the PRC.*

§403.445. *Membership.*

§403.446. *Meetings.*

§403.447. *Information Responsibilities.*

§403.448. *Investigatory Responsibilities.*

§403.449. *Routine Reporting Responsibilities.*

§403.450. *Confidentiality.*

§403.451. *Redress to Complaints.*

§403.452. *Exhibits.*

§403.453. *References.*

§403.454. *Distribution.*

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 May 4, 1992.

TRD-9206071

Anne K. Ulley
Chair
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 465-4670

Chapter 410. Volunteer Services and Public Information

Subchapter A. Public Responsibility Committees

• 25 TAC §§410.1-410.14

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§410.1-410.14 concerning public responsibility committees. The repeal of exist-

ing Chapter 403, Subchapter P, also concerning public responsibility committees, is proposed contemporaneously in this edition of the *Texas Register*.

The proposed new subchapter updates provisions related to the function of public responsibility committees at TXMHMR facilities and community centers, including membership and term requirements and exhibits. In addition, the PRC's relationship to abuse and neglect investigations has been restructured in anticipation of the transfer of investigatory responsibilities to the Texas Department of Protective and Regulatory Services, expected to occur September 1, 1992.

The new subchapter includes provisions which allow individuals considered affiliated with the department to become members of public responsibility committees after a one-year lapse of relationship with the facility or community center. The new subchapter also includes provisions which allow former employees to serve on public responsibility committees after a one-year break in employment (and with the approval of the facility superintendent/director or the director of the community MHMR center). In addition, unpaid consultants have been deleted from the list of parties considered affiliated.

Limitations on the number of terms an individual may serve on a public responsibility committee have been deleted from the proposed subchapter. A provision permitting a public responsibility committee member to be removed from the PRC at the request of the majority of the PRC has been added. Additionally, requirements have been added requiring PRC chairs to submit sign-in sheets from meetings and proof of training conducted to ensure accountability. Quarterly and annual report requirements have been revised.

Leilani Rose, director, Office of Financial Services, has determined that for the first five-year period the sections are in effect there will be no significant fiscal implications for state or local government as a result of administering the sections as proposed. Local economic impact is anticipated to be insignificant.

Peg Barry, director, Public Information and Volunteer Services, has determined that for each year of the first five years the sections are in effect the public benefit anticipated will be the adoption of rules providing for the establishment of an independent, impartial, third-party mechanism for protecting the rights of individuals receiving services at TXMHMR facilities and community centers. There will be no effect on small businesses.

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

The sections are proposed under Texas Civil Statutes, Article 5547-202, §2. 11, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

§410.1. *Purpose.* The purpose of this

subchapter is to clarify the responsibilities, procedures, obligations, and powers of public responsibility committees at all facilities and community MHMR centers of the Texas Department of Mental Health and Mental Retardation.

§410.2. Application. The provisions of this subchapter shall apply to all facilities of the Texas Department of Mental Health and Mental Retardation, including their community service and outpatient programs, and community mental health and mental retardation centers established pursuant to Texas Health and Safety Code, §534.001 et seq (Texas Civil Statutes, Article 5547-203).

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

Advocacy, Inc.—The system of advocacy in Texas for individuals with developmental disabilities and mental illness, created pursuant to Public Law 94-103, §113.

Board—The board of trustees appointed to govern a community mental health and mental retardation center.

Commissioner—The commissioner of the Texas Department of Mental Health and Mental Retardation.

Community MHMR center—A community center for mental health and mental retardation established pursuant to Texas Health and Safety Code, §§534.001 et seq (Texas Civil Statutes, Article 5547-203).

Department or TXMHMR—The Texas Department of Mental Health and Mental Retardation.

Facility—Any hospital, state school for individuals with mental retardation, state center, or other facility of the Texas Department of Mental Health and Mental Retardation and its respective outreach programs, or any organizational entity that may be hereafter made a part of the department.

Fiscal year—The period of time between the first day of September and the last day of the next August, inclusive.

Individual—Any person who seeks or receives services from a TXMHMR facility or community MHMR center.

Interdisciplinary team—A group of professionals and paraprofessionals who assess the individual's treatment, training, and habilitation needs and make recommendations for services.

Legally adequate consent—Consent given by a person or the person's legally authorized representative when each of the following conditions has been met:

(A) **Legal capacity**—The person giving the consent is 18 years of age or older and has not been adjudicated incompetent to manage personal affairs by an

appropriate court of law; is at least 16 years of age but under 18 years of age receiving voluntary mental health services and has not been adjudicated incompetent to manage personal affairs by an appropriate court of law; is the parent of a person served under 18 years of age who is not and has not been married or has not had disabilities of minority removed for general purposes; or is the guardian who, under court order, has been appointed guardian of the person of the individual.

(B) **Comprehension of information**—The person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks, and benefits of and alternatives to the procedures, and the fact that withholding or withdrawal of consent shall not prejudice any future provision of care and services to the individual.

(C) **Voluntariness**—The consent has been given voluntarily and free from coercion and undue influence.

Local authorizing agencies—Those agencies which have authorized community mental health and mental retardation centers as defined in Texas Health and Safety Code, §§534.001 et seq (Texas Civil Statutes Article 5547-203).

PRC—Public responsibility committee.

PRC log—The summary of investigations of correspondence received directly by the PRC. A sample PRC log is attached as Exhibit A.

Volunteer services council (VSC)—An organized group of volunteers which works for the betterment of persons served by the facility or community MHMR center with which it is associated.

§410.4. Functions of the PRC.

(a) The public responsibility committee (PRC) is an independent, impartial third-party mechanism whose functions shall include, but are not limited to, the following:

(1) protecting, preserving, promoting, and advocating for the health, safety, welfare, and legal and human rights of individuals;

(2) inquiring into or investigating and responding to comment, suggestions, or complaints made with regard to individuals;

(3) ensuring that individuals and, when appropriate, their families, are informed of their rights and the means of protecting those rights;

(4) participating in the individual's interdisciplinary team as the PRC deems appropriate (for individual's receiv-

ing mental health services, PRC participation in the interdisciplinary team shall be with the individual's permission only); and

(5) submitting instances of abuse or denial of rights to the appropriate authorities for action. The public responsibility committee, the Office of Consumer Services and Rights Protection, and the abuse investigator shall work together to ensure efficient and thorough investigation of allegations of abuse or neglect.

(b) Members of the PRC should be especially familiar with the facility or community MHMR center, its policies, the rights handbooks for persons receiving services, Chapter 404 of this title (relating to Protection of Clients and Staff), and Chapter 405 of this title (relating to Client (Patient) Care).

§410.5. Membership.

(a) Composition.

(1) Each facility or community MHMR center's PRC shall have a minimum of seven members. The membership shall include, but not be limited to, representation by parents, guardians, consumer groups, and advocacy organizations.

(2) Facilities may appoint a PRC representative in the locale of its community services or outreach programs.

(3) At the beginning of each fiscal year, the PRC shall elect one of its members as chairperson and another member as secretary.

(4) At no time shall a majority of any PRC membership be composed of relatives of individuals receiving services.

(b) **Eligibility.** Members of the PRC must:

(1) reside in the area served by the facility or community MHMR center;

(2) be capable of mature, objective judgment of medical, legal, social, and ethical considerations pertaining to the committee's work;

(3) not be an individual receiving services; and

(4) not be affiliated with the facility or community MHMR center. This includes employment, financial, or other relationship between a person and TXMHMR central office, a facility, community MHMR center, i.e., full- or part-time employee, former employee, member of a governing or advisory board or panel, paid consultant, contractor, or supplier, or a person related to any of such persons, such as spouse, parent, grandparent, sibling, child, or grandchild. Any such relation to the spouse of an employee, former employee, member of a governing or advisory board or

panel, consultant, contractor, or supplier is also considered an affiliation.

(A) After a one-year separation from employment, former employees may serve on public responsibility committees through the regular channels of becoming a member and with the approval of the facility superintendent/director or the executive director of the community MHMR center.

(B) After a one-year separation from affiliation, all other parties considered affiliated shall be permitted to serve on public responsibility committees through the regular channels of becoming a member.

(c) Selection of membership.

(1) The executive committee of each facility's volunteer services council shall ensure representation and consultation and select persons to serve voluntarily as members of the PRC. At community MHMR centers, the community MHMR center's local authorizing agencies will serve in this function. The selection process shall include:

(A) informing local parents' associations, consumer groups, and advocacy organizations of the selection process and time and place of meeting;

(B) inviting such groups to submit nominations for membership;

(C) giving public notice of the members selected.

(2) Members shall be chosen without regard to sex, race, color, creed, national origin, age, or handicap.

(d) Terms of appointment.

(1) Members shall be appointed to serve a two-year term. There is no limit on the number of terms served.

(A) Membership terms shall be staggered.

(B) Expiring terms shall extend until another member is appointed.

(2) A roster of all current PRC members will be maintained by the Office of Volunteer Services, central office, and may be forwarded to the advocacy system.

(e) Reimbursement. Members of a PRC shall serve without compensation other than reimbursement (by the facility or community MHMR center) for actual expenses, including travel expenses necessarily incurred in the performance of their duties.

(f) Training requirements. To obtain essential general knowledge of the facility or community MHMR center, members shall participate in training prior to assuming duties. Training shall be provided at convenient times and shall include, but not be limited to:

(1) at least one general orientation to the facility or community MHMR center and its volunteer policies; and

(2) additional specialized training related to their specific assignment as members of the PRC.

(g) Relationship to facility and community MHMR center staff.

(1) PRC members and staff should cooperate with each other to develop good working relationships, mutual acceptance, and cooperation.

(2) The facility or community MHMR center's rights protection officer shall serve as staff liaison to the public responsibility committee and shall:

(A) provide training in legal issues and issues relating to the rights of persons receiving services;

(B) coordinate PRC meetings;

(C) maintain the PRC log. The rights protection officer shall maintain confidentiality in all matters relating to receipt, investigation, and reporting of complaints by the PRC.

(3) The facility or community MHMR center's volunteer services department shall recruit and provide general training and orientation for PRC members, provide appropriate recognition, and maintain the PRC membership roster and submit changes. At community centers where there is no volunteer services department, the executive director of the community center shall appoint an individual to perform these tasks.

(4) The superintendent/director of a facility or the executive director of a community MHMR center may designate either the volunteer services department or the facility or center's rights protection officer to provide assistance to the PRC chair in ordering supplies from central office including PRC letterhead and log report forms. A sample sheet of PRC letterhead is attached as Exhibit B.

(5) The staff liaison shall maintain confidentiality in all matters relating to receipt, investigation, and reporting of complaints by the PRC.

(h) Removal from PRC.

(1) A member shall be removed from the PRC at the request of the majority of the PRC or for:

(A) failure to attend two consecutive meetings of the PRC in the absence of an acceptable reason;

(B) failure to participate in training; and

(C) failure to comply with the provisions of this subchapter.

(2) Such member may be removed by the executive committee of the facility's volunteer services council or the community MHMR center's local authorizing agencies, as appropriate.

(3) Replacement of the member shall be in accordance with this section.

§410.6. Meetings.

(a) The PRC shall meet as often as necessary to fulfill its duties, but not less than quarterly.

(b) The PRC shall determine the times and locations of its meetings. Meetings may be held via teleconference.

(c) A quorum of the committee (the majority of its total membership) must be present to conduct business. Votes shall be decided by a simple majority of members present.

(d) Facility or community MHMR center staff may attend a PRC meeting with the permission of the PRC.

(e) The PRC may invite other appropriate individuals to attend a meeting.

(f) The minutes of each PRC meeting shall be maintained by the chairperson in a permanent file.

§410.7. Information Responsibilities.

(a) Each facility and community MHMR center shall be responsible for informing individuals, their families, and the general public of the existence, purpose, and composition of the PRC. Each facility or community MHMR center shall accomplish this task by:

(1) distributing news releases to news media at least once a year, stressing the fact that the PRC is an independent, impartial body and that none of its members are affiliated with TXMHMR Central Office, the facility, or the community MHMR center, as applicable;

(2) publishing brief statements of PRC purpose and accessibility in periodic publications;

(3) posting printed notices conspicuously in all appropriate buildings; and

(4) including PRC information in handout materials routinely given to newly admitted individuals, their families, and new employees. A sample document which can be used to accomplish this task is attached as Exhibit C.

(b) Each PRC shall publish and distribute information related to its purpose and accessibility.

(c) Each PRC will respond to questions, comments, and suggestions related to its purpose.

(d) When appropriate, the PRC may assist an individual in securing legal counsel but may not offer any legal advice.

§410.8. Investigatory Responsibilities. Each facility or community MHMR center public responsibility committee (PRC) shall receive, investigate, and report complaints made to it by, or on behalf of, individuals and shall make recommendations to appropriate line authorities.

(1) Receipt of complaints. In order to facilitate the receipt of complaints, the PRC must have its own post office box. Rental fees must be paid by the facility's volunteer services council. Community MHMR center's may pay the rental fees if volunteer donations are not available.

(A) Complaints must be reduced to writing and should be signed.

(i) If a complainant is unable to sign or write, the complaint may be dictated and the complainant's mark confirmed by a witness.

(ii) A PRC member must reduce an oral complaint to writing and present it to the PRC.

(iii) A PRC member must reduce an anonymous complaint to writing and present it to the PRC.

(B) Complaints must be sent directly to the PRC and must be opened by a member of the PRC.

(C) Each PRC shall maintain confidential records of complaints received, acknowledge receipt of complaints, and inform the individuals and/or complainants of any action taken. A sample form which may be used to acknowledge receipt of complaints is attached as Exhibit D. A sample form which may be used to inform complainants of any action taken is attached as Exhibit E.

(E) The PRC shall record all

complaints received in the PRC log, a copy of which is attached as Exhibit A and made a part of this subchapter.

(2) Investigation of complaints. In investigating an allegation of denial of individual rights, the PRC shall initiate an investigation or inquiry within 10 calendar days of receipt of a complaint. In investigating a report of alleged abuse or neglect, the PRC shall immediately contact the abuse investigator for the facility or community MHMR center, whose responsibility it is to ensure that an abuse investigation is initiated. At facilities, the superintendent or director is responsible for reporting results of abuse investigations to the PRC in accordance with Chapter 404, Subchapter A of this title (relating to Abuse and Neglect in TXMHMR Facilities).

(A) Authority to interview. During an investigation, PRC members may interview the following persons, when appropriate:

- (i) the complainant;
- (ii) the individual, if other than the complainant;
- (iii) any other individual involved in the complaint as participant or observer;
- (iv) family members, guardians, and/or other representatives of the individual;
- (v) staff members; and
- (vi) nonstaff members (volunteers).

(B) Authority to inspect site. When investigating complaints of abuse or denial of rights, the PRC shall have the authority, with or without notice, to inspect the facility or community MHMR center which offers services to the individual.

(C) Authority to inspect records—mental retardation. When investigating complaints of abuse or denial of rights involving an individual with a primary or secondary diagnosis of mental retardation, the PRC shall have the authority, with or without notice, to inspect records relating to the diagnosis, evaluation, or treatment of the individual, as those records relate to the complaint.

(D) Authority to inspect records—mental health. PRC investigations of complaints of abuse or denial of rights of persons with a diagnosis of mental illness are considered evaluations of the abuse protection system of facility and community MHMR center programs. The PRC shall have access to the facility or community

MHMR center records relating to the treatment of the individual who has filed a complaint with the committee as those records relate to the complaint.

(E) Considerations during investigation. PRC members should observe the facility's or community MHMR center's established schedules and procedures during the investigation of any complaint.

§410.9. Routine Reporting Responsibilities.

(a) Membership changes. Within two weeks of the addition of any new member to the committee, the PRC shall submit to the Office of Volunteer Services, central office, the new member's name, address, date of appointment, and term expiration date.

(b) Quarterly report. The chairperson of the PRC shall maintain a PRC log. On a quarterly basis, the PRC chair shall submit a report which includes the PRC log, sign-in sheets from meetings, and proof of training conducted in the previous quarter.

(1) The quarterly report shall be submitted to:

(A) the Office of Consumer Services and Rights Protection, central Office;

(B) the facility superintendent/director or the community MHMR center's executive director;

(C) at community MHMR center's, the community MHMR center's board of trustees; and

(D) the facility or community MHMR center's rights protection officer (RPO), who shall meet with the PRC at least quarterly to discuss trends evidenced in the logs.

(2) For any authorized recipient of the log other than qualified auditing personnel within TXMHMR and the parties named in this paragraph and paragraphs (1) and (3) of this subsection, individual's and employee's names shall be obliterated.

(c) Annual report.

(1) The PRC shall make an annual report of its work, including:

(A) a complete membership roster, including names, addresses, dates of appointments, term expiration dates, and the PRC mailing address;

(B) dates of meetings and training (including sign-in sheets and proof

of training); and

(C) a completed annual report form. A sample copy of the annual report form is attached as Exhibit F.

(2) The report shall be submitted no later than October 30 of each year to:

(A) the facility's superintendent/director of the community MHMR center's executive director;

(B) the commissioner and the commissioner's designee (Office of Consumer Services and Rights Protection); and

(C) Advocacy, Inc., 7800 Shoal Creek Boulevard, Suite 171 E, Austin, Texas 78757.

§410.10. Confidentiality.

(a) To assure compliance with the legal requirements of confidentiality relating to matters concerning persons served, no individual member of the PRC or the PRC as a whole shall make statements regarding either a complaint or an investigation except to other PRC members, the complainant, facility and community center staff, abuse investigators, the Office of Consumer Services and Rights Protection, and Advocacy, Inc., unless legally adequate consent is obtained for the release of the information held by the PRC. A sample form which may be used to secure legally adequate consent is attached as Exhibit G.

(b) Written records may be reviewed by qualified auditing personnel within TXMHMR (e.g., quality assurance staff, internal audit staff).

§410.11. *Redress to Complaints.* The responsibility to provide redress to justifiable complaints shall not lie with the PRC.

(1) The superintendent or director shall take such corrective action as is appropriate and report the action to the PRC.

(2) If no corrective action is taken, or if the PRC believes the corrective action taken is insufficient or inappropriate, the PRC may file an appeal.

(A) At facilities, the written appeal should be filed with the commissioner.

(B) At community MHMR centers, the written appeal should be filed with the board, with a copy of the appeal sent to the Office of Consumer Services and

Rights Protection, central office, TXMHMR.

§410.12. *Exhibits.* The following exhibits are referred to in this subchapter:

- (1) Exhibit A--PRC log;
- (2) Exhibit B--Stationery;
- (3) Exhibit C--Notice of the Existence of the PRC;
- (4) Exhibit D--Acknowledgment or Receipt of Complaint;
- (5) Exhibit E--Notice of Any Action Taken;
- (6) Exhibit F--Annual Report Form;
- (7) Exhibit G--Format for Informed Consent.

§410.13. *References.* Reference is made to the following statutes and rules of the department:

- (1) Chapter 404 of this title (relating to Protection of Clients and Staff). (See especially Chapter 404, Subchapter A of this title relating to Abuse and Neglect in TXMHMR Facilities);
- (2) Chapter 405 of this title (relating to Client (Patient) Care);
- (3) Texas Health and Safety Code, §576.005 (Texas Civil Statutes, Article 5547-87);
- (4) Texas Health and Safety Code, §611.004 (Texas Civil Statutes, Article 5561(h));
- (5) Texas Health and Safety Code, §§532.001 et seq (Texas Civil Statutes, Article 5547-202).
- (6) Texas Health and Safety Code, §§534.001, et seq (Texas Civil Statutes, Article 5547-203).
- (7) Texas Health and Safety Code, §534.052 (Texas Civil Statutes, Article 5547-204, §4.01).
- (8) Texas Health and Safety Code, §596.002 and §596.004 (Texas Civil Statutes, Article 5547-300, §§50 and 60).

§410.14. *Distribution.*

(a) The provisions of this subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation; deputy commissioners; associate and assistant deputy commissioners; and directors of central office; superintendents and directors of all TXMHMR facilities and community MHMR centers; chairpersons of boards of trustees of community MHMR centers; directors of volunteer services; and chairpersons of all facility

and community MHMR center public responsibility committees.

(b) The superintendent or director of each facility and community MHMR center shall disseminate the information contained in this subchapter to all appropriate staff members and volunteers.

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 May 4, 1992.

TRD-9206070 Anne K. Utley
Chair
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 465-4670

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TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 19. Agents Licensing

Subchapter R. Utilization Review Agents

• 28 TAC §§19.1701-19.1719

The State Board of Insurance of the Texas Department of Insurance proposes new §§19.1701-19.1719, concerning health care utilization review agents. The new sections are necessary to provide procedures for regulating the activities of utilization review agents, and to implement the provisions of the Insurance Code, Article 21.58A. New §19.1701 contains general provisions and describes the purpose of the rules. Section 19.1702 describes the limitations on applicability of the act and §19.1703 contains definitions of certain terms used in the regulations. Section 19.1704 describes the process for obtaining certification as a utilization review agent. Section 19.1705 describes the general standards for utilization review and §19.1706 describes the standards for personnel who conduct utilization reviews and their compensation. Section 19.1707 prohibits certain activities of utilization review agents. Section 19.1708 describes the manner in which utilization review agents may have contact with health care providers and the way in which utilization review agents receive information from those providers. Section 19.1709 describes certain procedures to be followed by utilization review agents when conducting on-site utilization reviews. Section 19.1710 describes the manner in which utilization review agents must give notice of determinations. Section 19.1711 sets out the requirements for affording health care providers a reasonable opportunity to discuss the services with appropriate professionals prior to the issuance of an adverse determination, and §19.1712 sets out the requirements for appeal proce-

dures for adverse determinations which are to be maintained by the utilization review agent. Section 19.1713 describes the manner in which the utilization review agent must assure telephone access to the agent. Section 19.1714 describes the requirements for the utilization review agent to preserve the confidentiality of individual medical records. Section 19.1715 describes the requirements for retrospective review of medical necessity. Section 19.1716 sets out the requirements for a utilization review agent complaint system, describes the Texas Department of Insurance complaint process for complaints alleging a violation of the act governing utilization review agents, the Insurance Code, Article 21.58A, or these rules, describes the authority of the Texas Department of Insurance to make inquiries of utilization review agents, requires the commissioner to maintain a list of utilization review agents and provides for on site review by the Texas Department of Insurance. Section 19.1717 describes the sanctions for administrative violations and the procedures for initiating proceedings and appeals related to allegations of those violations. Section 19.1718 describes the criminal penalties for performing utilization review without a certificate of registration. Section 19.1719 sets forth the responsibilities of HMOs and insurers performing utilization review under the Insurance Code, Article 21.58A, §14(g) and (h).

Rhonda Myron, deputy commissioner for the life group, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on the local employment or local economy. Hospitals run by local governments will be affected, however, to the same extent as other hospitals as described in paragraph as follows.

Ms. Myron, also has determined that for the first five years the proposed sections are in effect the benefit to the public will be the implementation of regulation of utilization review agents to carry out the purposes of the Insurance Code, Article 21.58A and these rules. The cost to utilization review agents for the first five-year period the proposed sections are in effect is anticipated to be \$3,892 for the licensing fees set forth in 28 TAC §19.802. Application costs for new utilization review agents are anticipated to be \$600-\$750. Application costs for existing utilization review agents are anticipated to be \$35-\$50. Renewal costs are anticipated to be \$35-\$50 in addition to the licensing fee. The following are additional anticipated costs for procedures required by the statutes and rules which may not currently be a part of the practice of utilization review agents: \$40 per call for the opportunity for review prior to adverse determinations; \$50-\$100 per year for the orientation of certain personnel required by these rules if those personnel are utilized for utilization review services; and \$400 per year for the cost of obtaining medical records. It is anticipated that third party administrators will have the same costs as utilization review agents except for the cost of medical records. There will be minimal incremental costs for health maintenance organizations as most of

these organizations are already complying with these rules as they apply to health maintenance organizations. The costs for insurers are anticipated to be the same as those for utilization review agents except that insurers will not have to pay the licensing fees.

Comments on the proposal to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Rhonda Myron, Deputy Commissioner for Life Group, Mail Code 106-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The new sections are proposed under the Insurance Code, Articles 21.58A and I. 04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.58A, §13 grants the board authority to adopt rules and regulations to implement the provisions of Article 21.58A relating to health care utilization review agents. Article I.04(b) authorizes the board to determine rules. Texas Civil Statutes, Article 6252-13a, §4 and §5, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and prescribe the procedures for adoption of rules by a state administrative agency.

§19.1701. General Provisions.

(a) Statutory basis. This subchapter implements the provisions of the Insurance Code, Article 21.58A which was added by Acts 1991, 2nd Legislature, Chapter 242, §11.03(a), which was effective September 1, 1991, but applies only to utilization reviews conducted on or after June 1, 1992.

(b) Severability. Where any terms or sections of this subchapter are determined by a court of competent jurisdiction to be inconsistent with any statutes of this state, or to be unconstitutional, the remaining terms and provisions of this subchapter shall remain in effect.

(c) Purpose. The purpose of these rules is to:

(1) promote the delivery of quality health care in a cost-effective manner, including protection of patient safety;

(2) assure that utilization review agents adhere to reasonable standards for conducting utilization reviews;

(3) foster greater coordination and cooperation between health care providers and utilization review agents;

(4) improve communications and knowledge of benefits among all parties concerned before expenses are incurred; and

(5) ensure that utilization review agents maintain the confidentiality of medical records in accordance with applicable law.

§19.1702. Limitations on Applicability.

(a) Except as noted in §19.1719 of this subchapter (relating to Responsibility of HMOs and Insurers Performing Utilization Review Under the Insurance Code, Article 21.58A, §14, Paragraphs (g) and (h)), all utilization review agents performing utilization reviews of services provided or proposed to be provided to an individual within the state on or after June 1, 1992, regardless of where the utilization review activities are physically based, must comply with this subchapter. All regulations in this subchapter shall relate to persons or entities subject to this subchapter.

(b) Insurers and HMOs are not required to obtain a certificate of registration, but must comply with §19.1719 of this subchapter. (Source: Based upon the Act, §14(g)(h)(i)). However, an insurer or HMO which performs utilization review for a person other than the one for which it is the payor is required to obtain a certification of registration.

(c) This subchapter does not apply to a utilization review agent or other person which conducts only the functions of categories of utilization review listed in subparagraphs (1)-(3) of this subsection. (Source: Based upon the Act, §14(a)-(e)).

(1) A person who provides information to enrollees about scope of coverage or benefits provided under a health insurance policy or health benefit plan and who does not determine whether particular health care services provided or to be provided to an enrollee are medically necessary or appropriate.

(2) A person performing utilization review who is employed by, or under contract to, a certified utilization review agency.

(3) A utilization review agency which conducts only the categories of utilization review listed in subparagraphs (A)-(E):

(A) Reviews performed pursuant to any contract with the federal government for utilization review of patients eligible for services under Title XVIII or XIX of the Social Security Act (42 United States Code, §1395 et seq or §1396 et seq);

(B) reviews performed for the Texas Medicaid Program, the chronically ill and disabled children's services program created pursuant to Chapter 35, Health and Safety Code, any program administered under Title 2, Human Resources Code, any program of the Texas Department of Mental Health and Mental Retardation, or any program of the Texas Department of Criminal Justice;

(C) reviews of health care services provided to patients under the authority of the Texas Workers' Compensation Act (Texas Civil Statutes, §8308-1.01 et seq);

(D) reviews of health care services provided under a policy or contract of automobile insurance promulgated by the department under the Insurance Code, Subchapter A, Chapter 5 or issued pursuant to the Insurance Code, §1.14;

(E) reviews of health care services performed directly by the plan sponsor who established or maintains an employer welfare benefits plan provided under the terms or benefits of employee welfare plans as defined in §31(I) of the Employer Retirement Income Security Act 1974 (29 United State Code, §1002).

§19.1703. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Act—Insurance Code, Article 21.58A, entitled Health Care Utilization Review Agents.

Administrative procedure act—Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

Administrator—A person holding a certificate of authority under the Insurance Code, Article 21.07-6.

Adverse determination—A determination by a utilization review agent that the health care services furnished or proposed to be furnished to a patient are not medically necessary or not appropriate in the allocation of health care resources.

Board—The State Board of Insurance
Certificate—A certificate of registration granted by the board to a utilization review agent.

Commissioner—The commissioner of insurance

Department—Texas Department of Insurance

Dental plan—An insurance policy or health benefit plan, including a policy written by a company subject to the Insurance Code, Chapter 20, that provides coverage for expenses for dental services.

Dentist—A licensed doctor of dentistry, holding either a D. D.S. or a D.M.D. degree.

Emergency care—Bona fide emergency services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(A) placing the patient's health in serious jeopardy;

(B) serious impairment to bodily functions; or

(C) serious dysfunction of any bodily organ or part.

Enrollee—A person covered by a health insurance policy or plan. This term includes a person who is covered as an eligible dependent of another person.

Health benefit plan—A plan of benefits that defines the coverage provisions for health care for enrollees offered or provided by any organization, public or private, other than health insurance.

Health care provider—Any person, corporation, facility, or institution licensed by a state to provide or otherwise lawfully providing health care services that is eligible for independent reimbursement for those services.

Health insurance policy—An insurance policy, including a policy written by a company subject to the Insurance Code, Chapter 20, that provides coverage for medical or surgical expenses incurred as a result of accident or sickness.

Nurse—A professional or registered nurse, a licensed vocational nurse, or a licensed practical nurse.

Open records law—Chapter 424, Acts of the 63rd legislature, Regular Session, 1973 (Texas Civil Statutes, Article 6252-17a).

Patient—An enrollee or an eligible dependent of the enrollee under a health benefit plan or health insurance plan.

Payor—An insurer writing health insurance policies; any preferred provider organization, health maintenance organization, self-insurance plan; or any other person or entity which provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits to persons treated by a health care provider in this state pursuant to any policy, plan, or contract.

Person—An individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

Physician—A licensed doctor of medicine or a doctor of osteopathy.

Provider of record—The physician or other health care provider that has primary responsibility for the care, treatment, and services rendered to the enrollee and includes any health care facility when treatment is rendered on an inpatient or outpatient basis.

Screening criteria—The written policies, decision rules, medical protocols, or guides used by the utilization review agent as part of the utilization review process (e.g., Appropriateness Evaluation Protocol

(AEP) and Intensity of Service, Severity of Illness, Discharge, and Appropriateness Screens (ISD-A)).

Utilization review—A system for prospective or concurrent review of the medical necessity and appropriateness of health care services being provided or proposed to be provided to an individual within the state. Utilization review shall not include elective requests for clarification of coverage.

Utilization review agent—An entity that conducts utilization review for an employer with employees in this state who are covered under a health benefit plan or health insurance policy; a payor; and/or an administrator.

Utilization review plan—The screening criteria and utilization review procedures of a utilization review agent.

Working day—A weekday, excluding New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

§19.1704. Certification of Utilization Review Agents.

(a) An application for certification of a utilization review agent must be filed with the Texas Department of Insurance at the following address: Texas Department of Insurance, Mail Code 107-1A, P.O. Box 300105, Dallas, Texas 75303-0105.

(b) The application must be submitted on a form which can be obtained from the Agents License Section, Mail Code 107-1A, Texas Department of Insurance, 333 Guadalupe, P. O. Box 149104, Austin, Texas 78714-9104.

(c) The attachments to the application form require the following information:

(1) a summary of the Utilization Review Plan which must include the matters listed in subparagraphs (A) and (B) of this paragraph. The Utilization Review Plan must meet the requirements of §19.1705 of this subchapter (relating to General Standards of Utilization Review);

(A) an adequate summary description of screening criteria and review procedures to be used to determine medical necessity and appropriateness of health care; and

(B) assurance that screening criteria and review procedures to be applied in review determination are established with input from appropriate health care providers and approved by physicians;

(2) copies of procedures established for appeal of an adverse determination. These procedures must comply with the provisions of §19.1712 of this subchapter (relating to Adverse Determina-

tions of Utilization Review Agents) ;

(3) copies of procedures established for handling complaints by enrollees, patients, or health care providers. These procedures must comply with §19.1716 of this subchapter (relating to Complaints and Information);

(4) copies of policies and procedures which ensure that all applicable state and federal laws to protect the confidentiality of medical records are followed. These procedures must comply with §19.1714 of this subchapter (relating to Confidentiality);

(5) a certification that the utilization review agent will comply with the provisions of the Act;

(6) a description of the categories of persons employed to perform utilization review;

(7) copies of policies and procedures for orientation and training of personnel who perform utilization review who are not physicians, dentists, nurses, physicians assistants, registered records administrators, or accredited record technicians as addressed in §19.1706 of this subchapter (relating to Personnel);

(8) a description of the hours of operation within the State of Texas and how the utilization review agent may be contacted during weekends and holidays. This description must be in compliance with §19.1713 of this subchapter (relating to Telephone Access);

(9) representative samples of all materials provided by the utilization review agent/applicant to inform its clients, enrollees, or providers of the requirements of the Utilization Review Plan;

(10) a description of the basis by which utilization review agent compensates its employees or agents to ensure compliance with paragraph (11) of this subsection;

(11) a certification that the utilization review agent shall not permit or provide compensation or anything of value to its employees or agents, condition employment or its employee or agent evaluations, or set its employee or agent performance standards, based on the amount or volume of adverse determinations, reductions or limitations on lengths of stay, benefits, services, or charges or on the number or frequency of telephone calls or other contacts with health care providers or patients, which are inconsistent with the provisions of this subchapter. (Source: Subsection (c) is based upon the Act, §3(e)).

(d) The utilization review agent shall report any material changes in the information in the application or renewal form referred to in this section, not later than the 30th day after the date on which

the change takes effect. (Source: Subsection (d) is based upon the Act, §3(g)).

(e) The application process is described in paragraphs (1)-(6) of this subsection.

(1) The department shall have 30 days after receipt of an application to determine whether the application is complete. In the event that an application is found to be incomplete, the department will give the applicant written notice of the required information necessary to complete the application. If the application is complete, the applicant will be advised that the application has been received and accepted for review.

(2) The department shall have 60 days from the date the application is determined to be complete pursuant to paragraph (1) of this subsection to process the application and approve or disapprove it. The department shall give the applicant written notice of any deficiencies noted as a result of the review conducted pursuant to this paragraph.

(3) The department shall afford the applicant an opportunity for a meeting to discuss any omissions or deficiencies noted.

(4) The applicant must correct the omissions or deficiencies in the application within 30 days of the date of the department's latest notice of such omissions or deficiencies. If the applicant fails to do so, the application file will be closed as an incomplete application. The application fee will not be refundable.

(5) The applicant may waive any of the time limits described in this subsection, except in paragraph (4). The applicant may waive the time limit in paragraph (4), of this subsection, only with the consent of the department.

(6) The department shall maintain an application file which shall contain the application, notices of omissions or deficiencies, responses and any written materials generated by any person that was considered by the department in evaluating the application.

(f) A utilization review agent must apply for license renewal every two years, not later than March 1. A renewal form must be used for this purpose. The renewal fee must be submitted with the renewal form. The renewal form can be obtained from the Agents License Section at the address listed in subsection (b) of this section. The completed renewal form and the renewal fee must be submitted to the department at the address listed in subsection (a) of this section. A utilization review agent may continue to operate under its license after a completed renewal application form and the renewal fee has been timely re-

ceived by the department until the renewal is finally denied or issued by the department. If a completed renewal application and fee is not received prior to March 1 of the year in which the license must be renewed, the license will automatically be cancelled and the utilization review agent must complete and submit a new application form with the new application fee for another certificate of registration.

(g) If an application or renewal is initially denied under this section, the applicant or registrant may appeal such denial under the terms of the provisions of Chapter 1, Subchapter A of this title (relating to Rules of Practice and Procedure) and Texas Civil Statutes, Article 6252-13a, (Administrative Procedure and Texas Register Act). A hearing of such appeal shall be conducted within 45 days of the date the petition for such hearing is filed with the commissioner. A decision by the commissioner shall be rendered within 60 days of the date of the hearing.

(h) Applications which are filed on or before December 31, 1992, will be processed on a first in, first out basis by the department. The timelines set out for processing applications in subsections (d) and (e) of this section, will not apply to these applications.

(i) Entities which were operating in Texas as utilization review agents prior to June 1, 1992, must file the application described in subsections (a), (b), and (c) of this section, by June 1, 1992. Those entities may continue to operate as utilization review agents pending review of the application unless they are advised in writing that the application has been disapproved, or closed as an incomplete application as described in subsection (e) of this section. No entity may continue to operate after 15 days from the date of the notice of the denial or closure of the file.

(j) An applicant for a Certificate of Registration as a Utilization Review Agent must provide evidence that the applicant:

(1) has available the services of physicians, nurses, physician's assistants, registered records administrators, accredited records technicians, or individuals who have received formal orientation and training in accordance with policies established by the utilization review agent and filed with the Commissioner of Insurance to carry out its utilization review activities in a timely manner;

(2) meets any applicable provisions of these rules and regulations relating to the qualifications of the utilization review agents or the performance of utilization review;

(3) has policies and procedures which protect the confidentiality of medical

records in accordance with applicable state and federal laws;

(4) make itself accessible to patients and providers 40 working hours a week during normal business hours in this state in each time zone in which it operates.

§19.1705. General Standards of Utilization Review. The utilization review plan, including reconsideration and appeal requirements, shall be reviewed by a physician and conducted in accordance with standards developed with input from appropriate health care providers and approved by a physician. The utilization review plan shall include the following components:

(1) a description of the elements of review which the utilization review agent provides such as:

(A) prospective review;

(i) hospital admission;

(ii) procedures (such as surgical and non surgical procedures);

(iii) courses of outpatient treatment;

(B) second surgical opinion;

(C) discharge planning;

(D) concurrent review;

(E) readmission review; and

(F) continued stay authorization;

(2) written procedures for:

(A) notification of the utilization review agent's determinations provided to the enrollee, a person acting on behalf of the enrollee, or the enrollee's provider of record as addressed in §19.1710 of this subchapter (relating to Notice of Determinations Made by Utilization Review Agents);

(B) appeal of an adverse determination and a copy of any forms used during the appeal process, as required by §19.1711 and §19.1712 of this subchapter (relating to Requirements Prior to Adverse Determination and Appeal of Adverse Determinations of Utilization Review Agents);

(C) receiving or redirecting a toll-free normal business hour and after-hour calls, either in person or by recording, and assurance that a toll-free number will be maintained 40 hours per week during

normal business hours as addressed in §19.1713 of this subchapter (relating to Utilization Review Agent's Telephone Access);

(D) review including:

(i) any form used during the review process;

(ii) time frames that shall be met during the review;

(E) handling of written complaints by enrollees, patients, or health care providers as addressed in §19.1716(a) of this subchapter (relating to Complaints and Information);

(F) determining if physicians or other health care providers utilized by the utilization review agent are licensed, qualified, and appropriately trained;

(G) orientation and training of personnel who perform utilization review, who are not physicians or dentists, nurses, physicians assistants, registered records administrators, or accredited records technicians;

(H) assuring that patient-specific information obtained during the process of utilization review, as addressed in §19.1714 of this subchapter (relating to Confidentiality), will be:

(i) kept confidential in accordance with applicable federal and state laws;

(ii) used solely for the purposes of utilization review, quality assurance, discharge planning, and catastrophic case management;

(iii) shared with only those agencies (such as the claims administrator) who have authority to receive such information; and

(iv) summary data shall not be considered confidential if it does not provide sufficient information to allow identification of individual patients;

(I) notifying health care providers of any intended publication of quality review studies or performance tracking studies;

(3) screening criteria. Each utilization review agent shall utilize written medically acceptable screening criteria and review procedures which are established and periodically evaluated and updated with appropriate involvement from the physicians, including practicing physicians, and other health care providers. Such written

screening criteria and review procedures shall be available for review and inspection by the commissioner or his or her designated representative and copying as necessary for the commissioner to carry out his or her lawful duties under the Insurance Code, provided, however, that any information obtained or acquired under the authority of these rules and the Act, is confidential and privileged and not subject to the open records law or subpoena except to the extent necessary for the board or commissioner to enforce these rules and the Act. (Source: Based upon the Act, §4(i));

(4) utilization review decisions. Utilization review decisions shall be made in accordance with accepted current medical criteria that are established, taking into account special circumstances of each case that may require a deviation from the norm stated in the medical criteria. Criteria must be objective, clinically valid, compatible with established principles of health care, and flexible enough to allow deviations from the norms when justified on a case-by-case basis. Screening criteria must be used only to determine whether to certify the requested treatment, or to refer the request to the appropriate physician, dentist, or another health care provider to determine medical necessity;

(5) delegation of review. Provide circumstances, if any, under which the utilization review agent may delegate the review to a hospital utilization review program.

§19.1706. Personnel.

(a) Personnel employed by or under contract with the utilization review agent to perform utilization review shall be appropriately trained and qualified and if applicable, currently licensed. Personnel who obtain information directly from the physician, dentist or health care provider, either orally or in writing, and who are not physicians or dentists, shall be nurses, physicians assistants, registered records administrators, or accredited records technicians, who are either licensed or certified, or shall be individuals who have received formal orientation in accordance with policies and procedures established by the utilization review agent to assure compliance with this section, and a description of such policies and procedures shall be filed with the application referred to in §19.1704 of this subchapter (relating to Certification of Utilization Review Agents). This provision shall not be interpreted to require such qualifications for personnel who perform clerical or administrative tasks. (Source: Based upon the Act, §4(c)).

(b) A utilization review agent may not permit or provide compensation or any thing of value to its employees or agents,

condition employment or its employee or agent evaluations, or set its employee or agent performance standards, based on the amount or volume of adverse determinations, reductions or limitations on lengths of stay, benefits, services, or charges or on the number or frequency of telephone calls or other contacts with health care providers or patients, which are inconsistent with the provisions of this subchapter. (Source: Based upon the Act, §4(f)).

(c) The utilization review agent is required to provide the number, type and minimum qualification or qualifications of the personnel either employed or under contract to perform the utilization review to the commissioner. Utilization review agents shall be required to adopt written procedures used to determine if physicians or other health care providers utilized by the utilization review agent are licensed, qualified, and appropriately trained, and must maintain records on such.

(d) Utilization review conducted by a utilization review agent shall be under the direction of a physician current licensed to practice medicine by a state licensing agency in the United States. (Source: the Act, §4(h)).

(e) Utilization review dental plans shall be reviewed by a dentist currently licensed by a state licensing agency in the United States.

§19.1707. Prohibitions of Certain Activities of Utilization Review Agents.

(a) A utilization review agent may not engage in unnecessary or unreasonably repetitive contacts with the health care provider or patient and shall base the frequency of contacts or reviews on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity. (Source the Act, §4(j)).

(b) A utilization review agency shall not set or impose any notice or other review procedures contrary to the requirements of the health insurance policy or health benefit plan. (Source: the Act, §4(d)).

§19.1708. Utilization Review Agent Contact with and Receipt of Information from Health Care Providers.

(a) A health care provider may designate one or more individuals as the initial contact or contacts for utilization review agents seeking routine information or data. In no event shall the designation of such an individual or individuals preclude a utilization review agent or medical advisor from contacting a health care provider or others in his or her employ where a review might otherwise be unreasonably delayed or where the designated individual is unable to provide the necessary information or data re-

quested by the utilization review agent. (Source: the Act, §4(g)).

(b) Unless precluded or modified by contract, a utilization review agent shall reimburse health care providers for the reasonable costs for providing medical information in writing, including copying and transmitting any requested patient records or other documents. A health care provider's charge for providing medical information to a utilization review agent shall not exceed the cost of copying set by rules of the Texas Workers Compensation Commission for records and may not include any costs that are otherwise recouped as a part of the charge for health care. (Source: the Act, §4(1)).

(c) When conducting routine utilization review, the utilization review agent shall collect only the information necessary to certify the admission, procedure or treatment and length of stay.

(1) Utilization review agents shall not routinely require hospitals and physicians to supply numerically codified diagnoses or procedures to be considered for certification. Utilization review agents may ask for such coding, since if it is known, its inclusion in the data collected increases the effectiveness of the communication.

(2) Utilization review agents shall not routinely request copies of medical records on all patients reviewed. During prospective and concurrent review, copies of medical records should only be required when a difficulty develops in certifying the medical necessity or appropriateness of the admission or extension of stay. In those cases, only the necessary or pertinent sections of the record should be required.

(d) Information in addition to that described in this section may be requested by the utilization review agent or voluntarily submitted by the provider, when there is significant lack of agreement between the utilization review agent and health care provider regarding the appropriateness of certification during the review or appeal process. "Significant lack of agreement" means that the utilization review agent:

(1) has tentatively determined, through its professional staff, that a service cannot be certified;

(2) has referred the case to a physician for review; and

(3) has talked to or attempted to talk to the attending physician for further information.

(e) The utilization review agent should share all clinical and demographic information on individual patients among its various divisions (e.g., certification, discharge planning, case management) to

avoid duplicate requests for information from enrollee or providers.

§19.1709. On-Site Review by the Utilization Review Agent.

(a) Unless approved for an individual patient by the provider of record or modified by contract, a utilization review agent shall be prohibited from observing, participating in, or otherwise being present during a patient's examination, treatment, procedure, or therapy. In no event shall this section otherwise be construed to limit or deny contact with a patient for purposes of conducting utilization review unless otherwise specifically prohibited by law. (Source: the Act, §4(e)).

(b) Utilization review agents' staff shall identify themselves by name and by the name of their organization and, for on-site reviews, should carry picture identification and the utilization review company identification card with the certificate number assigned by the Texas Department of Insurance. Utilization review agents should assure that their on-site review staff register with the appropriate contact person, if available, prior to requesting any clinical information or assistance from hospital staff and wear appropriate hospital supplied identification tags while on the premises. Utilization review agents shall agree, if so requested, that the medical records remain available in the designated areas during the on-site review and that reasonable hospital administrative procedures shall be followed by on-site review staff so as to not disrupt hospital operations or patient care. Such procedures, however, should not obstruct or limit the ability of the utilization review agent to efficiently conduct the necessary review on behalf of the patient's health benefit plan.

§19.1710. Notice of Determinations Made by Utilization Review Agents. (Source: the Act, §5).

(a) A utilization review agent shall notify the enrollee, a person acting on behalf of the enrollee, or the enrollee's provider of record of a determination made in a utilization review.

(b) Except in the case of adverse determinations which are addressed in subsection (c)(2) of this section, the notification required by this section must be mailed or otherwise transmitted not later than two working days after the date of the request for utilization review and all medical information necessary to substantiate the need for the treatment of service recommended is received by the agent.

(c) Notification of adverse determination by the utilization review agent must include:

(1) the principal reasons for the adverse determination;

(2) a description or the source of the screening criteria that were utilized as guidelines in making the determination; and

(3) a description of the procedure for appeal.

(d) The adverse determination notification must be provided:

(1) within one working day by telephone or electronic transmission to the provider of record in the case of a patient who is hospitalized at the time of the adverse determination; or

(2) within three working days in writing to the provider of record and the patient if the patient is not hospitalized at the time of the adverse determination.

§19.1711. Requirements Prior to Adverse Determination. (Source: the Act, §4(k)). Subject to the notice requirements of §19.1710 of this subchapter (relating to Notice of Determinations Made By Utilization Review Agents), in any instance where the utilization review agent is questioning the medical necessity or appropriateness of the health care services, the health care provider who ordered the services shall be afforded a reasonable opportunity to discuss the plan of treatment for the patient and the clinical basis for the utilization review agent's decision with a physician or, in the case of a dental plan with a dentist, prior to issuance of an adverse determination. The utilization review agent shall have written procedures describing how the opportunity is afforded.

§19.1712. Appeal of Adverse Determination of Utilization Review Agents. (Source: the Act, §6).

(a) A utilization review agent shall maintain and make available a written description of an appeal procedure of an adverse determination.

(b) The procedures for appeals shall be reasonable and shall include the following:

(1) a provision that an enrollee, a person acting on behalf of the enrollee, or the enrollee's physician or health care provider may appeal the adverse determination and shall be provided, on request, a clear and concise statement of the clinical basis for the adverse determination;

(2) a list of documents needed to be submitted by the appealing party to the utilization review agent for the appeal;

(3) a provision that appeal decisions shall be made by a physician, provided that, if the appeal is denied and within 10 working days the health care pro-

vider sets forth in writing good cause for having a particular type of a specialty provider review the case, the denial shall be reviewed by a health care provider in the same or similar specialty as typically manages the medical condition, procedure, or treatment under discussion for review of the adverse determination;

(4) in addition to the written appeal, a method for expedited appeal procedure for emergency care denials and denials of continued stays for hospitalized patients, which shall include a health care provider who has not previously reviewed the case; such appeal must be completed no later than one working day following the day on which the appeal, including all information necessary to complete the appeal, is made to the utilization review agent; and

(5) written notification to the appealing party of the determination of the appeal, as soon as practical, but in no case later than 30 days after receiving all the required documentation of the appeal. If the appeal is denied, the written notification shall include the clinical basis for the appeal's denial and the speciality of the physician making the denial.

§19.1713. Utilization Review Agent's Telephone Access. (Source: the Act, §7).

(a) A utilization review agent shall have appropriate personnel reasonably available by toll-free telephone at least 40 hours per week during normal business hours in both time zones in Texas, if applicable, to discuss patients' care and allow response to telephone review requests.

(b) A utilization review agent must have a telephone system capable of accepting or recording or providing instructions to incoming calls during other than normal business hours and shall respond to such calls not later than two working days of the later of the date on which the call was received or the date the details necessary to respond have been received from the caller.

§19.1714. Confidentiality. (Source: the Act, §8).

(a) A utilization review agent shall preserve the confidentiality of individual medical records to the extent required by law.

(b) A utilization review agent may not disclose or publish individual medical records or other confidential information about a patient obtained in the performance of utilization review without the prior written consent of the patient or as otherwise required by law. A utilization review agent may provide confidential information to a third party under contract or affiliated with the utilization review agent for the sole purpose of performing or assisting with uti-

lization review. Information provided to third parties shall remain confidential.

(c) The utilization review agent may not publish data which identifies a particular physician or health care provider, including any quality review studies or performance tracking data without prior written notice to the involved provider. This prohibition does not apply to internal systems or reports used by the utilization review agent.

(d) Documents in the custody of the utilization review agent that contain confidential patient information or physician or health care provider financial data shall be destroyed by a method which induces complete destruction of the information when the agent determines the information is no longer needed.

(e) All patient, physician, and health care provider data shall be maintained by the utilization review agent in a confidential manner which prevents unauthorized disclosure to third parties. Nothing in this article shall be construed to allow a utilization review agent to take actions that violate a state or federal statute or regulation concerning confidentiality of patient records.

(f) To assure confidentiality, a utilization review agent must, when contacting a physician's office or hospital, provide its certification number, the caller's name, and professional qualifications to the provider's named utilization review representative in the health care provider's office.

(g) Upon request by the provider, the utilization review agent shall present written documentation that it is acting as an agent of the payor for the relevant patient.

(h) The utilization review agent's procedures shall specify that specific information exchanged for the purpose of conducting review will be considered confidential, be used by the private review agent solely for the purposes of utilization review, and shared by the utilization review agent with only those third parties who have authority to receive such information, such as the claim administrator. The utilization review agent's process shall specify that procedures are in place to assure confidentiality and that the utilization review agent agrees to abide by any federal and state laws governing the issue of confidentiality. Summary data which does not provide sufficient information to allow identification of individual patients or providers need not be considered confidential.

(i) Medical records and patient specific information shall be maintained by the utilization review agent in a secure area with access limited to essential personnel only.

(j) Information generated and obtained by the utilization review agents in the

course of utilization review shall be retained for at least two years if the information relates to a case for which an adverse decision was made at any point or if the information relates to a case which may be reopened.

§19.1715. Retrospective Review of Medical Necessity. (Source: the Act, §11).

(a) When a retrospective review of the medical necessity and appropriateness of health care service is made under a health insurance policy or plan:

(1) such retrospective review shall be based on written screening criteria established and periodically updated with appropriate involvement from physicians, including practicing physicians, and other health care providers; and

(2) the payor's system for such retrospective review of medical necessity and appropriateness shall be under the direction of a physician.

(b) When an adverse determination is made under a health insurance policy or plan based on a retrospective review of the medical necessity and appropriateness of the allocation of health care resources and services, the payor shall afford the health care providers the opportunity to appeal the determination in the same manner afforded the enrollee, with the enrollee's consent to act on his or her behalf, but in no event shall health care providers be precluded from appeal if the enrollee is not reasonably available or competent to consent. Such appeal shall not be construed to imply or confer on such health care providers any contract rights with respect to the enrollee's health insurance policy or plan that the health care provider does not otherwise have.

§19.1716. Complaint and Information.

(a) Utilization Review Agent's Complaint System. (Source: Based on the Act, §4(m)). A utilization review agent shall establish and maintain a complaint system that provides reasonable procedures for the resolution of written complaints initiated by enrollees, patients, or health care providers concerning the utilization review and shall maintain records of such written complaints for two years from the time the complaints are filed. The complaint procedure shall include a written response to the complainant by the agent within 60 days. By March 1, of each year, the utilization review agent shall submit to the commissioner or his or her delegated representative, a summary report of all complaints at such times and in such form as the board may require and shall permit the commissioner to examine the complaints and all relevant documents at any time. The summary report

covers reviews performed by the utilization review agent during the preceding calendar year and includes:

(1) a summary of the resolved complaints listing the number of complaints, classification of complainant (i.e. health care provider, enrollee, patient, etc.), the type of complaints filed, and the complaint resolution;

(2) a summary of the unresolved complaints listing the number of complaints, classification of complainant and a brief explanation of all complaints not resolved; and

(3) a summary of appeals listing the number of appeals and the results of any appeals under adverse determinations procedures.

(b) Complaints to the department. Within a reasonable time period, upon receipt of a written complaint alleging a violation of this subchapter or the Act, by a utilization review agent, from an enrollee's health care provider, a person acting on behalf of the enrollee, or the enrollee, the commissioner or his or her delegated representative shall investigate the complaint and furnish a written response to the complainant and the utilization review agent named. The response will not identify in any manner, the patient or patients, without written consent. This response must include the following:

(1) a statement of the original complaint;

(2) a copy of any written response by the utilization review agent. The written response should not contain privileged medical records. If it is necessary to refer to medical records they shall be separately forwarded with the response and clearly marked as privileged medical records;

(3) a statement of the findings of the commissioner or his or her delegated representative and an explanation of the basis of such findings;

(4) corrective actions, if any, on the part of the utilization review agent which the commissioner or his or her delegated representative finds appropriate and whether the utilization review agent has voluntarily agreed to take such action;

(5) a time frame in which any corrective actions should be completed. The utilization review agent will provide evidence of corrective action within the specified time frame to the commissioner or his representative.

(c) Authority of the department to make inquiries. In addition to the authority of the commissioner to respond to complaints described in subsection (b) of this section, the department is authorized to ad-

dress inquiries to utilization review agents in relation to the agents business condition or any matter connected with its transactions which the department may deem necessary for the public good or for a proper discharge of its duties. It shall be the duty of the agent to promptly answer such inquiries in writing.

(d) Lists of utilization review agents. The commissioner shall maintain and update monthly a list of utilization review agents issued certificates and the renewal date for those certificates. The commissioner shall provide the list at cost to all individuals or organizations requesting the list. (Source: the Act, §12).

(e) On site review by the Texas Department of Insurance.

(1) The commissioner or the commissioner's designated representative is authorized to make a complete on-site review of the operations of each utilization review agent at the principal place of business for such agent, as often as is deemed necessary.

(2) Utilization review agents will be notified of the scheduled on-site visit by letter, which will specify, as a minimum, the identity of the commissioner's designated representative and the expected arrival date and time.

(3) The utilization review agent must make available during such on-site visits all records relating to its operation.

(4) The commissioner or the designated representative may perform periodic telephone audits of utilization review agents authorized to conduct business in this state, to determine if the agent are reasonably accessible.

§19.1717. Administrative Violations (Source: Subsections (a)-(d) are based on the Act, §9).

(a) If the commissioner through the commissioner's designated representative, believes that a utilization review agent has violated or is violating the Act, the commissioner's designated representative shall notify the utilization review agent of the alleged violation and may compel the production of any and all documents or other information.

(b) The commissioner's designated representative may initiate the proceedings under this section after the 30th day after the date the commissioner's designated representative notifies the agent as required by subsection (a) of this section.

(c) Proceedings under this article are a contested case for the purpose of Texas Civil Statutes, Article 6252-13a (Administrative Procedure and Texas Register Act).

(d) If after notice and hearing the commissioner determines that the utilization review agent has violated or is violating any provision of this article, the commissioner may:

(1) impose sanctions under the Insurance Code, Article 1.10, §7; or

(2) issue a cease and desist order under the Insurance Code, Article 1.10A.

(e) If the utilization review agent has violated or is violating any provisions of the Insurance Code, other than this Article or applicable rules of the department, sanctions may be imposed under the Insurance Code, Article 1.10 or Article 1.10A.

(f) The commission of fraudulent or deceptive acts or omissions in obtaining, attempting to obtain, or use of certification as a utilization review agent shall be a violation of the Act.

§19.1718. Criminal Penalties. Any person or entity performing utilization review without a certificate as required by this article commits an offense. Except as otherwise provided by this section, an offense under this section is a Class A misdemeanor. If it is shown in the trial of a violation of this section that the person or entity has once before been convicted of a violation of this section, on conviction the person or entity shall be punished for a third degree felony. Each day of violation constitutes a separate offense. (Sources: the Act, §10).

§19.1719. Responsibility of HMOs and Insurers Performing Utilization Review Under the Insurance Code, Article 21.58A, §14, Paragraphs (g) and (h).

(a) HMOs performing utilization review under the Act, §14(g), must respond to the annual survey on utilization review distributed by the Texas Department of Insurance within 30 days of receipt of the survey, and Comply with all the following requirements of the Act:

(1) utilization review plan, including reconsideration and appeal requirements, shall be reviewed by a physician and conducted in accordance with standards developed with input from appropriate health care providers and approved by a physician (Source: the Act, §4(b));

(2) personnel employed by or under contract with HMOs performing utilization review shall be appropriately trained and qualified. Personnel who obtain information directly from the physician or dentist or health care provider, either orally or in writing, and who are not physicians or dentists shall be nurses, physicians assistants, registered records administrators, or accredited records technicians, who are ei-

ther licensed or certified, or shall be individuals who have received formal orientation in accordance with policies and procedures established by the utilization review agent to assure compliance with this section, and a description of such policies and procedures shall be filed with the commissioner. This provision shall not be interpreted to require such qualifications for personnel who perform clerical or administrative tasks (Source: Based upon the Act, §4(c));

(3) unless approved for an individual patient by the provider of record or modified by contract, HMO performing utilization review shall be prohibited from observing, participating in, or otherwise being present during a patient's examination, treatment, procedure or therapy. In no event shall this section otherwise be construed to limit or deny contact with a patient for purposes of conducting utilization review unless otherwise specifically prohibited by law (Source: the Act, §4(e));

(4) HMO performing utilization review may not permit or provide compensation or any thing of value to its employees or agents, condition employment or its employee or agent evaluations, or set its employee or agent performance standards, based on the amount or volume of adverse determinations, reductions or limitations on lengths of stay, benefits, services, or charges or on the number or frequency of telephone calls or other contacts with health care providers or patients, which are inconsistent with the provisions of this subchapter (Source: the Act, §4(f));

(5) utilization review conducted by an HMO performing utilization review shall be under the direction of a physician licensed to practice medicine by a state licensing agency in the United States (Source: the Act, §4(h));

(6) each HMO performing utilization review shall utilize written medically acceptable screening criteria and review procedures which are established and periodically evaluated and updated with appropriate involvement from the physicians, including practicing physicians, and other health care providers. Such written screening criteria and review procedures shall be available for review and inspection by the commissioner and copying as necessary for the commissioner to carry out his or her lawful duties under this code, provided, however, that any information obtained or acquired under the authority of this subsection and article is confidential and privileged and not subject to the open records law or subpoena except to the extent necessary for the board or commissioner to enforce the Act (Source: the Act, §4(i)); and

(7) unless precluded or modified by contract, an HMO performing utilization

review shall reimburse health care providers for the reasonable costs for providing medical information in writing, including copying and transmitting any requested patient records or other documents. A health care provider's charge for providing medical information to a utilization review agent shall not exceed the cost of copying set by rules of the Texas Workers Compensation Commission for records and may not include any costs that are otherwise recouped as a part of the charge for health care (Source: the Act, §4(1)).

(b) Nothing in the Act or this subchapter shall be construed to prohibit or limit the distribution of a proportion of the savings from the reduction or elimination of unnecessary medical services, treatment, supplies, confinements, or days of confinement in a health care facility through profit sharing, bonus, or withhold arrangements to participating physicians or participating health care providers for rendering health care services to enrollees (Source: Based upon the Act, §14(g)(1)).

(c) The complaint system established by 28, Texas Administrative Code, §11.506(6) shall be considered to be in compliance with this section so long as it provides for complaints for health care providers.

(d) HMOs must submit to assessment of maintenance taxes under Article 20A. 33, Texas Health Maintenance Organization Act (Article 20A.33, Vernon's the Insurance Code), to cover the costs of administering compliance of health maintenance organizations under the Act (Source: §14(g)(3) of the Act).

(e) When a health maintenance organization performs utilization review for a person or entity subject to this article other than one for which it is the payor, such health maintenance organization shall be required to obtain a certificate under §3, Article 21.58A and comply with all the provisions of Article 21.58A (Source: §14(i) of the Act).

(f) HMOs performing utilization review under the Insurance Code, Article 21.58A, §14, paragraph (g) will be subject to §19.1714 of this subchapter (relating to Confidentiality); §19.1716(b) of this subchapter (relating to Complaints and Information); §19.1717 of this subchapter (relating to Administrative Violations), with respect to their operations under the provisions of the Act, §14(g), restated in subsection (a) of this section.

(g) Insurers performing utilization review under §14, paragraph (h) of the Act must comply with the requirements of paragraphs (1)-(14) of this subsection.

(1) The utilization review plan, including reconsideration and appeal re-

quirements, shall be reviewed by a physician and conducted in accordance with standards developed with input from appropriate health care providers and approved by a physician. (Source: the Act, §4(b)).

(2) Personnel employed by or under contract with insurers performing utilization review shall be appropriately trained and qualified. Personnel who obtain information directly from the physicians, dentists, or health care providers, either orally or in writing, and who are not physicians or dentists shall be nurses, physician assistants, registered records administrators, or accredited records technicians, who are either licensed or certified, or shall be individuals who have received formal orientation and training in accordance with policies and procedures established by the insurer to assure compliance with this section, and a description of such policies and procedures shall be filed with the department. This provision shall not be interpreted to require such qualifications for personnel who perform clerical or administrative tasks. (Source: Based upon the Act, §4(c)).

(3) An insurer performing utilization review shall not set or impose any notice or other review procedures contrary to the requirements of the health insurance policy or health benefit procedures contrary to the requirements of the health insurance policy or health benefit plan. (Source: the Act, §4(d)).

(4) Unless approved for an individual patient by the provider, or record, or modified by contract, an insurer performing utilization review shall be prohibited from observing, participating in, or otherwise being present during a patient's examination, treatment, procedures, or therapy. (Source: the Act, §4(e)).

(5) An insurer performing utilization review may not permit or provide compensation or any thing of value to its employees or agents, condition employment or its employee or agent evaluations, or set its employee or agent performance standards, based on the amount or volume of adverse determinations, reductions, or limitations on lengths of stay, benefits, services, or charges or on the number of frequency of telephone calls or other contacts with health care providers or patients, which are inconsistent with the provisions of the Act. (Source: the Act, §4(f)).

(6) A health care provider may designate one or more individuals as the initial contact or contacts for insurers performing utilization review seeking routine information or data. In no event shall the designation of such an individual or individuals preclude a utilization review agent or medical advisor from contacting a health care provider or others in his or her employ where a review might otherwise be unrea-

sonably delayed or where the designated individual is unable to provide the necessary information or data requested by the insurer performing utilization review. (Source: the Act, §4(g)).

(7) Utilization review conducted by an insurer performing utilization review shall be under the direction of a physician licensed to practice medicine by a state licensing agency in the United States. (Source: the Act, §4(h)).

(8) Each insurer performing utilization review shall utilize written medically acceptable screening criteria and review procedures which are established and periodically evaluated and updated with appropriate involvement from physicians, including practicing physicians, and other health care providers. Such written screening criteria and review procedures shall be available for review and inspection by the commissioner and copying as necessary for the commissioner to carry out his or her lawful duties under the Act, provided, however, that any information obtained or acquired under the authority of this subsection and the Act is confidential and privileged and not subject to the open records law or subpoena except to the extent necessary for the board or commissioner to enforce the Act. (Source: the Act, §4(i)).

(9) An insurer performing utilization review may not engage in unnecessary or unreasonable repetitive contacts with the health care provider or patient and shall base the frequency of contacts or reviews on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity. (Source: the Act, §4(j)).

(10) Subject to the notice requirements of §5 of the Act, in any instance where the insurer performing utilization review is questioning the medical necessity or appropriateness of health care services, the health care provider who ordered the services shall be afforded a reasonable opportunity to discuss the plan of treatment for the patient and the clinical basis for the insurer's decision with a physician or, in the case of a dental plan with a dentist, prior to issuance of an adverse determination. (Source: Based upon the Act, §4(k)).

(11) Unless precluded or modified by contract, an insurer performing utilization review shall reimburse health care providers for the reasonable costs for providing medical information in writing, including copying and transmitting and requested patient records or other documents. A health care provider's charges for providing medical information to an insurer performing utilization review shall not exceed the cost of copying set by rule of the Texas Worker's Compensation Commission for records and may not include any costs

that are otherwise recouped as a part of the charge for health care. (Source: the Act, §4(l)).

(12) An insurer performing utilization review shall establish and maintain a complaint system that provides reasonable procedures for the resolution of written complaints initiated by enrollees, patients, or health care providers concerning the utilization review and shall maintain records of such written complaints for two years from the time the complaints are filed. The complaint procedure shall include a written response to the complainant by the agent within 60 days. The insurer performing utilization review shall submit to the commissioner a summary report of all complaints at such times and in such form as the board may require and shall permit the commissioner to examine the complaints and all relevant documents at any time. (Source: the Act, §4(m)).

(13) The insurer performing utilization review may delegate utilization review to qualified personnel in the hospital or health care facility where the health care services were or are to be provided. (Source: the Act, §4(n)).

(14) Insurers performing utilization review must comply with subparagraphs (A)-(E) of this paragraph.

(A) Insurers must respond to the annual survey on utilization review distributed by the Texas Department of Insurance within 30 days of receipt of the survey.

(B) Insurers must comply with all the requirements of the Act, §8, restated in §19.1714 of this subchapter (relating to Confidentiality).

(C) When an insurer performs utilization review for a person or entity subject to this article other than one for which it is the payor, such insurer shall be required to obtain a certificate under §3, of the Act and comply with all the provisions of the Act. (Source: the Act, §14(i)).

(D) Insurers performing utilization review under, §14, paragraph (h) of the Act, will be subject to §19.1714 of this subchapter (relating to Confidentiality), subsection (b) of §19.1716 of this subchapter (relating to Complaints and Information) and §19.1717 of this subchapter (relating to Administrative Violations), with respect to their operations under the provision of §14, paragraph (h) of the Act restated in subsection (c) of this section.

(E) Insurers performing utilization review under §14(g) and (h) of the

Act, must furnish the information listed in clauses (i)-(iii) of this subparagraph to the Utilization Review Department of the Texas Department of Insurance:

(i) complete name;

(ii) principal locality in which utilization review is being performed; and

(iii) complete address, including contact person.

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

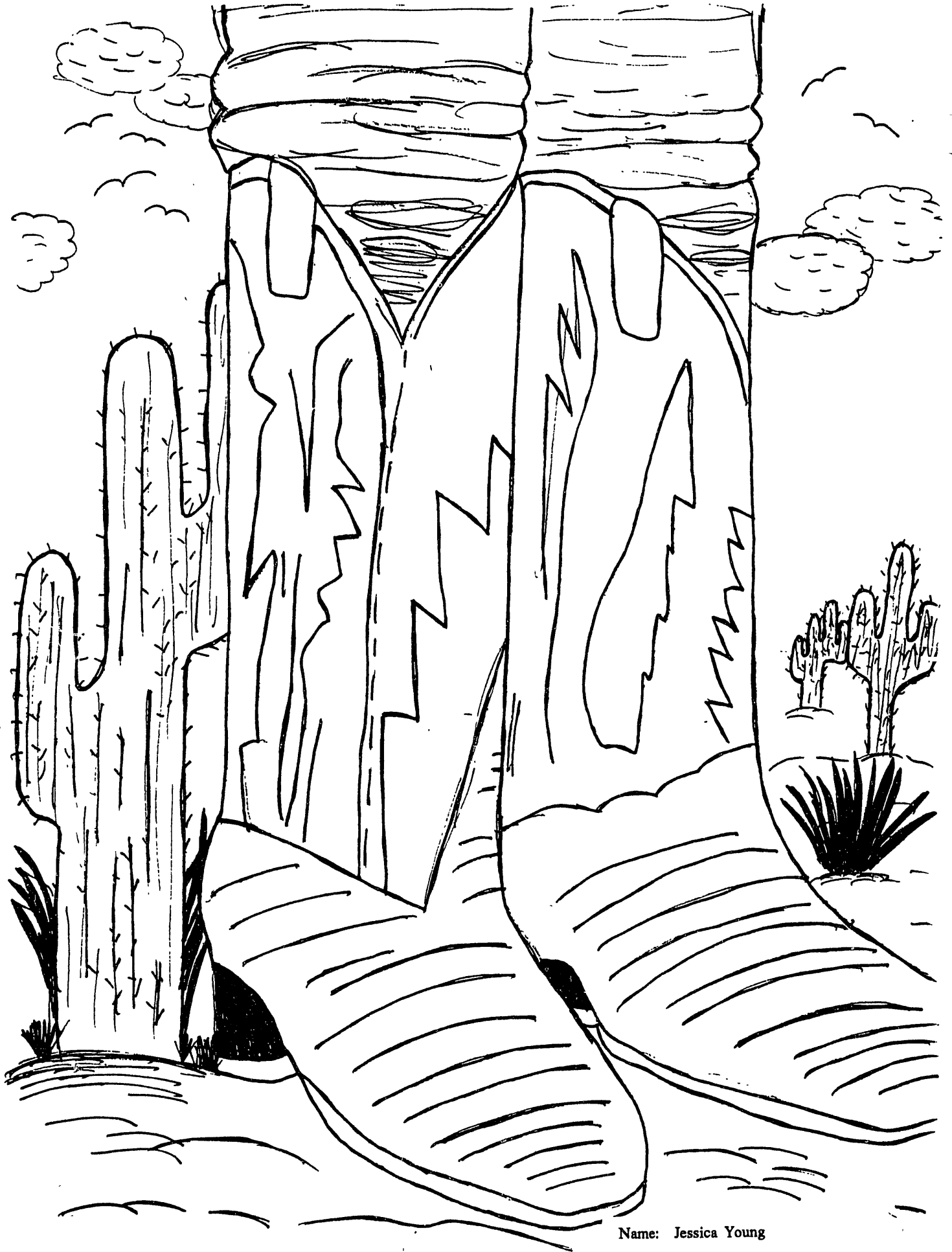
Issued in Austin, Texas, on May 1, 1992.

TRD-9206050 Linda K. von Quintus-Dorn
 Chief Clerk
 Texas Department of
 Insurance

Earliest possible date of adoption: June 8, 1992

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





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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits

• 31 TAC §305.70

The Texas Water Commission proposes new §305.70, concerning a program for the evaluation of renewal applications for wastewater discharge permits within the same river basin. This section is proposed to implement portions of Senate Bill 818, 72nd Legislature, 1991, known as the Texas Clean Rivers Act. The section establishes a program for the comprehensive evaluation of the combined effects of permitted discharges on water quality within each watershed and to facilitate the receipt of information from the public and other entities affected by those discharges.

New §305.70(a) provides that the commission, to the greatest extent practicable, will evaluate all renewal applications within a single river basin within the same year. New §305.70(b) establishes termination dates for existing wastewater discharge permits issued by the commission. New §305.70(c) provides that renewal applications for permits expiring on or after June 1, 1993, shall be due six months prior to the designated expiration dates in §305.70(b). Renewal applications for permits expiring on or before May 31, 1993, shall be submitted prior to the expiration dates designated in §305.70(b). Section 305.70(d) provides that the executive director may require submission of a renewal application sooner than the dates set out in §305.70(b) and (c) upon a determination that a particular waste disposal activity necessitates a more frequent evaluation. Section 305.70(e) provides that permit renewals generally will be issued to maintain a five-year cycle of the expiration date schedule in subsection (b) although the commission may issue a permit for less than a five-year term if it determines that a shorter term is necessary.

This section establishes new expiration dates for existing permits. To determine the new termination date, permittees should review the list in §307.70(b) to locate the basin into which their discharge flows, and then locate the segment as it appears on the first page of their commission discharge permit. The expiration date for permits which authorize a discharge to multiple basins and/or segments shall be the earliest date listed for the basins or segments.

The order of basins was generally determined by ranking the loading of biochemical oxygen and carbonaceous oxygen demanding con-

stituents for each river basin. This schedule of expiration dates set out in this section has been designed to provide a constant and even inflow of permit applications into the commission. This regulated schedule will even out the workload for commission staff and thus expedite the processing of applications at the commission.

The commission will continue to process all renewal applications previously received except for those permits for which this section establishes expiration dates of January 1, 1993-September 1, 1993. These permit applications will temporarily be set aside and supplemental information will be requested of permittees as necessary to promote a consistent review of these applications with the remaining permits in Basin 10: San Jacinto River. The commission acknowledges that the abbreviated time period within which the first group of permittees has to prepare an application may cause some hardship. This initial group of permittees may not have sufficient funds set aside for the costs associated with preparation of permit applications. Accordingly, those permittees with permit expiration dates between January 1, 1993 and May 31, 1993, may apply for up to a three-month extension for filing their permit applications upon a showing that the limited time period they have to prepare and submit their application will cause an extreme financial hardship. The commission will send renewal applications to permittees in Basin 10: San Jacinto River as soon as possible to allow permittees time to prepare a thorough application. The commission will establish a schedule to send renewal applications to permittees one year prior to the expiration dates set out in this section.

Ms. Norma Nance, director of budget, planning and evaluation, has determined that for the first five years this section is in effect, there will be fiscal implications as a result of enforcing or administering the section. There will be no direct costs to state government. There will be no costs to local governments that are not permittees directly affected by this section. Local governments holding wastewater permits under the Texas Water Code, Chapter 26 are affected to the extent all wastewater discharge permit holders are affected by this section. All holders of wastewater discharge permits are potentially affected by this rule. While the actual costs of preparing permit renewal applications may not increase because of this section, the timing and schedule constraints may cause unanticipated financial burdens. As a result of amending permit expiration dates, costs associated with renewal applications may be incurred at a time when funds are not immediately available or have not been budgeted. The costs of preparing a permit renewal application vary significantly, but the average cost is estimated to be \$2,000. There are approximately 310 permits primarily regulating agricultural activities which have no expiration date. The cost for these permittees of developing a permit renewal application may be considered an incremental cost of this

proposed section. The \$2,000 average cost figure would be applicable to these permits.

Ms. Nance has determined that for the first five years these sections as proposed are in effect, the public benefit anticipated as a result of enforcement of or compliance with the sections will be improvements in the evaluation of the cumulative effects of permitted discharges on water quality, the regulation of permitted discharges, and the opportunity for public input in the permitting process. Many of the permittees affected are small businesses, however, there are no differential impacts to small businesses anticipated. There are no anticipated economic costs to persons who are required to comply with this section, other than those costs applicable to wastewater permittees.

Comments on the proposal may be submitted to Margaret Ligarde, Staff Attorney, Legal Division, P.O. Box 13087, Austin, Texas 78711. The deadline for submission of written comments will be 30 days after the date of publication of this proposal in the *Texas Register*. To facilitate public comment on the proposed new section in Chapter 305, the commission has scheduled a public comment hearing as follows: Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, on June 5, 1992, at 10 a.m., Austin.

The new section is proposed under the Texas Water Code, §§5.103, 5.105, and 26.011, which provide the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the code and all other laws of the State of Texas and to establish and approve all general policies of the commission.

§305.70. Basin Permitting.

(a) Upon receipt of wastewater discharge permit renewal applications, the commission, to the greatest extent practicable, will evaluate all renewal applications within a single river basin within the same year. The expiration dates for all permits issued after the effective date of this section shall be in accordance with the basin schedules in subsection (b) of this section.

(b) The expiration dates of existing

wastewater discharge permits issued by the commission are amended in accordance with the following schedule:

(1) Domestic wastewater permits.

<u>BASIN</u>	<u>SEGMENT</u>	<u>EXPIRATION DATE</u>	
10:San Jacinto River	1001-1005	January 1, 1993	
	1006	February 1, 1993	
	1007	April 1, 1993	
	1008	June 1, 1993	
	1009	August 1, 1993	
	1010-1013	September 1, 1993	
	1017	January 1, 1994	
	1014	March 1, 1994	
	1015-1016	May 1, 1994	
	12:Brazos River	1201-1205	July 1, 1994
		1206-1219	September 1, 1994
1220-1239		January 1, 1995	
1240-1254		March 1, 1995	
08:Trinity River		0801-0813	April 1, 1995
	0814-0820	June 1, 1995	
	0821-0826	July 1, 1995	
	0827-0841	August 1, 1995	
22:Nueces-Rio Grande Coastal	2201-2204	September 1, 1995	
23:Rio Grande	2301-2314	January 1, 1996	
02:Red River	0201-0229	February 1, 1996	
05:Sabine River	0501-0504	March 1, 1996	
	0505-0507	April 1, 1996	
	0508-0515	May 1, 1996	
24:Bays & Estuaries	2401-2419	June 1, 1996	
	2420-2482	July 1, 1996	
	2483-2494	August 1, 1996	
06:Neches River	0601-0609	September 1, 1996	
	0610-0614	January 1, 1997	
03:Sulphur River	0301-0306	"	
07:Neches-Trinity Coastal	0701-0704	"	
14:Colorado River	1401-1426	February 1, 1997	
	1427-1433	March 1, 1997	
19:San Antonio River	1901-1913	"	
11:San Jacinto-Brazos Coastal	1101-1113	May 1, 1997	
18:Guadalupe River	1801-1818	June 1, 1997	
17:Lavaca-Guadalupe Coastal	1701	"	
13:Brazos-Colorado Coastal	1301-1305	July 1, 1997	
01:Canadian River	0101-0105	"	
04:Cypress Creek	0401-0409	August 1, 1997	
21:Nueces River	2101-2117	"	
09:Trinity-San Jacinto	0901-0902	September 1, 1997	
20:San Antonio-Nueces Coastal	2001-2004	"	
16:Lavaca River	1601-1605	"	
15:Colorado-Lavaca Coastal	1501-1502	"	
25:Gulf of Mexico	2501	"	

10:San Jacinto River	1001-1005	January 1, 1993
	1006	March 1, 1993
	1007	June 1, 1993
	1008	January 1, 1994
	1009	"
	1010-1013	February 1, 1994
	1014	March 1, 1994
	1015-1016	May 1, 1994
	1017	July 1, 1994
12:Brazos River	1201,	September 1, 1994
	1202-1204	January 1, 1995
	1205-1208	March 1, 1995
	1209-1220	May 1, 1995
	1221-1241	July 1, 1995
	1242	August 1, 1995
	1243-1254	September 1, 1995
08:Trinity River	0801-0804	January 1, 1996
	0805-0819	February 1, 1996
	0820-0841	March 1, 1996
22:Nueces-Rio Grande Coastal	2201-2204	April 1, 1996
23:Rio Grande	2301-2314	May 1, 1996
02:Red River	0201-0229	June 1, 1996
05:Sabine River	0501-0505	"
	0506-0515	"
24:Bays and Estuaries	2401-2426	July 1, 1996
	2427-2431	August 1, 1996
	2432-2473	September 1, 1996
	2474-2484	January 1, 1997
	2485-2494	February 1, 1997
06:Neches River	0601-0607	"
	0608-0614	March 1, 1997
03:Sulphur River	0301-0306	"
07:Neches-Trinity Coastal	0701-0704	April 1, 1997
14:Colorado River	1401-1427	May 1, 1997
	1428-1433	June 1, 1997
19:San Antonio River	1901-1913	July 1, 1997
11:San Jacinto-Brazos Coastal	1101-1113	August 1, 1997
18:Guadalupe River	1801-1803	September 1, 1997
	1804-1818	"
17:Lavaca-Guadalupe Coastal	1701	"
13:Brazos-Colorado Coastal	1301-1305	"
01:Canadian	0101-0105	"
14:Cypress Creek	0401-0409	"
21:Nueces	2101-2117	"
09:Trinity-San Jacinto	0901-0902	"
20:San Antonio-Nueces Coastal	2001-2004	"
16:Lavaca River	1601-1605	"
15:Colorado-Lavaca Coastal	1501-1502	"
25:Gulf of Mexico	2501	"

mits. (2) Industrial wastewater per-

10:San Jacinto River	1001-1005	January 1, 1993
	1006	March 1, 1993
	1007	June 1, 1993
	1008	January 1, 1994
	1009	"
	1010-1013	February 1, 1994
	1014	March 1, 1994
	1015-1016	May 1, 1994
	1017	July 1, 1994
12:Brazos River	1201	September 1, 1994
	1202-1204	January 1, 1995
	1205-1208	March 1, 1995
	1209-1220	May 1, 1995
	1221-1241	July 1, 1995
	1242	August 1, 1995
	1243-1254	September 1, 1995
08:Trinity River	0801-0804	January 1, 1996
	0805-0819	February 1, 1996
	0820-0841	March 1, 1996
22:Nueces-Rio Grande Coastal	2201-2204	April 1, 1996
23:Rio Grande	2301-2314	May 1, 1996
02:Red River	0201-0229	June 1, 1996
05:Sabine River	0501-0505	"
	0506-0515	"
24:Bays and Estuaries	2401-2426	July 1, 1996
	2427-2431	August 1, 1996
	2432-2473	September 1, 1996
	2474-2484	January 1, 1997
	2485-2494	February 1, 1997
06:Neches River	0601-0607	"
	0608-0614	March 1, 1997
03:Sulphur River	0301-0306	"
07:Neches-Trinity Coastal	0701-0704	April 1, 1997
14:Colorado River	1401-1427	May 1, 1997
	1428-1433	June 1, 1997
19:San Antonio River	1901-1913	July 1, 1997
11:San Jacinto-Brazos Coastal	1101-1113	August 1, 1997
18:Guadalupe River	1801-1803	September 1, 1997
	1804-1818	"
17:Lavaca-Guadalupe Coastal	1701	"
13:Brazos-Colorado Coastal	1301-1305	"
01:Canadian	0101-0105	"
14:Cypress Creek	0401-0409	"
21:Nueces	2101-2117	"
09:Trinity-San Jacinto	0901-0902	"
20:San Antonio-Nueces Coastal	2001-2004	"
16:Lavaca River	1601-1605	"
15:Colorado-Lavaca Coastal	1501-1502	"
25:Gulf of Mexico	2501	"

(3) Feedlot/concentrated animal feeding operations permits.

10:San Jacinto River	1001-1017	January 1, 1993
12:Brazos River	1201-1205	February 1, 1993
	1206-1212	March 1, 1993
	1213-1217	April 1, 1993
	1218-1221	June 1, 1993
	1222-1224	July 1, 1993
	1225	January 1, 1994
	1226	February 1, 1994
	1227	March 1, 1994
	1228	April 1, 1994
	1229	May 1, 1994
	1230-1240	July 1, 1994
	1241-1245	September 1, 1994
	1246-1254	January 1, 1995
08:Trinity River	0801-0804	February 1, 1995
	0805-0830	March 1, 1995
22:Nueces-Rio Grande	2201-2204	April 1, 1995
23:Rio Grande	2301-2306	May 1, 1995
	2307-2308	June 1, 1995
	2309-2314	July 1, 1995
02:Red River	0201-0211	April 1, 1995
	0212-0228	September 1, 1995
	0229	January 1, 1996
05:Sabine River	0501-0515	February 1, 1996
24:Bays & Estuaries	2401-2491	March 1, 1996
	2492-2494	April 1, 1996
06:Neches River	0601-0614	May 1, 1996
03:Sulphur River	0300-0302	June 1, 1996
	0303-0306	July 1, 1996
07:Neches-Trinity Coastal	0701-0704	August 1, 1996
14:Colorado River	1401-1413	September 1, 1996
	1414-1416	January 1, 1997
	1417-1433	February 1, 1997
19:San Antonio River	1901-1911	"
11:San Jacinto-Brazos Coastal	1101-1113	March 1, 1997
18:Guadalupe River	1801-1818	"
17:Lavaca-Guadalupe Coastal	1701	"
13:Brazos-Colorado Coastal	1301-1305	"
01:Canadian River	0101-0102	April 1, 1997
	0103-0105	May 1, 1997
04:Cypress	0401-0409	June 1, 1997
21:Nueces River	2102-2105	July 1, 1997
	2106-2108	August 1, 1997
	2109-2117	September 1, 1997
09:Trinity San Jacinto	0901-0902	"
20:San Antonio-Nueces Coastal	2001-2004	"
16:Lavaca River	1601-1605	"
15:Colorado-Lavaca Coastal	1501-1502	"
25:Gulf of Mexico	2501	"

(c) In accordance with §305.63 of this title (relating to Renewal), renewal applications for permits expiring on or after June 1, 1993, shall be due six months prior to the designated expiration dates in subsection (b) of this section. Renewal applications for permits expiring on or before May 31, 1993, shall be submitted prior to the expiration dates designated in subsection (b) of this section. If submission of a renewal application before May 31, 1993, would cause extreme hardship, a permittee may request from the executive director an extension of the filing deadline of up to three months.

(d) The executive director may require submission of a renewal application sooner than the dates set out in subsections (b) and (c) of this section upon a determination that a particular waste disposal activity necessitates a more frequent evaluation. In such event, the executive director shall notify the permittee by certified mail that an application is required and shall state a specific due date for submission of the application. The permittee shall submit a renewal application on or before nine months following receipt of the notice.

(e) Permit renewals generally will be issued to maintain a five-year cycle of the expiration date schedule in subsection (b) of this section. The commission may issue a permit for less than a five-year term if it determines that a shorter term is 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 May 4, 1992.

TRD-9206088 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Earliest possible date of adoption: June 8, 1992

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

◆ ◆ ◆ Part XIV. Texas Board of Irrigators

Chapter 421. Introductory Provisions

General Provisions

• 31 TAC §421.1

The Texas Board of Irrigators proposes amendments to §§421.1, 421.36, and 421.39, concerning general provisions for the board. These amendments are proposed under Texas Civil Statutes, Article 8751, §7. These amendments are proposed in order to implement certain provisions of Texas Senate Bill 544, 72nd Legislature (1991), which went into effect on September 1, 1991 and became Texas Civil Statutes, Article 8751. These amendments are proposed in order to define

the duties and responsibilities of officers and employees of the board as well as to provide guidelines for maintaining official open records.

Section 421.1 (relating to Definitions) defines terms that are used throughout 31 TAC Chapters 421, 423, 425, 427, 429, and 431. Section 421.36 (relating to Officers and Employees) delineates the duties and responsibilities of board officers and employees. Section 421.39(b) (relating to Official Records) concerns the availability of board records to the public.

These proposed rules are identical to the emergency rules that were published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 761).

Bettye Jean Urban, chief fiscal officer, has determined that for the first five-year period the sections are in effect there will be negligible fiscal implications for state government as a result of enforcing or administering the sections. There will be no effect on local government.

Ms. Urban 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 these sections will be a clarification of Texas Civil Statutes, Article 8751. 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 these proposals may be submitted to Kathy Keils, Staff Attorney, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For further information please call (512) 463-8069.

The amendment is proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

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

Backflow prevention—The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.

Hydraulics—The mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

Landscape irrigation—The science of applying water to turf or plant material to promote and/or sustain growth.

Non-toxic substance—Any substance, solid, liquid, or gaseous, which may make the water aesthetically unacceptable but, if ingested, will not cause illness or death.

Precipitation zones—

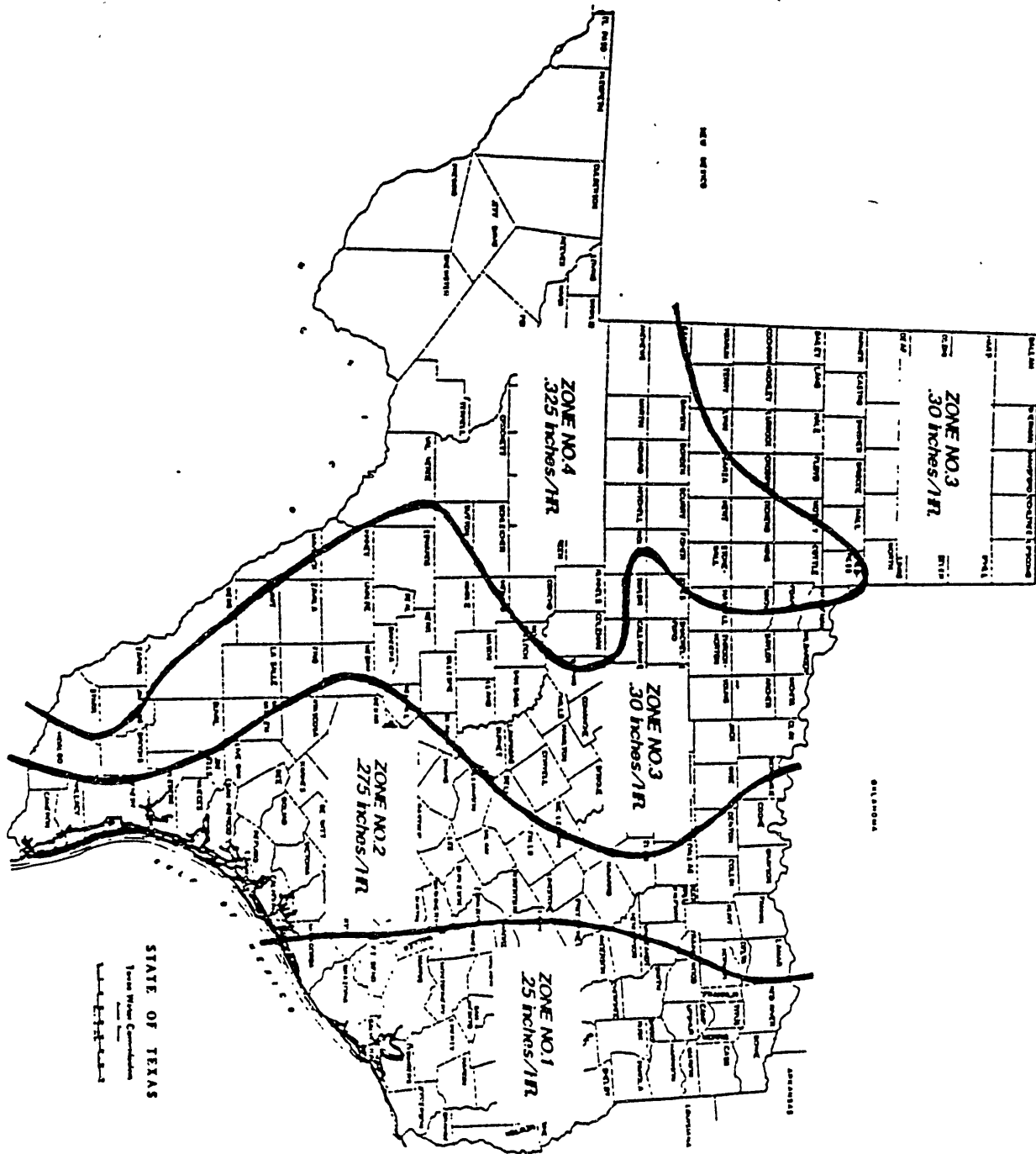
(A) **Precipitation Zone Number 1** is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .25 inches of water per hour for every hour that the landscape irrigation system is in operation.

(B) **Precipitation Zone Number 2** is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .275 inches of water per hour for every hour that the landscape irrigation system is in operation.

(C) **Precipitation Zone Number 3** is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .30 inches of water per hour for every hour that the landscape irrigation system is in operation.

(D) **Precipitation Zone Number 4** is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .325 inches of water per hour for every hour that the landscape irrigation system is in operation. The precipitation zones defined in subparagraphs (A)-(D) of this definition are represented as Zones Number 1-4 on the following map.

MINIMUM PRECIPITATION RATE FOR LANDSCAPE IRRIGATION SYSTEMS BY ZONE



Toxic substance—Any substance, solid, liquid, or gaseous, which when introduced into the water supply system creates, or may create, a danger to the health and well-being of the consumer.

Water conservation—The design and installation of an irrigation system which applies the least amount of water to maintain healthy individual plant material or turf.

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 April 29, 1992.

TRD-9205943

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

General Provisions Affecting Board

• 31 TAC §421.36, §421.39

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§421.36. Officers and Employees.

(a) When present, the chairman shall preside at all meetings, sign all certificates of registration issued, and perform all other duties pertaining to the office. [The board shall elect a chairman who shall hold office for two years and thereafter until his successor has been elected. The chairman may be removed by the board for cause, but his removal does not disqualify him from continuing as a member of the board. When present, the chairman shall preside at all meetings, sign all certificates of registration issued; and perform all other duties pertaining to the office.]

(b) (No change.)

(c) Where there is a vacancy in the office of the vice chairman, the board shall elect a member to fill the vacancy for the remainder of the unexpired term. [Where there is a vacancy in the office of the chairman or vice chairman, the board shall elect a member to fill the vacancy for the remainder of the unexpired term.]

(d) (No change.)

(e) The executive secretary is authorized to request necessary services from

the executive director. Such services include, but are not limited to: conducting investigations, holding hearings, and performing other duties and functions in accordance with Texas Civil Statutes, Article 8751.

§421.39. Official Records.

(a) (No change.)

(b) All records, reports, documents, data, and other information collected by the executive secretary and staff in the performance of enforcement duties are the property of the state. Unless the executive secretary considers information to be confidential and not subject to disclosure in accordance with the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, or the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, all such records, reports, documents, data, and other information collected by the executive secretary shall be made available to the public for inspection and copying during regular office hours. [Subject to the limitations and exceptions provided under the Open Records Act, Texas Civil Statutes, Article 6252-17a, information collected, assembled, or maintained by the board or its executive secretary is public information open to inspection and copying during regular business hours.]

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

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

TRD-9205942

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

Chapter 423. Registration of Irrigators and Installers

Application for Registration

The Texas Board of Irrigators proposes amendments to §§423.1, 423.4, 423.7, 423.10, 423.13, 423.19, 423.22, 423.41, 423.50, and 423.56, concerning application for registration to become a licensed irrigator or installer. These amendments are proposed under Texas Civil Statutes, Article 8751, §7. These amendments are proposed in order to implement certain provisions of Texas Senate Bill 544, 72nd Legislature (1991), which went into effect on September 1, 1991, and became Texas Civil Statutes, Article 8751. These amendments are proposed in order to delineate eligibility requirements and proce-

dures for those applying for certificates of registration.

Section 423.1 (relating to Certificate of Registration) delineates the eligibility requirements for obtaining an irrigator's or installer's license. Section 423.4 (relating to Application for Certificates of Registration) dictates who must apply for a certificate of registration and the procedure for obtaining a certificate of registration. Section 423.7 (relating to Application and Examination Fees; Form of Payment) sets out the amount and form of payment to be paid by an irrigator or installer in applying to take the examination. Section 423.10 (relating to Application Processing) describes the process for applying to take the irrigator's or installer's licensing examination. Section 423.13 (relating to Determination of Registration by Endorsement) defines the board's procedure for registering by endorsement certain irrigators and installers that are licensed in other states. Section 423.19 (relating to Rejection of Application) provides the conditions under which the board may reject an application for registration. Section 423.22 (relating to Hearing on Rejected Application) dictates the procedures to be taken if a hearing is requested on a rejected application. Section 423.41 (relating to Eligibility for Written Examinations) discusses who is to administer the examination for irrigators and installers to become licensed, and who is eligible to take the aforementioned examination. Section 423.50 (relating to Appearance for Examination; Failure to Appear) dictates that an applicant must personally appear to take the examination and failure to appear may result in forfeiture of the examination fee. Section 423.56 (relating to Grading; Minimum Passing Score) dictates that to become a licensed irrigator or installer the applicant must correctly answer a minimum of 70% of the questions in each section of the examination.

These proposed rules are identical to the emergency rules that were published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 763).

Bettye Jean Urban, chief fiscal officer, has determined that for the first five-year period the proposed sections are in effect there will be negligible fiscal implications for state government as a result of enforcing or administering the sections. There will be no effect on local government.

Ms. Urban 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 grammatical correction and clarification of existing rules. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on these proposals may be submitted to Kathy Keils, Staff Attorney, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For further information please call (512) 463-8069.

• 31 TAC §§423.1, 423.4, 423.7, 423.10, 423.13, 423.19, 423.22

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§423.1. Eligibility for Certificates of Registration.

(a) The board shall [may] issue certificates of registration only to persons [individuals] who are eligible for registration as licensed irrigators or licensed installers under Texas Civil Statutes, Article 8751 and these sections. No certificate of registration may be issued to any firm, partnership, corporation, or other group of persons.

(b) No person [individual] is eligible to receive a licensed irrigator's or licensed installer's certificate of registration unless he has applied for it pursuant to these sections and:

(1) the board has determined that the [he is a] person [of good moral character who] has passed a uniform, reasonable examination for irrigators or installers, as applicable, administered by the board in accordance with these sections and Texas Civil Statutes, Article 8751. To pass such examination, a person must satisfactorily demonstrate sufficient proficiency in, but not limited to, the principles of cross connections, safety devices to prevent contamination of potable water supplies, efficient irrigation system design and installation, water conservation, hydraulics, and backflow prevention; or

(2) the board has determined that he is a person registered as the equivalent of a licensed irrigator or licensed installer in another state or country that has requirements for registration or licensing that are substantially equivalent to the requirements of Texas. [and that extends the same privilege of reciprocity to licensed irrigators or licensed installers registered in Texas.]

§423.4. Applications for Certificates of Registration.

(a) (No change.)

(b) In addition to submitting his completed application form and application fee, a person [an irrigator or installer] holding the equivalent of a valid licensed irrigator or licensed installer certificate of registration in another state [or country] who wishes to be considered for registration by endorsement in Texas [under reciprocity,] shall arrange for a certified copy of his certification record from the state or country in which he is registered to be directly submitted [submit] to the executive secretary by the foreign registration

agency. [his certification record from the state or country in which he is registered.] Obtaining a passing grade on all or any part of the written examination required for registration may be waived by the board on a case-by-case basis for any person holding the equivalent of a valid irrigator's or installer's license or certificate of registration issued by another state that has substantially equivalent requirements as Texas.

(c) (No change.)

§423.7. Application and Examination Fees; Form of Payment. Persons applying for an irrigator's certificate of registration shall remit an application and examination fee of \$75. Persons applying for an installer's certificate of registration shall remit an application and [or] examination fee of \$35. Payments shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators. These fees shall not be refundable.

§423.10. Application Processing.

(a) (No change.)

(b) Applications for registration by examination may be made at any time but must be accompanied by the examination fee and received by the executive secretary at least 30 [45] days prior to the applicant's examination date. Applicants shall be responsible for fulfilling all application requirements by this [the] deadline. If the application is complete, the executive secretary shall notify the applicant, so stating, within 10 working days after receipt of the complete application.

(c) The executive secretary [board] shall verify [and evaluate] each submitted application, and if the board or the executive secretary should require additional relevant information, the applicant shall submit such information within the time and in the form requested. The applicant shall be given written notice of any deficiency within 10 working days of receipt of the application.

(d) (No change.)

§423.13. Determination of Application for Registration by Endorsement. [under Reciprocity.] The board's approval of an application for registration by endorsement [under reciprocity] shall be given by letter, within 120 [30] days after receipt of said application, which assigns the applicant a registration number. A certificate of registration and identification card shall be issued upon the applicant's compliance with §425.41 of this title (relating to Seal Required) and §425.44 of this title (relating to Seal and Rubber Stamp Facsimile Design) as applicable.

§423.19. Rejection of Application.

[(a)] The board, or the executive secretary on behalf of the board, may reject an application if:

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

[(b)] The board may reject an application if the board finds that the applicant is not of good moral character.]

§423.22. Hearing on Rejected Application.

(a) (No change.)

(b) The applicant must request a hearing in writing within 20 [10] days after the applicant receives his letter of rejection.

(c)-(d) (No change.)

(e) The board shall render a final decision on the application in an open meeting. [inform the applicant of its final decision on his application by certified mail.] If the final decision is to uphold its rejection of the application, the board shall state in its final order [decision] the reasons and relevant facts for rejection. The final decision or order must be rendered within 60 days after the date the hearing is finally closed.

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 April 29, 1992.

TRD-9205941

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

◆ ◆ ◆
Examinations

• 31 TAC §§423.41, 423.50, 423.56

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§423.41. Eligibility for Written Examinations. The board, or any board members, or the executive secretary on behalf of the board shall administer written examinations only to persons [who the board has determined to be of good moral character and] who have completed the required application form and have submitted it and the required examination fee to the executive secretary in accordance with these sections.

§423.50. Appearance for Examination; Failure to Appear. Applicants shall personally appear for the written examination at the designated date, time, and place and be prepared to present sufficient identification. An applicant who fails to appear for an examination shall forfeit the required examination fee except upon written request showing good cause why the applicant failed to appear, as determined by the board or the executive secretary.

§423.56. Grading; Minimum Passing Score. A score of 70% or more on each and every section of the applicable examination is required for registration as a licensed irrigator or licensed installer.

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 April 29, 1992.

TRD-9205940
Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

Certificate of Registration

• 31 TAC §§425.16, 425.19, 425.22, 425.25

The Texas Board of Irrigators proposes amendments to §§425.16, 425.19, 425.22, 425.25, and 425.41, concerning certificates of registration. These amendments are proposed under Texas Civil Statutes, Article 8751, §7. These amendments are proposed in order to implement certain provisions of Texas Senate Bill 544, 72nd Legislature (1991), which went into effect on September 1, 1991, and became Texas Civil Statutes, Article 8751. These amendments are proposed in order to provide guidelines for the expiration of certificates of registration, the renewal of certificates of registration, and the penalty for failure to renew a certificate of registration.

Section 425.16 (relating to Notice of Expiration; Change of Address) dictates that the executive secretary is to send written notification of the expiration of a licensed irrigator's or installer's certificate of registration. Section 425.19 (relating to Renewal of Certificate; Same Registration Number) discusses the cost and procedure of renewing an unexpired certificate of registration. Section 425.22 (relating to Failure to Renew Certificate of Registration; Notice; Penalty) discusses the 90-day grace period in which an irrigator or installer may renew an expired certificate of registration, the consequences of failing to renew a certificate of registration within such grace period, and the penalties for purporting to be a licensed irrigator or installer in the absence of a current license.

Section 425.25 (relating to Unauthorized Use of Certificate) dictates who is authorized to use a certificate of registration and the consequences for violating this rule. Section 425.41 (relating to Seal Required) requires a licensed irrigator to obtain a seal that is approved by the board, register such seal with the board, and place such seal on all professional documents.

These proposed rules are identical to the emergency rules that were published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 764).

Bettye Jean Urban, chief fiscal officer, has determined that for the first five-year period the sections are in effect there will be negligible fiscal implications for state government as a result of enforcing or administering the sections. There will be no effect on local government.

Ms. Urban 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 grammatical correction and clarification of existing rules. 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 these proposals may be submitted to Kathy Keils, Staff Attorney, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For further information please call (512) 463-8069.

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§425.16. Notice of Certificate Expiration; Change of Address.

(a) The executive secretary shall notify each licensed irrigator and licensed installer of the date of expiration of his certificate and the amount of the fee that is required for the annual renewal of registration. Such notice shall be sent by first-class mail to the person's last known address according to records of the board at least 30 days before the expiration of a licensed irrigator's or licensed installer's certificate. [by June 30 of each year to each licensed irrigator's or licensed installer's last known address.]

(b) Licensed irrigators and licensed installers shall immediately notify the executive secretary in writing of any change in mailing address.

§425.19. Renewal of Certificate; Same Registration Number.

(a) A licensed irrigator or a licensed installer may renew an unexpired certificate [his certificate] of registration [at any time during the months of July and

August of each year] by payment of a renewal fee in the amount of \$85 for a licensed irrigator or \$50 for a licensed installer. Payment shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators.

(b) (No change.)

§425.22. Failure To Renew Certificate of Registration; Notice; Penalty.

(a) If a person's licensed irrigator or licensed installer certificate of registration has been expired for 90 days or less, the certificate of registration is automatically suspended; however, the person may renew the certificate by paying to the board the required renewal fee as stated in §425.19(a) of this title (relating to Renewal of Certificate; Same Registration Number), and a late payment fee that is one-half of the examination fee set out in §423.7 of this title (relating to Application and Examination Fees; Form of Payment). [Failure of a licensed irrigator or a licensed installer to renew his certificate of registration by August 31 of each year does not deprive him of the right to renewal, but his registration shall be automatically suspended and the fee paid for renewal of a certificate of registration after the August 31 deadline shall be increased 10% for each month or part of a month that the renewal payment is delayed.] If [the] a person [licensed irrigator or licensed installer] fails to pay in full his certificate of registration renewal fee and late payment fee within 90 days after expiration of the certificate of registration, [after the August 31 deadline,] the certificate of [his] registration shall not be renewable. [automatically expire.] The person must requalify under Texas Civil Statutes, Article 8751, §8, by submitting to examination, and otherwise [he must comply] complying with Chapter 423 of this title (relating to Registration of Irrigators and Installers) to obtain a new licensed irrigator or licensed installer certificate of registration.

(b) The executive secretary shall immediately notify each licensed irrigator and licensed installer who has failed to renew his certificate of registration by its expiration date [August 31] of such failure by certified mail sent to his last known address.

(c) Any failure of the executive secretary to notify a licensed irrigator or installer about renewal of a certificate of registration shall not affect the requirements relating to renewal of certificates of registration upon licensees under this subchapter.

(d)[(c)] Any irrigator or installer who acts as a licensed irrigator or licensed installer when his registration has been au-

the outlet side of the backflow prevention device, which exceeds the supply pressure against the inlet side of the device. Where vacuum breakers may be used, they shall be installed at least six to 12 inches above the surrounding ground.

(2) Atmospheric vacuum breakers. In addition [to the prohibition and installation requirements of subsection (a) of this section], continuous pressure on the supply side of an atmospheric vacuum breaker is prohibited. Therefore, atmospheric vacuum breakers shall be installed in either of the two following ways.

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

(2)(3) Pressure-type vacuum breakers [breaker]. **Pressure-type vacuum breakers are designed to prevent back-syphonage and can operate under continuous pressure.** Subject to the prohibition and installation requirements of paragraph (1) [subsection (a)] of this section, a single pressure-type vacuum breaker may be used in systems where the sprinkler main may be pressurized at all times.

(3)(4) Double check assembly backflow preventors [preventor]. **Double [A double] check assembly [DCA] backflow preventors [preventor] are designed to prevent back pressure and back-syphonage of water not containing any toxic substance.** They may be used where water supply pressure and back pressure on the backflow prevention device may continuously exist.

(4)(5) Reduced pressure principle devices [device]. **Reduced [A reduced] pressure principle devices [device] are designed for water containing toxic or non-toxic substances and for back-pressure and back-syphonage.** They shall be installed above ground in a location so as to insure that the device will not be submerged during operation. [In addition, adequate provisions shall be made for any water which may be discharged through the device's release valve. A licensed irrigator may not incorporate this device in an irrigation system design without first obtaining informed approval to do so from the party for whom he is designing the system.]

§427.6. Required Backflow Prevention Devices.

(a) An irrigation system that does not have associated with it any type of injection device and that is connected or capable of being connected only to a single source of water presents a low potential for contamination of the water supply and is, therefore, considered to be a "low hazard" installation. Such an irrigation system shall be connected to the water supply through a double check assembly backflow preventor,

an appropriate type of vacuum breaker, or other industry-approved "low hazard" backflow prevention device.

(b) An irrigation system with any kind of injection device associated with it has a potential for introducing toxic substances into the water supply and is, therefore, considered to be a "high hazard" installation. Such an irrigation system shall not be connected to any water supply except only through an industry-approved "high hazard" backflow prevention device, such as an appropriate pressure-type backflow preventor or reduced pressure principle backflow prevention device.

(c) If an irrigation system has more than one water supply source, with one or more supplies being potable water and the other supply or supplies being nonpotable water, the irrigation system shall be connected to each water supply only through an industry-approved "high hazard" backflow prevention device.

§427.8. Minimum Industry Standards for Irrigators/Installers.

(a) Minimum industry standards for spacing.

(1) Irrigation systems using spray or rotary heads shall be designed and installed not to exceed the manufacturer's maximum recommended head spacing for a specific nozzle operating at a specific pressure.

(2) Irrigation systems using spray or rotary heads with no recommended spacing provided by the manufacturer shall be designed and installed in conformance with the average spacing specifications provided by a minimum of three other manufacturers of like equipment for the same size nozzle and, the same pressure.

(3) Irrigation systems not using spray or rotary heads shall be installed according to the manufacturer's recommended installation specifications.

(b) Minimum industry standards for water pressure. Irrigation systems using spray or rotary heads shall be designed and installed according to the minimum head pressure required by the manufacturer for the nozzle and head spacing used.

(c) Minimum industry standards for wind derating.

(1) Irrigation systems using spray or rotary heads shall be designed and installed with the head spacing derated according to the manufacturer's recommendation for the average nighttime wind speed.

(2) Irrigation systems using spray or rotary heads with no manufacturer's recommended spacing deration provided shall be designed and installed in

conformance with the average spacing wind derating information provided by three other manufacturers of like equipment for that size nozzle and pressure.

(d) Minimum industry standards for precipitation rate.

(1) Landscape irrigation systems using spray or rotary heads that are installed in Precipitation Zone Number 1, as defined in §421.1(A) of this title (relating to Definitions), shall be designed and/or installed to provide a minimum precipitation rate of .25 inches per hour for every hour that the landscape irrigation system is in operation.

(2) Landscape irrigation systems using spray or rotary heads that are installed in Precipitation Zone Number 2, as defined in §421.1(B), shall be designed and/or installed to provide a minimum precipitation rate of .275 inches per hour for every hour that the landscape irrigation system is in operation.

(3) Landscape irrigation systems using spray or rotary heads that are installed in Precipitation Zone Number 3, as defined in §421.1(C), shall be designed and/or installed to provide a minimum precipitation rate of .30 inches per hour for every hour that the landscape irrigation system is in operation.

(4) Landscape irrigation systems using spray or rotary heads that are installed in Precipitation Zone Number 4, as defined in §421.1(D), shall be designed and/or installed to provide a minimum precipitation rate of .325 inches per hour for every hour that the landscape irrigation system is in operation.

(e) Minimum industry standards for depth coverage of piping. Irrigation systems using spray or rotary heads shall be designed and/or installed according to the manufacturer's recommended specifications for depth coverage of piping, unless one of the following circumstances is encountered.

(1) If the manufacturer has no recommended specifications for depth coverage of piping, the irrigation system shall be designed and/or installed to provide a minimum of six inches of coverage over piping.

(2) If utilities, structures, or tree roots are encountered, the irrigation system shall be designed and/or installed to provide a minimum of two inches of coverage over piping.

(f) Minimum industry standards for wiring irrigation systems.

(1) The wiring used in an irrigation system that connects section valves to controllers shall be Underwriters Laboratories listed for direct underground burial.

(2) The wiring used in an irrigation system that connects section valves to controllers shall be sized according to the manufacturer's recommendation.

(3) Direct burial wire splices used in an irrigation system shall be waterproof.

(4) Direct burial wire splices used in an irrigation system shall consist of a mechanical wire connector inside of a container surrounded by a waterproof sealant.

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 April 29, 1992.

TRD-9205935 Joyce Watson
 Executive Secretary
 Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

◆ ◆ ◆
**Standards for Connections to
Potable Water Supplies**

• **31 TAC §427.10**

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

The repeal is proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§427.10. Connections to Alternate Water Supplies.

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 April 29, 1992.

TRD-9205944 Joyce Watson
 Executive Secretary
 Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

◆ ◆ ◆
**Chapter 429. Violation of
Statute or Board Rule**

Complaint Process

The Texas Board of Irrigators proposes the repeal of §§429.1, 429.13, 429.16, 429.19, and 429.22, new §§429.1-429.3, 429.5, 429.11, 429.13-429.19, and 429.41, and amendments to §§429.4, 429.7, 429.10, 429.44, 429.51, 429.53, and 429.55, concerning the steps taken to file a complaint with the board against an irrigator or installer, setting complaint on board agenda for further investigation, board consideration of and action on complaints, referral of complaints by the board to hearings before the Texas Water Commission, referral of probable violations to the board by board members, and the Texas Water Commission's authority to revoke the registration of a licensed irrigator or installer; concerning the board's issuance of enforcement orders, hearings with respect to alleged violations of the Licensed Irrigators Act or of any order of the board, the steps taken to file a complaint with the board against an irrigator or installer, policies allowing the public to speak on issues under the board's jurisdiction, notice of complaint status, the hearing request and enforcement report, the procedures for notice, hearing, action, and appeal of alleged violations of Texas Civil Statutes, Article 8751, or a rule of the board; and concerning the processing of a complaint filed with the board against an irrigator or installer, the investigation of a complaint, informal resolution of a complaint, revocation of registration by the board, civil penalties to be assessed by a court, and action by the attorney general to recover civil penalties and pursue injunctive relief. These amendments, repeals, and new sections are proposed under Texas Civil Statutes, Article 8751, §7. These amendments are proposed in order to implement certain provisions of Texas Senate Bill 544, 72nd Legislature (1991), which went into effect on September 1, 1991, and became Texas Civil Statutes, Article 8751. These amendments, repeals, and new rules are proposed in order to provide guidelines for making complaints to the Board of Irrigators, investigating complaints, and resolving complaints through either informal resolution or a formal hearing.

Section 429.4 (relating to Board's Receipt of Complaint) dictates the duties of the executive secretary upon receipt of a complaint. Section 429.7 (relating to Investigation of Complaint) discusses the duties of the executive secretary, or an investigator designated by the executive secretary, in investigating a complaint and the authority of the executive secretary to refer the complaint to the attorney general if the executive secretary determines that immediate legal action is necessary to enforce applicable statutes or board rules. Section 429.10 (relating to Informal Resolution of Complaint) provides that the executive secretary determines when a complaint is informally resolved and notifies the complainant, respondent, and the board of such informal resolution. Section 429.44 (relating to Surrender of Certificate and Identification Card; Seal) discusses that once an irrigator's/installer's license has been revoked by the board, such irrigator/installer shall surrender his certificate of registration and identification card to the board. Section 429.51 (relating to Civil Penalty) sets out the maximum civil penalty a person may be assessed when found in violation of statutes, rules, or

board orders by a court of competent jurisdiction. Section 429.53 (relating to Injunctions) dictates that the board may enforce Texas Civil Statutes, Article 8751, board rule, and board order by injunctions or other appropriate remedy. Section 429.55 (relating to Action by Attorney General) provides for the recovery of civil penalties, or for injunctive relief through action by the attorney general.

Sections 429.1, 429.13, 429.16, 429.19, 429.22, and 429.41 are being repealed in order to comply with Texas Senate Bill 544, 72nd Legislature (1991), which went into effect on September 1, 1991, and became Texas Civil Statutes, Article 8751, that mandates the establishment of a formal hearing process before the board.

Section 429.1 (relating to Enforcement Orders) dictates that the board may issue orders enforcing compliance with Texas Civil Statutes, Article 8751, board rules, and board orders. Section 429.2 (relating to Hearings on Alleged Violations) discusses that the board may order a public hearing with respect to alleged violations, may receive relevant evidence, may compel attendance of a witness, shall make findings of fact and conclusions of law, and is authorized to issue orders. Section 429.3 (relating to Complaint) defines who may file a complaint to the board and what that complaint must include. Section 429.5 (relating to Public Comment) discusses the board's policy that provides the public with an opportunity to appear before the board and speak on any issue that is under the jurisdiction of the board. Section 429.13 (relating to Hearing Request and Enforcement Report) delineates the steps to be taken by the executive secretary in initiating an enforcement action; what matters are to be included in the enforcement report; what the proposed penalty is to be based upon; and the maximum administrative penalty allowed. Section 429.14 (relating to Notice) provides that the executive secretary shall notify an alleged violator of the issuance of a violation report. This section also dictates what information the notice is to include, when the notice shall be sent, and under what circumstances a hearing shall be set. Section 429.15 (relating to Answer) discusses the following: that if the executive secretary recommends that a penalty be assessed, the respondent may answer within a specific time period; the contents of the respondent's answer; the board's action after receiving respondent's answer; circumstances under which supplemental pleadings may be filed; presumptions to be made in the hearing except for good cause shown; amendments to answer consenting to the executive secretary's violation report and recommended penalties; and that if the respondent and the executive secretary reach a settlement, such settlement is subject to board approval.

Section 429.16 (relating to Hearing) dictates the following: when the board may remand the matter for an evidentiary hearing before a hearings examiner that has been designated by the board; that the hearings examiner shall make findings of fact and conclusions of law, and issue a proposal for decision; and that the board and the hearings examiner have subpoena power.

Section 429.17 (relating to Board Consideration of Complaint; Board Action on Complaint) prescribes the options the board has upon receiving the hearing examiner's recommendations. This section also delineates factors the board is to consider in determining the penalty amount. Section 429.18 (relating to Notice of Board Order) dictates that the executive secretary shall send notice to the respondent of the board's order. Such notice shall contain elements specified in this section. Section 429.19 (relating to Appeals of Administrative Penalties) sets out the procedures for a respondent's appeal of an administrative penalty. Specifically, this section: requires that the respondent pay the penalty in full within 30 days of the final board order; defines how a respondent who is assessed a penalty may suspend enforcement of such penalty while seeking judicial review; provides the options of a respondent who is financially unable to pay the assessed penalty; delineates the consequences for failing to act on a penalty within 30 days of the board's final order; dictates the procedure for collecting or returning appropriate penalty amounts after final appellate determination; provides that supersedeas bonds or escrow accounts must be drawn according to a form on file in the executive secretary's office; and defines the standard of review of the board's order or decision.

These proposed rules are identical to the emergency rules that were published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 768) except for the correction of grammatical errors in §429.11 (relating to Notice of Complaint Status), §429.13(b)(2) (relating to Hearing Request and Enforcement Report), §429.17(b) (relating to Board Consideration of Complaint; Board Action on Complaint), §429.51(a) (relating to Civil Penalty); and the addition of §429.5 (relating to Public Comment).

Betty Jean Urban, chief fiscal officer, has determined that for the first five-year period the proposed sections are in effect there will be negligible fiscal implications for state government as a result of enforcing or administering the sections. There will be no effect on local government.

Ms. Urban 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 hearings before the board as well as enforcement of Texas Civil Statutes, Article 8751. 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 these proposals may be submitted to Kathy Keils, Staff Attorney, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For further information please call (512) 463-8069.

• 31 TAC §§429.1, 429.13, 429.16, 429.19, 429.22

The sections are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers

and duties under Texas Civil Statutes, Article 8751.

§429.1. *Complaint.*

§429.13. *Setting Complaint on Board Agenda; Notice.*

§429.16. *Board Consideration of Complaint; Board Action on Complaint.*

§429.19. *Copies of Board Order.*

§429.22. *Probable Violation Report of Board Member.*

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 April 29, 1992.

TRD-9205945

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

◆ ◆ ◆
• 31 TAC §§429.1-429.5, 429.7, 429.10, 429.11, 429.13-429.19

The sections are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§429.1. *Enforcement Orders.* The board, upon a recommendation of the executive secretary, or upon its own motion, may issue appropriate orders enforcing and directing compliance with the provisions of Texas Civil Statutes, Article 8751, the rules of the board, and other orders of the board. A copy of every such order shall be sent by certified mail to the person to whom it is directed. However, when the board determines that time is of the essence in achieving compliance, the order may be transmitted in person, by telephone, telegraph, telecopier (telex), or other satisfactory means, but it shall be promptly followed by the written order sent by certified mail as aforesaid. When the person to whom the order is directed receives it, regardless of how that person initially receives the order, the person shall immediately comply with the order according to its terms.

§429.2. *Hearings on Alleged Violations.* The board may, upon the request of the executive secretary, order a public hear-

ing with respect to alleged violations of the provisions of the Licensed Irrigators Act or of any order of the board. The board may receive relevant and competent evidence from any party who appears at the hearing, may compel the attendance of witnesses, shall make findings of fact and conclusions of law, and is authorized to issue orders and make determinations necessary to effectuate the purposes of the Licensed Irrigators Act.

§429.3. *Complaint.*

(a) Any person with personal knowledge of any probable violation of Texas Civil Statutes, Article 8751 or of these sections may file a written complaint with the board.

(b) Any person with personal knowledge of any probable act of a licensed irrigator or licensed installer which may constitute gross negligence, incompetency, or misconduct while he is acting as a licensed irrigator or licensed installer may file a written complaint with the board.

(c) A written complaint must include the name and address of the person against whom the complaint is filed and the alleged facts and must be notarized.

§429.4. *Board's Receipt of Complaint.*

(a) Upon the board's receipt of a complaint, the executive secretary must [shall:]

[(1) send three copies of the complaint to the executive director;]

[(2)] send one copy of the complaint by certified mail to the respondent. [; and]

[(3) send a copy of the complaint to the chairman of the board.]

(b) **If a complaint filed with the board is not notarized or does not allege sufficient facts upon which the executive secretary can determine the basis for enforcement of Texas Civil Statutes, Article 8751 or the rules of the board the executive secretary shall immediately notify the complainant.**

§429.5. *Public Comment.* Persons may appear before the board and comment on any issue that is under the jurisdiction of the board.

§429.7. *Investigation of Complaint.*

(a) **The executive secretary or an investigator designated by the executive secretary shall investigate each notarized complaint that alleges sufficient facts to establish a prima facie basis for enforcement of Texas Civil Statutes, Article 8751, or the rules of the board. [The**

chairman of the board may appoint not more than three members of the board to investigate a complaint. The executive secretary shall furnish each board member appointed to investigate a complaint with a copy of the complaint file.]

(b) **The executive secretary or an investigator designated by the executive secretary** [Appointed members] shall investigate the matters complained of and may take steps to secure the respondent's voluntary compliance with Texas Civil Statutes, Article 8751, and these sections, or otherwise informally resolve the matter.

(c) Upon completion of the investigation, **the investigator shall file a written report with the executive secretary**, [the investigating board members shall file with the executive secretary a written report,] including a detailed description of the investigation and any informal resolution[, and any recommendations to the board.]

(d) During investigation of a complaint, if the **executive secretary determines** [chairman and board members appointed to investigate the complaint determine] that immediate legal action is necessary to enforce Texas Civil Statutes, Article 8751, or the rules of the board, the executive secretary immediately shall refer the complaint to the attorney general with a request that suit be initiated to obtain injunctive and other appropriate relief. Copies of the request shall be sent to the complainant, respondent, and all board members. At a subsequent meeting of the board, the **investigator** [a board member appointed to investigate the complaint] shall report on the investigation and actions taken to enforce Texas Civil Statutes, Article 8751, and the rules of the board.

§429.10. Informal Resolution of Complaint. Where the executive secretary [chairman of the board] determines that a complaint is informally resolved:

(1) the executive secretary shall so inform the complainant and respondent in writing, notifying them that **the executive secretary will report the resolution to the board with a recommendation that the board [will] take no further action on the complaint unless requested to do so by the complainant; [and]**

(2) the **investigator or the executive secretary** [board members investigating the complaint] shall brief the board, at its next meeting, on the complaint, investigation, and resolution; **and [.]**

(3) **the board will make a final decision on the complaint that it determines to be consistent with the informal resolution between the parties, the Licensed Irrigators Act, and the rules of the board.**

§429.11. Notice of Complaint Status. For each written complaint filed with the board in accordance with §429.3 of this title (relating to Complaint) that is within the authority of the board to resolve, the executive secretary on behalf of the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

§429.13. Hearing Request and Enforcement Report.

(a) If the executive secretary determines through investigation of a complaint that evidence exists of a violation of Texas Civil Statutes, Article 8751, or the rules of the board, the executive secretary may refer such evidence to the board and may initiate an enforcement action by issuing a petition to the board that alleges the facts upon which the action is based, incorporating the complaint upon which the petition is based, and requesting a hearing and appropriate relief. The executive secretary shall set the petition for consideration by the board as soon as practicable.

(b) If the enforcement action seeks or recommends an administrative penalty to be assessed by the board and is brought pursuant to Texas Civil Statutes, Article 8751, or any other statute authorizing the board to assess an administrative penalty, an enforcement report shall accompany the petition of the executive secretary. The enforcement report shall include:

(1) a brief statement of the nature of each alleged violation;

(2) the statute and rules of the board allegedly violated;

(3) the facts relied upon by the executive secretary in concluding that a violation has occurred;

(4) a recommendation that an administrative penalty be assessed;

(5) the amount of the recommended penalty; and

(6) an analysis of the following factors upon which the proposed penalty shall be based:

(A) the seriousness of each alleged violation, including, but not limited to, the nature, circumstances, extent, duration, and gravity of the prohibited acts; the hazard or potential hazard created to the health, safety, and general welfare of the consuming public and the public at large;

(B) with respect to the alleged violator:

(i) the history and extent of previous violations;

(ii) the degree of culpability;

(iii) the demonstrated good faith, including actions taken by the alleged violator to rectify the cause of the violation and actions taken to mitigate any damage or harm caused by the violation;

(iv) any economic benefit gained through the violations; and

(v) the amount necessary to deter future violations; and

(C) any other matters that justice may require.

(c) The recommended penalty for each violation shall be specified in the enforcement report in an amount not to exceed \$1,000.

§429.14. Notice.

(a) The executive secretary shall notify the alleged violator by certified mail, return receipt requested, of the issuance of the executive secretary's petition concerning a violation or noncompliance and the recommendation, if any, that a license be suspended or revoked and/or that an administrative penalty be assessed. The notice shall include a brief summary of the charges, a statement of whether the revocation or suspension of the alleged violator's license will be recommended, and a statement of the amount of the penalty recommended. The notice shall also include a statement of the right of the person charged to an evidentiary hearing on any or all of the following: the occurrence of the violation or the suspension or revocation of the license and/or the amount of the penalty. The notice shall be sent not later than the 14th day after the date on which the enforcement report is issued, or if an enforcement report is not issued, then at least 20 days prior to the hearing before the board or a hearings officer appointed by the board.

(b) If the person charged requests an evidentiary hearing or fails to timely respond to the notice as required by §429.15(a) of this title (relating to Answer), the executive secretary shall set an evidentiary hearing and shall send notice of the time and place of the hearing to the person charged not less than 10 days prior to the evidentiary hearing by certified mail, return receipt requested.

(c) In all cases where the executive secretary proposes that the board suspend or revoke a person's certificate of registration, the board will make the final decision upon such proposal. No decision by the board may be made upon a proposal to revoke or suspend a person's certificate of registration

except after notice and a hearing before the board or a hearings officer appointed by the board.

§429.15. Answer.

(a) If the executive secretary recommended in the enforcement report that a penalty be assessed, the person charged may submit to the board a sworn answer, not later than 20 days after the date on which notice of the initial hearing before the board is received, containing either written consent to the executive secretary's petition and enforcement report, including the recommended penalty, or a written request for an evidentiary hearing.

(b) If the person charged consents to the petition and enforcement report, including the recommended penalty, the answer shall affirmatively so state. After the answer is received, the board shall issue an order approving the enforcement report and the recommended penalty, granting the petition, and ordering payment of the recommended penalty.

(c) If the person charged requests an evidentiary hearing to contest either the occurrence of the violation, the recommended penalty, or both, the answer shall:

(1) admit or deny all factual matters; and

(2) affirmatively allege any and all claims, defenses, or mitigating factors the person charged may have and the reasoning in support thereof.

(d) Supplemental pleadings may be filed by the person charged, but only in the event good cause can be shown as to why claims, defenses, or mitigating factors were not affirmatively alleged or factual matters not controverted in the original answer.

(e) Except for good cause shown:

(1) factual matters not controverted shall be presumed admitted;

(2) failure to raise a claim, defense, or mitigating factor shall be presumed to be a waiver of such claim, defense, or mitigating factor; and

(3) new matters alleged in the answer shall be presumed to be denied by the executive secretary unless admitted in subsequent pleading or stipulation by the executive secretary.

(f) Nothing shall preclude the person charged from amending the answer at any time so as to consent to the executive secretary's violation report and recommended penalty. Further, the executive secretary and person charged may reach an agreement such that an agreed order is entered wherein the person charged admits to any or all of the violations alleged in the executive secretary's violation report and

consents to the assessment of a specific administrative penalty. Such settlement of the matters raised by the executive secretary's violation report is subject to the approval of the board.

§429.16. Hearing.

(a) Whenever the executive secretary sets a matter for hearing in accordance with §429.14(b) of this title (relating to Notice), the board may remand such matter for hearing to be held by a hearings examiner for the purpose of developing an evidentiary record and recommendations as stated in subsection (c) of this section, prior to proceedings before the board.

(b) The board shall designate a hearings examiner when a hearing is either requested by the respondent or is automatically set due to respondent's failure to timely answer. The chairman of the board is authorized to effectuate a remand to a hearings examiner and to designate a hearings examiner on behalf of the board in accordance with these rules.

(c) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the board a proposal for decision as to the occurrence of the violation, including a recommendation as to the amount of the proposed penalty if a penalty is warranted. These hearings shall be held in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(d) The board and a hearings examiner designated by the board may compel the attendance of a witness before the board or hearings examiner as in civil cases in district court by issuance of a subpoena.

§429.17. Board Consideration of Complaint; Board Action on Complaint.

(a) Based upon the evidentiary record and recommendations of the hearings examiner, the board by order may find a violation has occurred and may assess a penalty or may find that no violation has occurred.

(b) When assessing an administrative penalty, the board shall consider each factor listed in §429.12(b)(6) of this title (relating to Hearing Request and Enforcement Report) in determining the amount of the penalty.

(c) As provided by law, the board may suspend or revoke the registration of, or place on probation a person whose certificate has been suspended, and reprimand any licensed irrigator or licensed installer after giving due notice and an opportunity for hearing as required by law, if it finds that he is guilty of:

(1) a violation of Texas Civil Statutes, Article 8751, or a rule of the board;

(2) fraud or deceit in obtaining a certificate of registration; or

(3) gross negligence, incompetence, or misconduct while acting as a licensed irrigator or licensed installer.

(d) If the board chooses to probate the suspension, the board may require the violator to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit activities to the areas prescribed by the board; or

(3) continue or renew professional education until the registrant attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

§429.18. Notice of Board Order. The executive secretary shall give notice of the board's order to the person charged. Such notice shall be sent by first-class mail to the person's last known address according to board records. The notice shall include:

(1) the findings of fact and conclusions of law separately stated;

(2) the amount of the penalty ordered, if any;

(3) a statement of the right of the person charged to judicial review of the board's order, if any; and

(4) other information required by law.

§429.19. Appeals of Administrative Penalties.

(a) Within the 30-day period immediately following the day on which the board's order is final, as provided by Texas Civil Statutes, Article 6252-13a, §16(c), the person charged with the penalty shall pay the penalty in full.

(b) The person assessed a penalty by the board may suspend enforcement of the penalty while seeking judicial review, by contesting either the occurrence of the violation, the recommended penalty, or both. Enforcement of the penalty may be suspended by forwarding the amount of the penalty to the executive secretary for placement in an escrow account or posting with the executive secretary a supersedeas bond in a form approved by the executive secretary for the amount of the penalty, within the 30 day period immediately following the day on which the board's order is final.

(c) In the event the person assessed a penalty by the board is financially unable to satisfy the requirements set out in subsections (a) or (b) of this section, that person may satisfy the requirements of subsection (b) of this section by filing with the executive secretary an affidavit sworn by the person assessed a penalty. Such affidavit shall state that person is financially unable either to forward the amount of the penalty or to post bond. The affidavit shall be filed within the 30-day period immediately following the day on which the board's order is final.

(d) Failure to pay the penalty in full, or failure to forward the amount of the penalty for placement in an escrow account, or post a supersedeas bond, or failure to file the affidavit with the executive secretary within the 30-day period immediately following the day on which the board's order is final, shall result in a waiver of all legal rights to judicial review. In the event the person assessed fails to take any of the actions in subsections (a)-(c) of this section, the executive secretary may forward the matter to the attorney general for enforcement.

(e) In the event that the final appellate determination is against the person assessed a penalty, he or she shall pay the board the full amount of the penalty, and the board shall deposit the amount of the penalty in the state treasury to the credit of the general revenue fund.

(f) In the event that the final appellate determination reduces the amount of the penalty or is in favor of the person assessed, the executive secretary shall return the appropriate amount of the penalty assessed plus accrued interest on the amount returned with a certificate of its return. Interest on the amount returned shall be paid at the rate described in Texas Civil Statutes, Article 8751, §11A(n).

(g) Any supersedeas bond or escrow account filed with the executive secretary for the purpose of appeal of the final decision of the board shall be drawn according to a form on file in the office of the executive secretary. Upon request, the executive secretary shall certify the receipt of the amount of any penalty received for the purpose of appeal.

(h) Judicial review of the order or decision of the board assessing the penalty shall be in accordance with the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County as provided by Texas Civil Statutes, Article 6252-13a.

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 April 29, 1992.

TRD-9205933

Joyce Watson
Executive Secretary
Texas Board of Irrigators

Earliest possible date of adoption: June 8, 1992

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

Revocation of Registration

• 31 TAC §429.41

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

The repeal is proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

• 31 TAC §429.44

The amendment is proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§429.44. Surrender of Certificate and Identification Card; Seal. Upon the revocation of a licensed irrigator's or licensed installer's registration by the board [commission], the affected irrigator or installer shall immediately surrender his certificate of registration and identification card to the board and shall cease using his official seal and any rubber stamp facsimile of the seal in the irrigator's possession.

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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Joyce Watson
Executive Secretary
Texas Board of Irrigators

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

Penalty

• §§429.51, 429.53, 429.55

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§429.51. Civil Penalty.

(a) A person who violates Texas Civil Statutes, Article 8751; a rule adopted by the board pursuant to Texas Civil Statutes, Article 8751; or an order of the board [commission] issued after a hearing, pursuant to Texas Civil Statutes, Article 8751, §5(c); and/or an order suspending or revoking a certificate of registration under Texas Civil Statutes, Article 8751, §11, is subject to a civil penalty not to exceed \$3,000 [\$1,000] for each offense. Each day a violation is committed is a separate offense.

(b) (No change.)

§429.53. Injunctions. The board may enforce Texas Civil Statutes, Article 8751, a board rule, or board [commission] order by injunctions or other appropriate remedy. The action may be brought by the board in a court of competent jurisdiction in the county in which the offending activity occurred, in which the defendant resides, or in Travis County.

§429.55. Action By Attorney General. At the request of the executive secretary [board], the attorney general shall institute and conduct a suit in the name of the state to recover the civil penalty as provided under §429.51 of this title (relating to Civil Penalty) or for injunctive relief or other appropriate remedy or for both.

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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Joyce Watson
Executive Secretary
Texas Board of Irrigators

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

Chapter 431. Standards Of Conduct

Subchapter A. Licensed Irrigator And Installer Standards

• 31 TAC §§431.1-431.6

The Texas Board of Irrigators proposes amendments to §§431.1-431.6, concerning the standards of conduct for licensed irrigators or installers. These amendments are proposed under Texas Civil Statutes, Article 8751, §7. These amendments are proposed in order to: add installers as a group that is governed by 31 TAC Chapters 421, 423, 425, 427, 429, and 431; provide guidelines for advertising by irrigators and installers; and provide consumers with information regarding regulation of irrigation in Texas.

Section 431.1(b) (relating to Purpose of Standards) requires that applicants are to become informed of the standards of conduct provided in this chapter, while licensed irrigators or installers are deemed to have notice of such standards of conduct. Section 431.2 (relating to Intent) prescribes the purpose of establishing standards of conduct and the consequences for failing to comply with such standards. Section 431.3 (relating to Proficiency in Field of Irrigation; Representation of Qualifications) defines competence in the performance of irrigation or installation, and requires truthful disclosure by a licensed irrigator or installer of his qualifications. Section 431.4 (relating to Advertisement) dictates where a licensed irrigator or installer must display his registration number; prohibits false, misleading, or deceptive practices relating to the bidding or advertising of services; and requires the display of the board's name, address, and telephone number at a licensed irrigator's or installer's place of business. Section 431.5 (relating to Contracts) states what a written agreement to install an irrigation system shall contain, and if there is no written agreement the licensed irrigator/installer is to provide written information as to how the consumer may contact the board. Section 431.6 (relating to Design) dictates what shall be included in a design, written agreement, bill for service, or document.

These proposed rules are identical to the emergency rules that were published in the January 31, 1992, issue of the *Texas Register* (17 TexReg 772).

Betty Jean Urban, chief fiscal officer, has determined that for the first five-year period the sections are in effect there will be negligible fiscal implications for state government as a result of enforcing or administering the sections. There will be no effect on local government.

Ms. Urban 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 clarification of the existing rules as they relate to the standards of conduct for licensees. 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 these proposals may be submitted to Kathy Keils, Staff Attorney, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5 p.m., 30 days after the date of this publication. For further information please call (512) 463-8069.

The amendments are proposed under Texas Civil Statutes, Article 8751, §7, which provide the Texas Board of Irrigators with the authority to adopt rules necessary to carry out its powers and duties under Texas Civil Statutes, Article 8751.

§431.1. Purpose of Standards.

(a) (No change.)

(b) Every applicant for registration as a licensed irrigator or installer shall become fully informed of the obligations and responsibilities inherent in the practice of irrigation as outlined by these standards of conduct. Each licensed irrigator or in-

staller shall be deemed to have notice of these standards of conduct, and shall be required to abide by the standards.

§431.2. Intent.

(a) These standards of conduct are established to prescribe responsibility and knowledge on the part of the irrigator and installer and to aid in governing the irrigation industry.

(b) The board shall determine what actions constitute violations of the standards and institute appropriate disciplinary action which may lead to monetary penalties and/or the suspension or revocation of a license in accordance with the applicable state statutes.

§431.3. Proficiency in Field of Irrigation; Representation of Qualifications.

(a) Competence in the performance of services of a licensed irrigator or installer requires that the licensee's knowledge and skill encompass the currently accepted practice and knowledge of selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system including the connection of such system in and to a private or public, raw or potable water supply system or any water supply. Licensed irrigators must therefore maintain proficiency in the field of irrigation.

(b) A licensed irrigator or installer shall accurately and truthfully represent to a prospective client his qualifications and capabilities of resources to perform the services requested and shall not perform services for which he is not qualified by experience or knowledge in the technical field involved.

§431.4. Advertisement.

(a) A licensed irrigator or installer shall display his registration number in the form of "LI _____" in block letters at least two inches high, on both sides of all vehicles used by him or by his employees for installation, service, or repair of irrigation [irrigations] systems.

(b) All advertisements, including business cards, of a licensed irrigator shall display his registration number in the form of "LI _____."

(c) False, misleading, or deceptive practices relating to the bidding or advertising of services and fees by a licensed irrigator or a licensed installer is prohibited.

(d) The name, mailing address, and telephone number of the board shall be prominently displayed on any sign in plain view at the place of business of a licensed irrigator or licensed installer.

§431.5. Contracts.

(a) A licensed irrigator's agreement to install an irrigation system, if in writing, shall specify his name, business address and telephone number, date that the agreement was signed by each party thereto, total agreed price, and the design number or a copy of the design. If there is no written design, the agreement shall contain a brief description of the major components of the system to be installed. Such agreement shall also provide the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board.

(b) All written contracts and bills for service to install irrigation systems shall include the statement: "Irrigation in Texas is regulated by the Texas Board of Irrigators, P. O. Box 12337, Austin, Texas 78711 [78701], (512) 463-7990 [475-8161]."

(c) If there is no written agreement or bill for service, the irrigator or installer shall provide a written document that includes the statement: "Irrigation in Texas is regulated by the Texas Board of Irrigators, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990."

§431.6. Design.

(a) No licensed irrigator may design an irrigation system, or a portion thereof, so as to require the use of any component part in a way which exceeds the manufacturer's performance limitations for the part, unless the use is necessary to accommodate special site conditions. Special site conditions shall be noted on the design, [or in] the written agreement, the bill for service, or the document described in 431.5(c) (relating to Contracts). [if there is no written design.]

(b) Adequate design and specifications of an irrigation system to be installed are the responsibility of the licensed irrigator who designs or supervises the designing of the system regardless of whether a fee is collected for the design work.

(c) The design [work] shall include a statement of area coverage of the irrigation system, and any system which does not provide 100% coverage shall be so noted on the design, [or in] the written agreement, the bill for service, or the document described in 431.5(c) (relating to Contracts). [if there is no written design.]

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 April 29, 1992.

TRD-9205936

Joyce Watson
Executive Secretary
Texas Board of Irrigators

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

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part IX. Texas Commission on Jail Standards

Chapter 259. New Construction Rules

New Low-Risk and Medium-Risk Design, Construction and Furnishing Requirements

- **37 TAC §§259.201-259.205, 259.207, 259.212-259.216, 259.233, 259.235, 259.256**

The Texas Commission on Jail Standards proposes amendments to §§259.201-259.205, 259.207, 259.212-259.216, 259.233, 259.235, and 259.256, concerning the addition of design and construction requirements and guidelines for medium-risk jail facilities.

Jack E. Crump, 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. Crump 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 optimum utilization of existing jail space and efficient and economical means of new jail construction while still providing appropriate protection for the community, corrections staff, and inmates. 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 Jack E. Crump, Executive Director, Texas Commission on Jail Standards, 611 South Congress, Suite 200, Austin, Texas 78704, (512) 463-5505.

The amendments are proposed under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§259.201. [Low-Risk] Facility Site. The site should be of sufficient size to provide for the immediate facility and a reasonable projected expansion. A buffer zone around the building is desirable.

§259.202. [Low-Risk] Facility Operation Concept. Inmates housed in medium-

risk and low-risk facilities shall be assessed according to the provisions of Chapter 271 of this title (relating to Classification and Separation of Inmates) in order to provide for adequate protection of the inmates, staff, and community. Unlike jails and lock-ups for high-risk and pre-classified inmates, these facilities do not require stringent security measures. Inmates housed in the low-risk facility shall be male or female inmates sentenced to work release, school release, or weekend detention programs or inmates who require minimal supervision. **Medium-risk inmates require closer supervision and more restricted movement.** [Unlike a jail or lock-up, a low-risk facility does not require a security perimeter. It does, however, require segregation of male and female inmates.]

§259.203. Low-Risk Facility Security Requirements. Low-risk facility security should be planned to protect inmates from one another, protect custodial personnel from inmates and deter or prevent escapes. [; however, the stringent security measures of jails and lock-ups are not required.] A low-risk facility need not be designed and maintained as a special security unit. It does not require a security perimeter. When built in conjunction with other jail or lock-up functions, the integrity of the security perimeter of the higher security facility shall not be compromised.

§259.204. Medium-Risk Facility Security Requirements. A security perimeter to restrict the movement of inmates and unauthorized persons and to prevent the introduction of contraband into the facility shall be maintained. Safety vestibules shall be provided for each inmate living area and day room used for confinement of three or more inmates within the security perimeter. [Special Security. A low-risk facility need not be designed and maintained as a special security unit. When built in conjunction with other jail or lock-up functions, the integrity of the security perimeter of the higher security facility shall not be compromised.]

§259.205. Life Safety. Facilities shall comply with the provisions of Chapter 263 of this title (relating to Life Safety). [Public Building. A low-risk facility may be located under, in, or on top of another building which has not been designed for security purposes.]

§259.207. Segregation.

(a) (No change.)

(b) **Medium-risk facilities shall have cells and day rooms of capacities which provide adequate separation of dif-**

ferent classifications of male and female inmates as required by the facility classification plan and Chapter 271 of this title (relating to Classification and Separation of Inmates).

(c)[(b)] Low-risk and medium-risk facilities shall provide adequate single cells, separation cells, or holding cells for the holding of inmates for medical segregation or awaiting transfer to administrative or disciplinary segregation housing or shall provide written procedures for expeditious transfer of inmates to appropriate facilities. Cells used for this purpose shall be provided with a security perimeter. (Applicable to facilities initiated after May 1, 1991.)

§259.212. Construction Materials.

(a) **Low-risk facilities.** Inmate living areas and day rooms may be constructed of conventional construction materials. Consideration should be given to the use of quality durable materials. [Single story facilities may be of wooden frame construction if they meet the provisions of §263.12(1) of this title (relating to Separation); §263.22 of this title (relating to Hazardous Area Protection); §263.24 of this title (relating to Construction Materials and Furnishings); and §263.53 of this title (relating to Smoke and Fume Removal), as determined by the local fire marshal.]

(b) **Medium-risk facilities.** Inmate living areas and day rooms shall be constructed of metal, masonry, concrete, or other comparable materials. The purpose of a particular wall or partition and the type of security sought to be achieved should determine the selection of appropriate materials.

§259.213. Functions. [Low-Risk Facilities.]

(a) Space shall be allocated for, but not limited to, the following functions: [A low-risk facility shall consist of single cells (rooms) or multiple-occupancy cells (rooms) or dormitories for the custody of inmates who are considered to be not dangerous or likely to escape and who may be involved in some type of "release" program. It shall be of sufficient size to accommodate the needs of its daily operation. Minimum dimensions and areas for housing and activity space shall be allocated for, but not limited to, the following functions:]

(1)-(16) (No change.)

(b) Space should be allocated for a kitchen, inmate commissary, and library, if conditions warrant. It is permissible to use the same rooms or space allocation for more than one of the listed functions where such use will not deny any constitutional right of inmates, custodial personnel, or general public and where such use will not impair the safety, security, segregation, or sanitation.

tion of the facility.

§259.214. *Inmate Entrance.* The inmate entrance may be through a conventional vestibule into the receiving area. This entrance shall allow for passage of **patient evacuation equipment** [a loaded ambulance cot]. The vestibule shall be designed and constructed to allow observation and identification of a person approaching the inmate entrance **and shall maintain the security level appropriate to the facility. The security perimeter of a medium-risk facility shall not be compromised.** Electronic surveillance equipment may be used.

§259.215. *Inmate Reception.* Facilities [Low-risk facilities] shall have a receiving area. The receiving area shall be designed to readily permit the administrative processing of inmates. Receiving areas should be provided with drinking fountains and water closets. Panels or partitions may be erected at the booking desk, counter, or area to insure privacy and increase separation of males, females, juveniles, and adults during a multiple booking operation.

§259.216. *Kitchen.* If food is to be prepared in the [low-risk] facility, a kitchen shall be provided. The kitchen shall be planned for efficient food preparation and receipt of supplies and storage.

§259.233. *Infirmiry.*

(a) An infirmiry is desirable and the construction of an infirmiry should be considered for a [low-risk] facility having a capacity of 50 or more whenever it is anticipated that:

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

(b) (No change.)

§259.235. *Multi-purpose Rooms.* A [low-risk] facility shall have, in addition to any activity or day room area, one or more multi-purpose rooms for group assembly of inmates. The multi-purpose room may be used for conferences, interrogations, contact visits, religious services, education, group counseling, or other special uses.

§259.256. *Windows and Screens.* Operable windows shall be equipped with insect screens. Windows and/or skylights should be provided. **The security level of windows in inmate occupied areas shall be equal to or greater than the perimeter wall of the inmate occupied area to which windows might provide ingress or egress.** [Window area shall be commensurate with the architectural expression of the facility, its location and other related factors.]

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 April 27, 1992.

TRD-9205974

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5505

◆ ◆ ◆
Chapter 271. Classification and Separation of Inmates

• 37 TAC §271.1

The Texas Commission on Jail Standards proposes an amendment to §271.1, concerning instructions for assessing and classifying jail inmates according to low risk, medium risk, and high risk custody levels.

Jack E. Crump, 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. Crump, 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 efficient and economical utilization of existing and future jail space while still providing appropriate protection for the community, corrections staff, and inmates. 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 Jack E. Crump, Executive Director, Texas Commission on Jail Standards, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 463-5505.

The amendment is proposed under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§271.1. *Inmate Safety.* A person arrested shall be confined or separated in a facility in the following manner:

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

(4) A custody level shall be assessed each individual consistent with public safety and available information when other than high-risk housing is utilized.

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

(C) This assessment shall determine low-risk, **medium-risk**, or high-risk custody status. Inmates with a custody assessment of 42 [24] -60 shall be considered high-risk inmates. **Inmates with a custody assessment of 24-41 may be considered medium-risk inmates.** Inmates

with a custody assessment of 0-23 may be considered low-risk inmates. A similar assessment system may be used; however, scoring guidelines shall be comparable with this subparagraph.

(D) After custody level assessment has been resolved, **medium-risk and high-risk inmates shall be classified according to §271.2 of this title (relating to Classification Plan).** Low-risk inmates do not require further classification except the separation of male and female inmates. Inmates transferred directly to a low-risk or **medium-risk** facility shall be assessed by the sheriff or his designee upon arrival. **Those inmates whose risk assessment is not compatible with the risk level of the facility shall be immediately transferred to a facility which provides appropriate risk level requirements.** [Those not qualifying as low-risk inmates shall be immediately transferred to a high-risk facility.]

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 April 27, 1992.

TRD-9205975

Jack E. Crump
Executive Director
Texas Commission on Jail
Standards

Earliest possible date of adoption: June 8, 1992

For further information, please call: (512) 463-5505



Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104.)

The State Board of Insurance, at a board meeting scheduled for 8:30 a.m. on June 11, 1992, will consider the adoption of the Texas Dwelling Policy Forms and Endorsements, pursuant to the Insurance Code, Article 5.35, that will become the minimum coverage that must be provided under a dwelling insurance policy. These policies and endorsements have been rewritten from conventional language to simplified easy to read language and have been reformatted to provide a more "user-friendly" policy for insureds. New options in coverage combinations are provided under single coverage forms to eliminate the need of using separate endorsements to extend coverage under a policy. In addition, the policy forms and endorsements to be considered by the board, meet the minimum readability standards set by order of the commissioner of insurance. Coverage being provided under the new policy forms is equal to or greater than the coverage currently provided under the approved policy forms. Reference to short rate cancellation has been eliminated to provide equal treatment to both the company and the insured. The new policy forms incorporate provisions of the Insurance Code, Article 21.49-2B (relating to cancellation and nonrenewal of certain property and casualty policies) and Article 21.55 (relating to prompt payment of claims), and eliminate the need for the attachment of mandatory endorsements. Endorsements containing obsolete provisions or coverages have been eliminated.

Copies of the full text, of the policy forms and endorsements are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-191).

The 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.

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 May 4, 1992.

TRD-9206076 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: May 4, 1992

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

The State Board of Insurance, at a board meeting scheduled for 8:30 a.m. on June 11, 1992, will consider the adoption of the Texas Farm and Ranch Owners Policy Forms and Endorsements, pursuant to the Insurance Code, Article 5.35, that will become the minimum coverage that must be provided under a farm and ranch owners insurance policy. These policies and endorsements have been rewritten from conventional language to simplified easy to read language and have been reformatted to provide a more "user-friendly" policy for insureds. In addition, the policy forms and endorsements to be considered by the board meet the minimum readability standards set by order of the commissioner of insurance. The policy forms and endorsements to be adopted provide the same coverage and policy conditions as were previously approved by the board with the following exceptions. Reference to short rate cancellation has been eliminated to provide equal treatment to both the company and the insured. The new policy forms incorporate provisions of the Insurance Code, Article 21.49-2B (relating to cancellation and nonrenewal of certain property and casualty policies), Article 21.55 (relating to prompt payment of claims), and Article 21.56 (relating to notice of settlement of liability claims), and eliminate the need for the attachment of mandatory endorsements. Liability and property coverage have been combined in the policy forms eliminating the need to attach a separate liability endorsement. Policy Form FRO-C has been eliminated and an optional endorsement is available to provide all-risk coverage previously provided under Form FRO-C.

Copies of the full text of the policy forms and endorsements are available for review in the office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-201).

The 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.

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 May 4, 1992.

TRD-9206077 Linda K. von Quintus-Dorn
Chief Clerk

Texas Department of
Insurance

Filed: May 4, 1992

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

The State Board of Insurance, at a board meeting scheduled for 8:30 a.m. June 11, 1992, will consider the adoption of the Texas Farm and Ranch Policy Forms and Endorsements, pursuant to the Insurance Code, Article 5.35, that will become the minimum coverage that must be provided under a farm and ranch insurance policy. These policies and endorsements have been rewritten from conventional language to simplified easy to read language and have been reformatted to provide a more "user-friendly" policy for insureds. New options in coverage combinations are provided under single coverage forms to eliminate the need of using separate endorsements to extend coverage. In addition, the policy forms and endorsements to be considered by the board meet the minimum readability standards set by order of the commissioner of insurance. Coverage being provided under the new policy forms is equal to or greater than the coverage currently provided under the approved policy forms. Reference to short rate cancellation has been eliminated to provide equal treatment to both the company and the insured. The new policy forms incorporate provisions of the Insurance Code, Article 21.49-2B (relating to cancellation and nonrenewal of certain property and casualty policies) and Article 21.55 (relating to prompt payment of claims), and eliminate the need for the attachment of mandatory endorsements.

Endorsements containing obsolete provisions or coverages have been eliminated.

Copies of the full text of the policy forms and endorsements are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-211).

The 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.

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 May 4, 1992.

TRD-9206078 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: May 4, 1992

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

The State Board of Insurance, at a board meeting scheduled for 8:30 a.m. June 11,

1992, will consider the adoption of the Texas Homeowners Policy Forms and Endorsements, pursuant to the Insurance Code, Article 5.35, that will become the minimum coverage that must be provided under a homeowners insurance policy. The policy forms and endorsements to be considered by the board meet the minimum readability standards set by order of the commissioner of insurance. The policy forms and endorsements to be adopted provide the same coverage and policy conditions as were previously approved by the board with the following exceptions. Reference to short rate cancellation has been eliminated to provide equal treatment to both the company and the insured. The new policy forms incorporate provisions of the Insurance Code, Article 21.49-2B (relating to cancellation and nonrenewal of certain property and casualty policies), Article 21.55 (relating to prompt payment of claims), and Article 21.56 (relating to notice of settlement of liability claims), and eliminate the need for the attachment of mandatory endorsements.

Copies of the full text of the policy forms and endorsements are available for review in the office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-221).

The 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.

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 May 4, 1992.

TRD-9206079 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: May 4, 1992

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

◆ ◆ ◆
The State Board of Insurance, at a board meeting scheduled for 8:30, on June 11, 1992, will consider the adoption of the Texas Personal Lines Manual, pursuant to the Insurance Code, Article 5.101.

The new Texas Personal Lines Manual contains rules, rates and/or premiums applicable to the writing of the Texas Homeowners Policy, Texas Dwelling Policy, Texas Farm and Ranch Owners Policy and the Texas Farm and Ranch Policy.

The Texas Personal Lines Manual replaces the existing dwelling, homeowners, farm and ranch, and farm and ranch owners sections of the Texas General Basis Schedules.

The manual consists of a Homeowners, Dwelling, Farm and Ranch, and Farm and Ranch Owners section. Each section has been reformatted and rewritten to correspond with the new simplified easy to read policies. In addition, optional credits have been included in the Homeowners and Farm and Ranch Owners sections to provide a method of reducing premium for qualifying risks. The minimum premium in the Dwelling and Farm and Ranch sections has been amended to a \$25 policy writing minimum premium.

Copies of the full text of the policy form are available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-231).

The 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.

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 May 4, 1992.

TRD-9206080 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: May 4, 1992

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

◆ ◆ ◆
The State Board of Insurance, at a board meeting scheduled for 8:30 a.m. on June 11, 1992, will consider the adoption of the Texas Commercial Property Rating Manual. This manual will be used for the inspection of buildings to establish base fire and extended coverage insurance rates under the Insurance Code, Article 5.25. The new manual replaces the existing rating schedules contained in the Texas General Basis Schedules with certain revisions to update the new manual to incorporate the new name of the agency as the Texas Department of Insurance. The new manual has been structured in a simplified format to be more "user friendly" and provide protection class codes for cities and towns as well as construction class codes. In addition, Guidelines and Standards for Approval of Testing Laboratories have

been incorporated for easy reference by all interested parties. This is an initial stage in a continuing process to establish a more efficient and effective classification system to better recognize fire protection.

Copies of the full text of the manual are available for review in the office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Lynette Brown at (512) 322-4147, refer to (Reference Number P-0492-241).

The notification is made pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

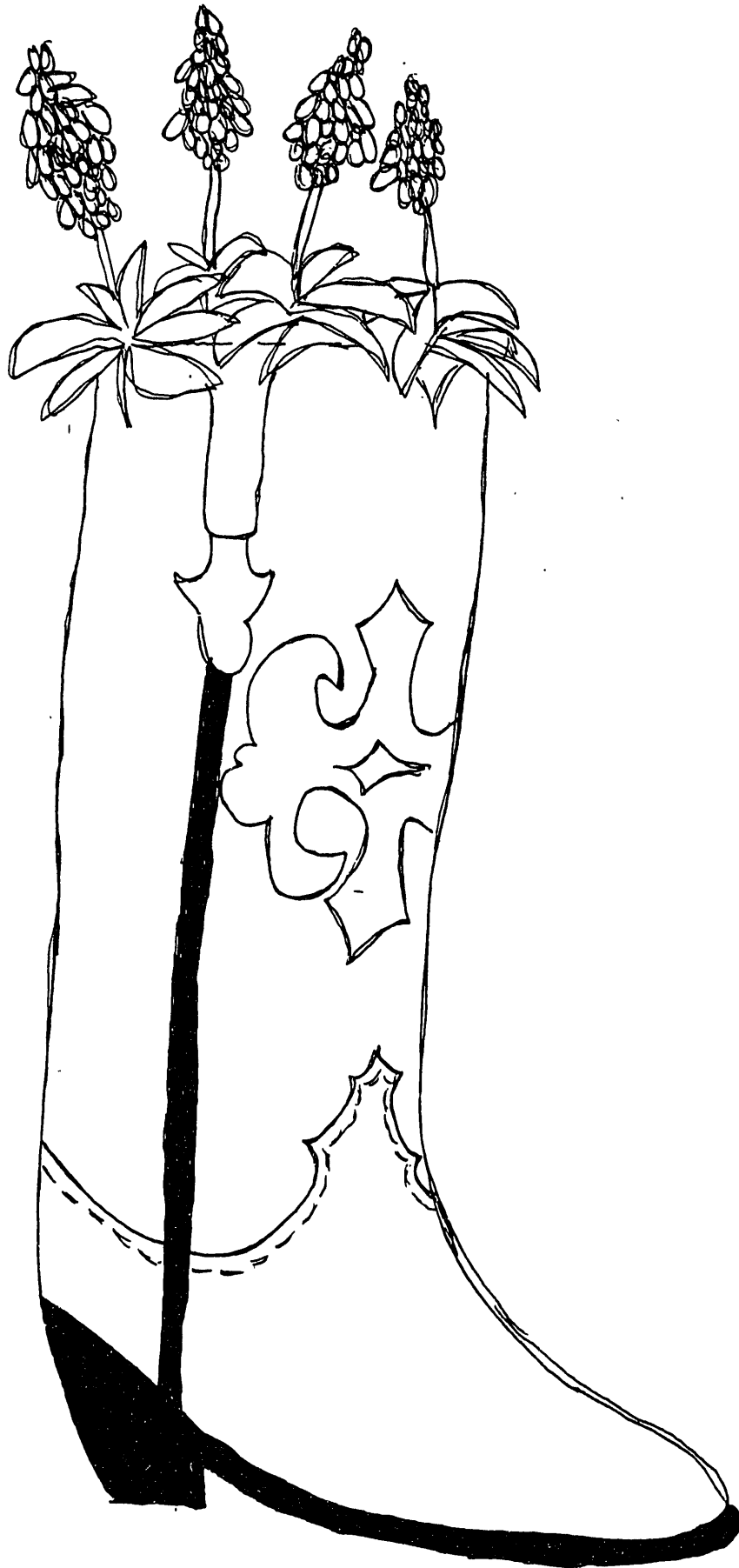
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 4, 1992.

TRD-9206081 Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Filed: May 4, 1992

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

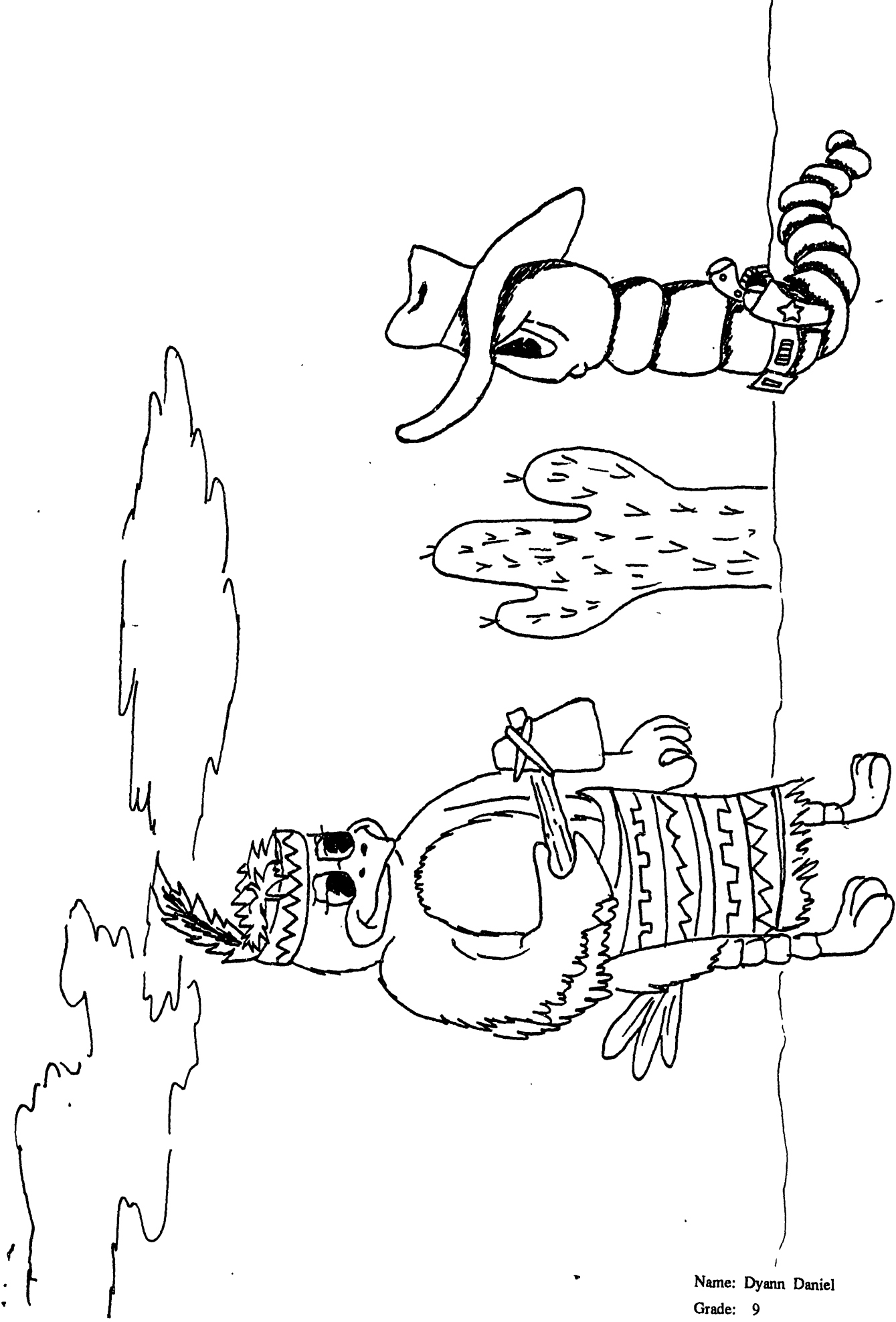


Name: Cheryl Spell

Grade: 12

School: Rockdale High School, Rockdale ISD

*Cheryl
Spell*



DYANN DANIEL

Name: Dyann Daniel
Grade: 9
School: Rockdale High School, Rockdale ISD

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 21. Practice and Procedure

Ancillary Proceedings and Proceedings Beyond the Order

• 16 TAC §21.164

The Public Utility Commission of Texas adopts new §21.164, concerning appeals of administrative penalties, with changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6893).

The purpose of the new section is to develop a procedure by which those assessed an administrative penalty by the commission may appeal such penalty.

During the 30-day comment period specified in the November 29, 1991, issue of the *Texas Register*, comments were received from the City of Austin recommending two changes to the proposed rule.

First, the City of Austin recommends that the proposed rule be specifically limited to the payment of penalties by persons owning and/or operating an ADAD. However, this rule does not address the payment of the administrative penalties by ADAD operators. The rule provides a mechanism by which those assessed an administrative penalty may appeal the penalty. The commission finds that this comment does not warrant a change.

Second, the City of Austin recommends that the proposed rule be modified to eliminate the foreclosure of the right to appeal for failure to pay the penalty or post bond. The section as adopted incorporates this change.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce the rules reasonably required in the exercise of its powers and jurisdiction.

§21.164. Appeals of Administrative Penalties.

(a) Within the 30-day period immediately following the day on which the commission's order is final, the person charged with a penalty shall pay the penalty in full.

(b) The person assessed a penalty by the commission may suspend enforcement of the penalty while seeking judicial

review by forwarding the amount of the penalty to the commission for placement in an escrow account or posting with the commission a supersedeas bond payable to the Public Utility Commission for the amount of the penalty, within the 30-day period immediately following the day on which the commission's order is final.

(c) In the event the person assessed fails to take any of the actions in subsections (a) and (b) of this section, the general counsel, upon approval of the commission, may forward the matter to the attorney general for enforcement.

(d) In the event that the final appellate determination is against the person assessed a penalty, he or she shall pay the commission the full amount of the penalty, and the commission shall deposit the amount of the penalty in the state treasury to the credit of the general revenue fund.

(e) In the event that the final appellate determination is in favor of the person assessed, he or she shall be absolved of all liability for payment of the amount of the penalty, and the commission shall return the amount of the penalty assessed with a certificate of its return.

(f) Any supersedeas bond or escrow account filed with the commission for the purpose of appeal of the final decision of the commission shall be drawn according to a form on file in the office of the secretary of the commission. Upon request, the secretary of the commission shall certify the receipt of the amount of any penalty received by the commission for the purpose of appeal.

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 May 1, 1992.

TRD-9206057

Mary Ross McDonald
Secretary
Public Utility Commission
of Texas

Effective date: May 22, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 458-0100



Chapter 23. Substantive Rules

Certification

The Public Utility Commission of Texas adopts the repeal of §23.32 and adopts new §23.32, concerning certification. The new section is adopted with changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6894). The repeal is adopted without changes and will not be republished.

The new section is adopted to implement the provisions of Texas Civil Statutes, Article 1446C, Article XV, §§111-118, which took effect September 1, 1991.

During the 30-day comment period specified in the November 29, 1991, issue of the *Texas Register*, comments in support of the proposed section were received from the Texas Telephone Association (TTA), Southwestern Bell Telephone Company, TTA, and the Texas Statewide Telephone Cooperative, Inc., requested modifications to the proposed section. No comments in opposition to the repeal or the new section were received.

Two commenters suggested that the rule should specify that the commission will issue an order requiring an LEC to disconnect service to an ADAD which is in violation of Article XV of PURA. This suggestion has been incorporated into the rule as adopted.

In response to three comments, the rule has been amended to extend the length of time for a LEC to forward to the commission a consumer complaint regarding an ADAD from one to three business days.

One commenter proposed that LECs be required to forward written complaints along with complaint forms. Another comment proposed that a written complaint be forwarded in lieu of a complaint form. The rule was amended to require the forwarding of a written complaint along with a complaint form.

One party commented that the rule's requirement that LECs forward to the commission complaints regarding ADADs imposes economic costs on the LECs. While the commission staff agrees that compliance with this rule may impose some economic cost on LECs, these costs are attributable to statutory requirements found in PURA, §115(e), which requires an LEC to send to the commission a complaint relating to the use of an ADAD.

The section as adopted specifies that a person holding a permit which was issued prior to September 1, 1991 must apply for renewal within 60 days of the effective date of this rule. Otherwise, the expiration date of each individual permit will determine when an ap-

plication for renewal must be made.

The title of the new section was changed to agree with the content of the section. Typographical and technical mistakes in the published section were corrected.

• **16 TAC §23.32**

The repeal is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §115(e), which requires the commission to prescribe by rule the procedures and requirements for an LEC to send to the commission a complaint relating to the use of an ADAD; and §118 which states that the commission may adopt any rules necessary to carry out its powers and duties under Article XV of Article 1446c.

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 May 1, 1992.

TRD-9206055

Mary Ross McDonald
Secretary
Public Utility Commission
of Texas

Effective date: May 22, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 458-0100



The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §115(e), which requires the commission to prescribe by rule the procedures and requirements for an LEC to send to the commission a complaint relating to the use of an ADAD; and §118 which states that the commission may adopt any rules necessary to carry out its powers and duties under Article XV of Article 1446c.

§23.32. Automatic Dial Announcing Devices.

(a) Purpose. The purpose of this section is to regulate the use of automatic dial announcing devices.

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

(1) Automatic dial announcing device (ADAD)—Any automated equipment used for telephone solicitation or collection that:

(A) is capable of storing numbers to be called, or has a random or

sequential number generator capable of producing numbers to be called; and

(B) alone or in conjunction with other equipment, can convey a prerecorded or synthesized voice message to the number called without the use of a live operator.

(2) Pay-per-call information service—A service that allows a caller to dial a specified "900" or "976" number to call a service that routinely delivers, for a predetermined and sometimes time-sensitive fee, a prerecorded or live message or interactive program.

(3) Telephone solicitation—An unsolicited telephone call.

(c) Requirements for use of an automatic dial announcing device. A person who operates an ADAD to make a telephone call in which the device plays a recorded message when a connection is completed to a telephone number must comply with the following requirements.

(1) An ADAD operator must obtain a permit from the commission and give written notice specifying the type of device to be connected to each telecommunications utility over whose system the device is to be used.

(2) The device must not be used for random number dialing or to dial numbers by successively-increasing or decreasing integers.

(3) The message must state during the first 30 seconds of the call the nature of the call, the identity of the person, company, or organization making the call, and the telephone number from which the call was made.

(4) The device must disconnect from the called person's line no later than 30 seconds after the call is terminated by either party or, if the device cannot disconnect within that period, a live operator must introduce the call and receive the oral consent of the called person before beginning the message.

(5) For calls terminating in this state, the device must not be used to make a call:

(A) for solicitation before noon or after 9 p.m. on a Sunday or before 9 a.m. or after 9 p.m. on a weekday or a Saturday; or

(B) for collection purposes at an hour at which collection calls would be prohibited under the federal Fair Debt Collection Practices Act (15 United States Code Section 1692 et seq).

(6) Calls may not be made to

emergency telephone numbers of hospitals, fire departments, law enforcement offices, or other entities providing emergency service.

(7) If during a call a cross-promotion or reference to a pay-per-call information service is made, the call must include:

(A) a statement that a charge will be incurred by a caller who makes a call to a pay-per-call information services telephone number;

(B) the amount of the flat-rate or cost-per-minute charge that will be incurred or the amount of both if both charges will be incurred; and

(C) the estimated amount of time required to receive the entire information offered by the service during a call.

(d) Permit to operate an ADAD.

(1) An application for a permit to use one or more ADADs must be made using a form prescribed by the commission and must be accompanied by a fee of \$500. A permit is valid for one year after its date of issuance. A person holding a permit which was issued prior to September 9, 1991 must apply for renewal within 60 days of the effective date of this rule. Subsequent renewals must be applied for no later than 90 days prior to the expiration date of the current permit. Subject to paragraph (3) of this subsection, a permit may be renewed annually by making the filing required by this section and paying a renewal fee of \$100.

(2) Each application for the issuance or renewal of a permit under this section must contain the telephone number of each ADAD that will be used and the physical address from which the ADAD will operate. If the telephone number of an ADAD or the physical address from which the ADAD operates changes, the owner or operator of the ADAD shall notify the commission by certified mail of each new number or address not later than the 48th hour before the hour at which the ADAD will begin operating with the new telephone number or at the new address. If the owner or operator of an ADAD fails to notify the commission as required by this subsection within the period prescribed by this subsection, the permit is automatically invalid.

(3) In determining if a permit should be issued or renewed, the commission will consider the compliance record of the owner or operator of the ADAD. The commission may deny an application for the issuance or renewal of a permit because of the applicant's compliance record.

(4) An LEC may obtain on request to the commission a copy of a permit issued under this section and of any changes relating to the permit.

(5) The commission may revoke a permit to operate an ADAD for failure to comply with this section.

(e) Exceptions. This section does not apply to the use of an ADAD to make a telephone call:

(1) relating to an emergency or a public service under a program developed or approved by the emergency management coordinator of the county in which the call was received; or

(2) made by a public or private primary or secondary school system to locate or account for a truant student.

(f) Complaints, investigation, and enforcement.

(1) If the commission determines that a person has violated the requirements of this section, the telecommunications utility providing service to the user of the ADAD shall comply with a commission order to disconnect service to the person. The telecommunications utility may reconnect service to the person only on a determination by the commission that the person will comply with this section. The utility shall give notice to the person using the device of the utility's intent to disconnect service not later than the third day before the date of the disconnection, except that if the device is causing network congestion or blockage, the notice may be given on the day before the date of disconnection.

(2) A telecommunications utility may, without an order by the commission or a court, disconnect or refuse to connect service to a person using or intending to use an ADAD if the utility determines that the device would cause or is causing network harm.

(3) An LEC that receives a complaint relating to the use of an ADAD shall send the complaint to the commission according to the following guidelines.

(A) The complaint shall be recorded on a form prescribed by the commission.

(B) The LEC shall inform the complainant that the complaint, including the identity of the complainant and other information relevant to the complaint, will be forwarded to the commission.

(C) The complaint form and any written complaint shall be forwarded to the commission within three business days

of its receipt by the LEC.

(g) Penalties. A person who operates an ADAD without a valid permit or with an expired permit or who otherwise operates the ADAD in violation of this section or a commission order is subject to an administrative penalty of not more than \$1,000 for each day or portion of a day during which the ADAD was operating in violation of this section.

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 May 1, 1992.

TRD-9206054 Mary Ross McDonald
Secretary
Public Utility Commission
of Texas

Effective date: May 22, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 458-0100

Certification

• 16 TAC §23.33

The Public Utility Commission of Texas adopts new §23.33, concerning telephone solicitation, with changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6895).

The purpose of the new section is to require local exchange carriers (LECs) to inform their customers of provisions of the law regarding telephone solicitation and to ensure that telephone solicitors implement in-house systems and procedures to ensure that they do not repeatedly solicit persons who ask not to receive consumer telephone calls.

The new section is adopted to implement the provisions of Texas Civil Statutes, Article 1446C, Article XV, §§119-120, which took effect January 1, 1992.

During the 30-day comment period specified in the November 29, 1991, issue of the *Texas Register*, comments in support of the proposed section were received from the Texas Telephone Association (TTA), Southwestern Bell Telephone Company, TTA, and the Texas Statewide Telephone Cooperative, Inc., requested modifications to the proposed section. No comments in opposition to the new section were received.

Two parties who filed comments suggested that the commission give LECs more specific guidance with respect to the notice required by §23.33(c). The section as adopted contains the actual text to be published by LECs.

The section as adopted also adds the requirement that telephone solicitors, upon request, provide to the Public Utility Commission a written description of their systems and procedures used to prevent calling consumers who have asked not to be called again.

Typographical and technical mistakes in the published section were corrected.

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; §119, which places certain requirements on telephone solicitors and grants the commission authority to enforce its provisions; and §120 which requires the commission to require by rule that a LEC inform its customers of certain provisions of the law relating to telephone solicitation.

§23.33. Telephone Solicitation.

(a) Purpose. The purpose of this section is to require local exchange carriers (LECs) to inform their customers of provisions of the law regarding telephone solicitation and to require telephone solicitors to implement systems and procedures to ensure that they do not repeatedly solicit persons who ask not to receive consumer telephone calls.

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

(1) Consumer telephone call—An unsolicited call made to a residential telephone number to:

(A) solicit a sale of a consumer good or service;

(B) solicit an extension of credit for a consumer good or service; or

(C) obtain information that will or may be used to directly solicit a sale of a consumer good or service or to extend credit for the sale.

(2) Consumer good or service—

(A) real property or tangible or intangible personal property that is normally used for personal, family, or household purposes, including personal property intended to be attached to or installed in any real property;

(B) a cemetery lot;

(C) a time-share estate; or

(D) a service related to real or personal property.

(3) Telephone solicitor—A person who makes or causes to be made a consumer telephone call, including a call made by an automatic dialing/announcing device.

(c) Responsibility of LECs. Each LEC shall inform its customers of the provisions of the Business and Commerce Code, Chapter 37, and the Public Utility Regulatory Act, §119 (Texas Civil Statutes, Article 1446c), by inserting the notice prescribed by this subsection annually in the billing statement mailed to a customer or publishing the notice in the consumer information pages of its local telephone directory. The notice shall read as follows:

"TELEPHONE SOLICITATION

"Texas law provides certain protections for a person who receives a telephone solicitation at a residence.

"A telephone solicitor must:

- * identify himself or herself by name
- * identify the business on whose behalf he or she is calling;
- * identify the purpose of the call

"A telephone solicitor may not call a residence before 9 a.m. or after 9 p.m. on a weekday or Saturday or before noon or after 9 p.m. on Sunday.

"If a telephone solicitor uses an automatic dialing/announcing device, the machine must disconnect from your line within 30 seconds after termination of the call.

"Exceptions: The requirements above do not apply to telephone solicitations made at your request, or solicitations made in connection with an existing debt or contract, or calls from a telephone solicitor with whom you have a prior or existing business relationship.

"If you use a credit card to purchase a good or service from a telephone solicitor other than a public charity (an organization exempt from federal income tax under the Internal Revenue Code, §501(c)(3)), the seller must:

- * offer a full refund for the return of undamaged and unused goods within seven days after you receive the goods or service (the seller must process the refund within 30 days after you return the merchandise or cancel your order for undelivered goods or services); or

- * provide you with a written contract fully describing the goods or services being offered, the total price charged, the name, address, and business phone of the seller, and any terms and conditions affecting the sale.

"Complaints. The Texas Attorney General investigates complaints relating to a violation of this law, which is found at the Business and Commerce Code, Chapter 37. If you have a complaint about a telephone solicitor whom you believe has violated this law, contact:

Consumer Protection Division, Office of the Attorney General of Texas, P.O. Box 12548, Austin, Texas 78711, (512) 463-2070."

"Another law, found at Texas Civil Statutes Article 1446c, §119 and §120, requires a telephone solicitor to make every effort not to call a consumer who asks not to be called again. Complaints relating to a violation of this law are investigated by the Public Utility Commission of Texas. If you have a complaint about repeated solicitation from a telephone solicitor you have asked not to call you again, contact:

Public Information Office Public, Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757 (512) 458-0256 or (512) 458-0221 teletypewriter for the deaf."

(d) Responsibilities of telephone solicitors. Each telephone solicitor operating in this state who makes consumer telephone calls shall implement systems and procedures so that every effort is made not to call consumers who ask not to be called again. Upon request, a telephone solicitor shall provide a written description of such systems and procedures to the Public Utility Commission.

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

Issued in Austin, Texas, on May 1, 1992.

TRD-9206056 Mary Ross McDonald
Secretary
Public Utility Commission
of Texas

Effective date: May 22, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 458-0100

TITLE 22. EXAMINING BOARDS

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

• 22 TAC §291.39

The Texas State Board of Pharmacy adopts the repeal of §291.39, concerning Class A Pharmacies Located in a State Other than Texas. The 72nd Legislature passed Senate Bill 1497 which gives the Board the authority to license out-of-state pharmacies as Class E (Non-resident) Pharmacies. Since this legislation was passed, the rules, which classify out-of-state pharmacies as Class A pharmacies are no longer applicable. Out-of-state (Non-resident) pharmacies will be licensed as specified in Senate Bill 1497 and rules for Class E Pharmacies will be promulgated in

the near future.

No comments were received on the proposed repeal of this rule.

The repeal is proposed under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1) Section 16 which gives the Texas State Board of Pharmacy the authority to adopt rules for the proper administration and enforcement of the Act.

§291.39. Pharmacies Located in a State Other than Texas.

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 May 1, 1992.

TRD-9206051 Fred S. Brinkley, Jr.,
R.Ph., M.B.A.
Executive
Director/Secretary
Texas State Board of
Pharmacy

Effective date: May 22, 1992

Proposal publication date: November 8, 1991

For further information, please call: (512) ?

TITLE 28. INSURANCE Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter D. Effect of Criminal Conduct on Licenses

• 28 TAC §1.501, §1.502

The State Board of Insurance of the Texas Department of Insurance adopts amendments to §1.501 and §1.502, concerning the effect of criminal conduct on licensing of all persons licensed or seeking to be licensed by the Texas Department of Insurance. Section 1.502 is adopted with one change to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7700). Section 1.501 is adopted without changes and will not be republished.

The amended sections are necessary to implement legislation enacted by the 72nd Legislature, codified as Texas Insurance Code, Article 21.07, §10A and Article 1.14A, relating to ineligibility for an agent's license based on a felony conviction and to ineligibility for a certificate of authority based on a felony conviction, respectively. These sections also implement the provisions of Texas Civil Statutes, Article 6252-13d, §4, and are intended to give effect to and harmonize Texas Civil Statutes, Article 6252-13d, §4, relating to the suspension, revocation, or denial of license to persons with criminal backgrounds, and the Insurance Code, Article 21.07, §10A and Article 1.14A. The change to §1.502(a)(3)(D) replaces the word "shall" with the word "may" in the first statement of

subparagraph (D).

Section 1.501 describes the purpose and scope of these rules and §1.502 describes the effect on licensure of criminal conduct of licensees, applicants, and corporate officials. The new sections are intended to give effect to and harmonize Texas Civil Statutes, Article 6252-13d, §4 and the Insurance Code, Articles 21.07, §10A and 1.14A.

Northwestern Mutual Life Insurance Company commented against adoption of the amendments.

One individual commented on behalf of an insurance company regarding the amendment proposed in §1.502(a)(3)(D) wherein the Texas Department of Insurance shall, after notice and hearing, revoke the certificate of authority of an insurance company if a corporate official of the company is convicted of a felony involving moral turpitude or breach of a fiduciary duty. This individual commented that the rule would place an insurer in an untenable position of choosing between terminating any indicted official prior to conviction or subjecting itself to a mandatory hearing in which its certificate of authority might be revoked. This individual recommended that the rule apply only to executive officers of an insurance company and that the conviction should be considered only when a license is being renewed. Pursuant to the provisions of the Insurance Code, Article 1.14, §1, a certificate of authority is in full force and effect until it is revoked, canceled, or suspended according to law, without an annual renewal.

The board agrees with part of the comment regarding the effect of the rule would have on an insurance company which has a company official who has been indicted. However, if a conviction is appealed, it is not a final conviction upon which the department would set a hearing until there is a decision on the appeal. The board agrees with the comment about a mandatory hearing and has changed "shall" to "may" to reflect the statutory language and has reworded the dependent clause in the first sentence. The board is unable to relieve the commenter of other stated concerns. The legislature of necessity must enact statutes with broad coverage in order to afford protection for policyholders. The language in the sections is intended to give effect to the statute and not in any way narrow the protection afforded by the statute by limiting the persons or times affected.

The amendments are adopted under the Insurance Code, Articles 21.07, 1.14A and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5, and Article 6252-13d. The Insurance Code, Article 21.07, §10A, provides for ineligibility for an agent's license based on a felony conviction. Article 1.14A provides for ineligibility of an insurance company for a certificate of authority based on a felony conviction. Article 1.04(b) authorizes the board to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and prescribe procedures for adoption of rules by a state administrative agency.

Article 6252-13d, §4, requires each licensing authority to file with the Secretary of State for publication in the *Texas Register* guidelines pertaining to the suspension, revocation or denial of licenses to persons with criminal backgrounds.

§1.502. Effect of Criminal Conduct of Applicants, Licensees, and Corporate Officials on Licensure.

(a) The Texas Department of Insurance considers it very important that licensees, all corporate officials, including corporate officers and members of boards of directors of insurance companies (referred to as corporate officials in these rules), and license applicants and all corporate officials of license applicants be honest, trustworthy, and reliable. Accordingly, crimes involving moral turpitude, including, but not limited to, fraud, dishonesty, and the mishandling of funds are generally of prime importance in determining fitness for licensure.

(1) The special nature of the relationship between agents, insurance companies, other insurance-related entities, the corporate officials of such entities, and the public with respect to insurance and related businesses regulated by the Texas Department of Insurance, requires trust in and reliance upon such persons because of the complex and varied nature of insurance and insurance-related products which require citizens to place reliance on insurance and insurance-related licensees. In light of this special relationship, the matters specified in Texas Civil Statutes, Article 6252-13(c), §4(b) and (c), and described in subsection (b) of this section, will be considered by the Texas Department of Insurance in determining whether to grant, deny, suspend, or revoke any license under its jurisdiction.

(2) Where the legislature has set out specific criteria for any license, such specific criteria shall be considered by the Texas Department of Insurance in considering whether to grant, deny, suspend, or revoke such licenses. In the event of any conflict with these rules, those specific statutory criteria shall govern licensure under such statutes.

(3) The department, in considering the matters described in subsection (b) of this section, has determined that the serious nature of felony convictions involving crimes of moral turpitude or breach of fiduciary duty, bear such a strong relationship to the occupations which are licensed by the department, that special rules should apply to licensure of persons convicted of such crimes. The following rules, therefore, apply to persons convicted of felonies involving crimes of moral turpitude or breach of fiduciary duty.

(A) The department shall not

issue a license to any applicant for a license as an insurance agent subject to Article 21.07, §10A, if the applicant has been convicted of a felony involving moral turpitude or breach of a fiduciary duty, except as provided in subparagraph (F) of this paragraph.

(B) The department shall not issue a certificate of authority to any applicant for a certificate of authority as an insurance company if a corporate official of the company has been convicted of a felony involving moral turpitude or breach of a fiduciary duty, except as provided in subparagraph (F) of this paragraph.

(C) The department shall not issue a license to any applicant for any license regulated by the department, other than a license as an insurance agent subject to Article 21.07, §10A, or a certificate of authority as an insurance company, if the applicant has been convicted of a felony involving moral turpitude or breach of a fiduciary duty, unless the commissioner of insurance finds that the other matters set out in subsection (b) of this section outweigh the serious nature of a felony conviction involving moral turpitude or breach of fiduciary duty when viewed in light of the occupation being licensed, except as provided in subparagraph (F) of this paragraph.

(D) The department may, after notice and hearing, revoke the certificate of authority of an insurance company if a corporate official of the company is convicted of a felony involving moral turpitude or breach of a fiduciary duty. In determining whether to revoke the certificate of authority of the insurance company, the department shall consider the factors set forth in subsection (b) of this section and whether the insurance company has terminated the corporate official with the felony conviction. The certificate of authority may not be reinstated except as provided in subparagraph (F) of this paragraph.

(E) The department shall, after notice and hearing, revoke the license of any licensee if the licensee is convicted of a felony involving moral turpitude or breach of a fiduciary duty, unless the other factors set forth in subsection (b) of this section outweigh the serious nature of the crimes involved when viewed in light of the special relationship between the licensee and the public. The license may not be reinstated except as provided in subparagraph (F) of this paragraph.

(F) A licensee or applicant whose application for issuance of a license has been denied or whose license has been

revoked under subparagraph (D) or subparagraph (E) of this paragraph, may petition the commissioner of insurance for issuance or reinstatement of the license under the following conditions.

(i) The licensee or applicant may not make a petition for issuance or reinstatement of a license before a date five years after the date of final conviction or, if the licensee, applicant, or corporate official of the licensee or applicant has been sentenced to prison or probation, five years after the date the sentence or probation terminates.

(ii) A petition for issuance or reinstatement of a certificate of authority may be made at any time after the convicted corporate official is no longer a corporate official of the company.

(iii) The petition for issuance or reinstatement of a license must set forth the following information:

(I) the date of final conviction and/or the date the sentence or probation terminated; and

(II) the reasons why the petitioner believes the license should be issued or reinstated.

(iv) The petition should be filed with the associate commissioner for license and investigations.

(v) The office of the associate commissioner for license and investigations may order an investigation of the facts surrounding the initial failure to issue the license or revocation of the license or any other matters deemed relevant to the petition.

(vi) After notice and hearing, the commissioner of insurance (referred to in these rules as the commissioner) shall grant the petition if the petitioner demonstrates that it would be in the public interest and that justice would be served if the license was issued or reinstated.

(vii) In determining whether it would be in the public interest and that justice would be best served if the license were to be issued or reinstated, the commissioner shall consider:

(I) those factors set forth in subsection (b) of this section;

(II) any other matters the commissioner deems relevant to the issuance or reinstatement of the license.

(4) (No change.)

(b) The matters specified in Texas Civil Statutes, Article 6252-13c, §4(b) and

(c), will be considered by the Texas Department of Insurance in determining whether to grant or deny, or suspend or revoke any person's license under its jurisdiction, as well as any and all other matters which constitute proper evidence under other law, including matters contained in any other valid rule or statute. The matters specified in Texas Civil Statutes, Article 6252-13c, §4(b) and (c), recodified as §1 of Article 6252-13d, §1 are listed following.

(1) In determining whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation, the following matters shall be considered:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(2) In addition to the factors listed in paragraph (1) of this subsection, the following evidence shall be considered in determining the present fitness of a person who has been convicted of a crime:

(A) the extent and nature of the person's past criminal activity;

(B) the age of the person at the time of the commission of the crime;

(C) the amount of time that has elapsed since the person's last criminal activity;

(D) the conduct and work activity of the person prior to and following the criminal activity;

(E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(F) other evidence of the person's present fitness, including letters of recommendation from: prosecution, law enforcement, and correctional officers who

prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(3) Article 6252-13d, §1 also provides that it shall be the responsibility of the licensee or applicant to the extent possible to secure and provide to the commissioner the information referred to in paragraph (2)(F) of this subsection. The licensee or applicant shall also furnish proof that the licensee or applicant has maintained a record of steady employment and has supported the licensee's or applicant's dependents where applicable, and has otherwise maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which licensee or applicant has been convicted.

(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 April 29, 1992.

TRD-9205921

Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: May 20, 1992

Proposal publication date: December 27, 1991

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

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association Inspection for Windstorm and Hail Insurance

• 28 TAC §5.4603

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §5.4603, concerning forms for windstorm inspections, without changes to the proposed text as published in the January 28, 1992, issue of the *Texas Register* (17 TexReg 614).

Section 5.4603 adopts by reference a mobile home tie-down survey, Form WPI-MH-1, which is amended to simplify the format of the form and to add additional inspection information to allow a more efficient and comprehensive inspection process. The amendments are adopted in furtherance of the legislative direction in the Insurance Code, Article 21.49, §6A(e), that the board promulgate rules and forms to effect provisions of §6A, relating to

Inspection for Windstorm and Hail Insurance.

The amendment changes the formatting of the form to simplify the inspection process allowing an inspector to use a check block system for responding to specific information. In addition, additional information is included on the form for determining the tie-down requirements necessary for mobile homes for determining the insurability of a mobile home through the Texas Catastrophe Property Insurance Association. The amendment also makes a non-substantive conforming change to the original text relating to the new name for the agency and the change to its mailing address.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49, §6A, and Article 1.04(b), and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.49 §6A(e) authorizes the State Board of Insurance to approve forms for windstorm inspections for windstorm and hail insurance and to determine insurability for coverage by the Texas Catastrophe Property Insurance Association. Article 1.04(b) authorizes the board to determine rules. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practicing setting forth the nature and requirement of available procedures; §5 prescribes the procedures for adoption of rules by a state administrative agency.

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 April 29, 1992.

TRD-9205925 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: May 20, 1992

Proposal publication date: January 28, 1992

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

Subchapter F. Inland Marine Insurance Definition and Classification of Inland marine Insurance

• 28 TAC §5.5001

The State Board of Insurance of the Texas Department of Insurance, adopts an amendment to 28 TAC §5.5001 concerning the classification procedure for risks defined by the State Board of Insurance as inland marine insurance, without changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 379).

Section 5.5001 adopts by reference the definition and classification of inland marine insurance, which is amended by this rule to delete reference to the regulatory status designated as "fire and e.c." The amendment is necessary because the Texas Insurance

Code, Article 5.13-2, which was added by the 72nd Legislature, regular session, implements a new file and use rating system for commercial property insurance, thereby eliminating maximum fire and extended coverage rates promulgated by the State Board of Insurance. In the absence of promulgated maximum fire and extended coverage rates, insurers cannot comply with the Texas definition of inland marine insurance for those classes or subclasses subject to the regulatory status of "fire and e.c.".

The amendment eliminates the reference to "fire and e.c." as a regulatory status from the classification procedures contained in the in the rule and subject to being written in excess of promulgated rates, since the designation is no longer necessary for application to any classification of inland marine insurance.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 5.53, which authorizes the State Board of Insurance to adopt a definition and classification of inland marine insurance.

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

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

TRD-9205924 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: May 20, 1992

Proposal publication date: January 17, 1992

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

Subchapter F. Inland Marine Insurance Definitions and Classifications of Inland Marine Insurance

• 28 TAC §5.5002

The State Board of Insurance of the Texas Department of Insurance, adopts an amendment to 28 TAC §5.5002, concerning the definitions and classifications for risks set out in the Texas Definition of Inland Marine Insurance, without change to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 380).

Section 5.5002 defines and classifies for rate-setting and regulation purposes inland marine insurance. The amendment eliminates the reference to the regulatory status of "fire and e.c.". The regulatory status of "fire and e.c." is no longer applicable since, pursuant to Texas Insurance Code, Article 5.13-2, as added by the 72nd Legislature, Regular Sessions, the State Board of Insurance will not promulgate maximum fire and extended coverage rates. In the absence of promulgated fire and extended coverage rates, insurers cannot comply with the rule's prior provisions that the classes or subclasses of bailee customers,

cold storage locker plant, fine arts dealers, installation risks or builders risks, stamp and coin commercial, and self service storage customer be subject to a premium charge in excess of State Board of Insurance promulgated fire and extended coverage rates.

The amendment eliminates the reference to "fire and e.c.", and a regulatory status of "non-regulated" is assigned to the classes or subclasses of bailee customers, cold storage locker plants, fine arts dealers, installation risks or builders' risks, stamp and coin commercial and self service storage customer. Such amendment indicates that rules, rates and forms are not required to be filed for these classes or subclasses (with the exception of self service storage customer class, which would indicate only rates to be "non regulated" since form and rules are required to be filed).

The amendment also corrects errors made to the jeweler's block and musical instrument class contained in the previous Texas Register publication.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 5.53, which authorizes the State Board of Insurance to adopt a definition and classification of inland marine insurance.

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

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

TRD-9205923 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: May 20, 1992

Proposal publication date: January 17, 1992

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

Subchapter G. Workers' Compensation Insurance Plan of Operation of the Texas Market Assistance Program (MAP)

• 28 TAC §§5.6601-5.6603, 5.6605-5.6615

The State Board of Insurance of the Texas Department of Insurance adopts the repeal of §§5.6601-5.6603, and §§5.6605-5.6615, without changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 381).

The repeal of these sections is adopted pursuant to the Texas Insurance Code, Article 5.76-2, which gives the State Board of Insurance authority to establish a voluntary market assistance program to reduce the number of risks insured by the employer's rejected risk fund; and in response to House Bill 62, §18.16, which amends the Texas Insurance Code, Article 5.76-2, to provide that any fees established and collected for market assistance review are dedicated to the Texas Workers Compensation Insurance Facility (TWCIF).

The repeal eliminates obsolete requirements as a result of the transfer of the MAP from the Texas Department of Insurance to the TWCIF. The Texas Workers' Compensation Insurance Facility has proposed an amended plan of operation, through its rulemaking procedures, for the Market Assistance Program to the Texas Department of Insurance. This plan of operation was adopted by the board and became effective March 1, 1992.

No comments were received regarding adoption of the repeals.

The repeal is adopted under the Insurance Code, Articles 5.76-2, 5.62, and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 5.76-2 provides that the board shall adopt rules as necessary to implement the market assistance program. Article 5.62 provides the Texas Department of Insurance with the authority to adopt necessary rules and regulations to carry out the provisions of workers' compensation insurance. Article 1.04 authorizes the board to determine rules. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures; §5 prescribes the procedures for adoption of rules by a state administrative agency.

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 April 29, 1992.

TRD-9205922 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

Effective date: May 20, 1992

Proposal publication date: January 17, 1992

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

◆ ◆ ◆
**TITLE 31. NATURAL RE-
SOURCES AND CON-
SERVATION**

**Part X. Texas Water
Development Board**

**Chapter 355. Research and
Planning Fund**

**Subchapter A. General Re-
search and Planning**

◆ ◆ ◆
• 31 TAC §355.10

The Texas Water Development Board (the board) adopts an amendment to §355.10, concerning funding limitations for grants for regional and flood control planning under the research and planning fund, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7703).

Section 355.10 is amended by adding subsections (e) and (f). Section 355.10(e) allows the board to implement regional planning financing of projects in areas outside incorporated municipalities where residents are not connected to centralized water or wastewater systems, where the Texas Department of Health (the department) or its successor has determined that the drinking water supply fails to meet department criteria for a community water system, and that a nuisance dangerous to the public health and safety exists resulting from water supply or sanitation problems in the area. The board was appropriated funds in Rider Number 8, of the board's General Appropriations Bill (House Bill 1, 72nd Legislature, 1991, First Called Session) to finance water and wastewater projects in these areas.

Section 355.10(f) allows the board to develop and implement a basin-wide flood control program for the Sabine River Basin and a study of a flood control program for the Salt Creek portion of the Trinity River Basin. The board was appropriated funds in Rider Number 11, of the board's General Appropriations Bill (House Bill 1, 72nd Legislature, 1991, First Called Session) to provide a 100% grant for required studies to be done in conjunction with the Sabine River Authority, the Trinity River Authority, and recognized regional or county associations.

The amendment is adopted under the Texas Water Code, §6.101 and the Texas Water Code, Chapter 15, Subchapter F, §15.403, which requires the board to adopt rules necessary to carry out the powers and duties of the board and of various programs of the research and planning fund.

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 April 28, 1992.

TRD-9205978 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: May 21, 1992

Proposal publication date: December 27, 1991

For further information, please call: (512) 463-7981

**TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS**

**Part III. Texas Youth
Commission**

Chapter 87. Treatment

Education Program

◆ ◆ ◆
• 37 TAC §87.37

The Texas Youth Commission (TYC) adopts §87.37, concerning college/technical institute financial assistance, with changes to the proposed text as published in the March 31, 1992, issue of the *Texas Register* (17 TexReg 2332).

The new section concerns financial assistance for youth in TYC custody to attend college or technical institute. The new section will bring about increased opportunity for juvenile rehabilitation in an effort to decrease recidivism.

Through the new section, qualified youth financially unable to attend are afforded an opportunity to apply for TYC college or technical institute financial assistance.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

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 May 1, 1992.

TRD-9206086 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 25, 1992

Proposal publication date: March 31, 1992

For further information, please call: (512) 483-5244

◆ ◆ ◆
**Chapter 91. Discipline and
Control**

**Due Process Hearing Proce-
dures**

◆ ◆ ◆
• 37 TAC §91.31

The Texas Youth Commission (TYC) adopts an amendment to §91.31, concerning Level I hearing procedure, with changes to the proposed text as published in the March 31, 1992, issue of the *Texas Register* (17 TexReg 2333). The changes require that Level I hearings and dispositions are reviewed by the director of legal services. Youth are to be given a copy of the hearing report form immediately following the close of a hearing. Also, the primary service worker is

instructed to call the legal department to schedule the hearing.

The amendment to the section will bring about more efficient administrative procedures in the scheduling and reviewing of the hearings.

The amendment provides instruction for the director of legal to review hearings, the primary service worker to schedule hearings, and for the youth to receive a copy of the hearing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

§91.31. Level I Hearing Procedure.

(a) Policy. The Level I hearing procedure is appropriate due process in the following instances: parole revocation and reclassification. See General Operating Policy (GOP) 65.02, §91. 32 of this title (relating to Level I Hearing by Telephone) for circumstances in which the hearing may be conducted by telephone.

(b) Rules.

(1) The hearing shall be conducted by a hearings examiner appointed by the Texas Youth Commission (TYC) director of legal services. The hearings examiner shall be one who has not previously participated in a hearing for the youth.

(2) The hearing shall be conducted in two parts: fact-finding and disposition.

(A) The purpose of the fact-finding shall be to establish whether the youth's behavior and/or circumstances require that action be taken.

(B) The purpose of the disposition shall be to determine whether the action proposed by TYC staff is appropriate under TYC policy.

(3) The person requesting a hearing shall appoint a staff representative to appear at the hearing and present the reasons for the proposed action. The staff representative shall also be responsible for making relevant information available to all parties to the hearing.

(4) The youth shall be assisted by legal counsel at the hearing. Counsel for indigent youth will be provided through the counsel for indigent parolees program of the State Bar of Texas.

(5) The primary service worker shall call the legal services department to schedule the hearing as soon as practicable but no later than seven days, excluding

weekends and holidays, after the alleged violation.

(6) The date and time for the hearing shall be determined by the hearings examiner.

(7) The hearing shall be held in the community in which the youth resides unless, for good cause, the hearings examiner directs that it be held in another locale.

(8) All necessary parties shall be present at the hearing site unless it is conducted pursuant to GOP.65.02, §91. 32 of this title (relating to Level I Hearing by Telephone).

(9) The staff representative shall provide the youth with written notice of the date and time of the hearing not less than three working days before the scheduled date. This notice shall include:

(A) the reason(s) for the hearing;

(B) the proposed action to be taken; and

(C) the youth's rights in connection with the hearing.

(10) The staff representative shall make reasonable efforts to inform the youth's parent(s) of the date, time, and place of the hearing not less than three working days prior to the scheduled hearing date.

(11) The staff representative shall provide counsel for the youth with written notice of the date, time, and place of the hearing not less than three working days prior to the scheduled hearing date. The notice to counsel shall also include:

(A) the name, address, and telephone number of the staff representative and the hearings examiner;

(B) a list of all witnesses the staff representative intends to call;

(C) an indication of the expected testimony of each witness;

(D) copies of any statements made by the youth;

(E) copies of any statements, affidavits, reports, or other documentation relied upon as grounds for the proposed action; and

(F) copies of any reports or summaries which will be relied upon at disposition.

(12) Requests for continuance or postponement shall be directed to the hearings examiner.

(13) If requested by counsel, the hearings examiner shall postpone the hearing for not more than 10 days following the date upon which counsel received notice of the hearing. The hearings examiner may grant a postponement for good cause at the request of any party.

(14) As soon as possible following receipt of the notice of hearing, and no later than the commencement of the hearing, counsel shall inform the staff representative of any witnesses he wishes to call on behalf of the youth. The staff representative will, if necessary, assist counsel in contacting those witnesses and securing their attendance at the hearing.

(15) The staff representative shall provide counsel for the youth with reasonable access to all information concerning the youth which is held by TYC. Counsel for the youth will respect the confidential nature of such information and will comply with reasonable requests to withhold sensitive information from the youth or his family.

(16) Prior to the hearing, the hearings examiner may review copies of any documentation previously provided to counsel except for those documents which relate solely to dispositional criteria. Such information shall be made available to the hearings examiner only if the hearing proceeds to disposition.

(17) If necessary, the hearings examiner may direct that a subpoena be issued to compel the attendance of a witness at the hearing or the production of books, records, papers, or other objects.

(A) Motions for subpoenas shall be addressed to the hearings examiner and shall state the name and address of the witness or specify the books, records, papers, or other objects desired and the material and relevant facts to be proved by them. If the matter of testimony sought is relevant, material, and necessary and will not result in harassment or undue inconvenience or expense, the hearing examiner shall direct the issuance of a subpoena.

(B) Subpoenas shall be issued only after a showing of good cause and deposit of sums sufficient to insure payment of expenses incident to the subpoenas. Payment of witness fees shall be in the manner prescribed in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §14.

(18) A victim who appears as a witness should be provided a waiting area

which eliminates or minimizes contact between the victim and the youth, the youth's family, or witnesses on behalf of the youth.

(19) To protect the confidential nature of the hearing, persons other than the youth, counsel for the youth, the staff representative, and the youth's parent(s) may be excluded from the hearing room at the discretion of the hearings examiner.

(A) Observers may be permitted with the consent of the youth.

(B) Any person except the youth and his counsel may be excluded from the hearing room if his or her presence causes undue disruption or delay of the hearing.

(20) The hearing shall be tape recorded and the hearings examiner shall retain copies of all documents admitted into evidence. Physical evidence may be retained at the discretion of the hearings examiner; if not retained, an adequate description of the item(s) shall be entered in the record by oral stipulation.

(21) Factual issues not in dispute may be stipulated to by the staff representative and counsel for the youth. Such stipulations shall be made on the record of the hearing.

(22) A youth accused of misconduct shall be given the opportunity to respond "true" or "not true" to each allegation of such conduct prior to any evidence being heard on such allegations.

(A) The youth shall have a right to respond "not true" to any such allegation and require that proof of the allegation be presented at the hearing.

(B) A response of "true" to any such allegation shall be sufficient to establish each and every element necessary to proof of that allegation without the presentation of any other evidence.

(23) All witnesses shall take an oath to testify truthfully.

(24) With the exception of the youth, any person designated as a witness may be excluded from the hearing room during the testimony of other witnesses and may be instructed to refrain from discussing his or her testimony with anyone until all the witnesses have been dismissed.

(25) The hearings examiner may question each witness at his discretion. Counsel for the youth and the staff representative shall be given an opportunity to question each witness.

(26) The hearings examiner may permit a witness to testify outside the pres-

ence of the youth if such appears reasonable and necessary to secure the testimony of the witness. If the youth is excluded from the hearing room during testimony, counsel for the youth shall be present during the testimony and shall have the opportunity to review the testimony with the youth before questioning the witness.

(27) The youth shall not be called as a witness unless, after consulting with counsel, he or she waives his right to remain silent on the record.

(A) The youth's failure to testify shall not create a presumption against him.

(B) A youth who waives his right to remain silent may only be questioned concerning those issues addressed by his testimony.

(28) All factual issues shall be determined by a preponderance of the evidence. "Preponderance of the evidence" means the greater weight and degree of credible evidence admitted at the hearing.

(29) The hearings examiner shall determine the admissibility of evidence. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(30) The rules of evidence will generally be those applicable to civil nonjury trials in the district courts of Texas. Unless specifically precluded by statute, evidence not admissible under those rules may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

(31) Copies of due process hearing documents received through the interstate compact administrator or document(s) admitted for purposes of classifying a youth need not be certified if such document(s) are part of the youth's record(s).

(32) Accomplice testimony is sufficient to prove an allegation if it is corroborated by other evidence tending to connect the youth with the alleged violation. The corroboration is not sufficient if it merely shows the commission of the violation alleged. If two accomplices testify, the testimony of each can serve to corroborate the other.

(33) Legally recognized privileges of relationships will be given effect.

(34) Evidence otherwise admissible may be received in written form if so doing will expedite the hearing and will not significantly prejudice the rights or interests of the youth.

(35) A youth's written statement concerning his possible involvement in illegal activities is admissible if it is signed by

the youth and accompanied by evidence indicating that the youth made the statement voluntarily after being advised of:

(A) his right to remain silent;

(B) the possible consequences of giving the statement;

(C) his right to consult with an attorney prior to giving the statement; and

(D) his right to have an attorney provided for him if he is indigent.

(36) A youth's oral statement is admissible only if it relates facts which are found to be true and which tend to establish the youth's involvement in illegal activities.

(37) The hearings examiner shall rule immediately on any motions or objections made in the course of the hearing. All such motions, objections, and rulings shall be included in the hearings examiner's written report.

(38) The hearings examiner may, for good cause, recess or continue the hearing for such period(s) of time as may be necessary to insure an informed and accurate fact-finding.

(39) Following the presentation of all evidence pertaining to the factual issues raised at the hearing, the hearings examiner shall announce his findings as to those issues.

(A) When the fact-finding concerns an allegation of criminal conduct, the hearings examiner may find that the evidence suffices to prove an offense other than that originally alleged and enter the appropriate allegation in the record if the original allegation gave sufficient notice of the offense proved.

(B) Irrespective of the evidence, the hearings examiner may not find a criminal offense more serious than that originally alleged unless the original allegation has been amended on the record and after notice to counsel for the youth.

(C) If the hearings examiner's findings require that disposition be made, the hearing shall proceed to disposition; if not, the hearing shall be adjourned with no change in the youth's status.

(40) The hearings examiner may receive additional evidence for purposes of disposition or, with the consent of all parties, may make a decision concerning disposition based upon the evidence already in the record.

(41) Following announcement of the decision as to disposition, the hearings examiner shall inform the youth of his right to appeal any or all findings and decision made at the hearing

(42) Immediately following the close of a hearing, the hearings examiner shall give youth a copy of the Hearing Examiner's Report of a Level I Hearing (CCF-160).

(43) A notice of appeal or request for a rehearing shall not suspend implementation of the hearings examiner's decision(s), which shall be effective when announced at the hearing.

(44) As soon as possible following the conclusion of the hearing, the hearings examiner shall prepare a written report which shall include:

(A) a summary of the evidence presented;

(B) findings of fact, including the reliability of the evidence and the credibility of the witnesses, and the reasons for those findings;

(C) conclusions of law;

(D) an explanation of the dispositional decision; and

(E) rulings made on motions and objections and the reasons therefor.

(45) Copies of the hearings examiner's report shall be provided to counsel for the youth and the staff representative.

(46) An edited copy of the hearings examiner's report is given to the youth.

(47) A copy of the hearings examiner's report is placed in the masterfile only if the allegations are found. If allegations are not found, all references to the disciplinary actions are removed from the youth's masterfile.

(48) All Level I hearings and dispositions are reviewed by the director of legal services to assure conformity with policy and procedures.

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 May 1, 1992.

TRD-9206087 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: May 25, 1992

Proposal publication date: March 31, 1992

For further information, please call: (512) 483-5244

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 49. Child Protective Services

Subchapter P. Preparation for Adult Living

• **40 TAC §49. 1601**

The Texas Department of Human Services adopts an amendment to §49.1601, concerning required services, without changes to the proposed text as published in the March 17, 1992, issue of the *Texas Register* (17 TexReg 2004).

This amendment is justified because it ensures that older teenagers in substitute care will receive appropriate services to prepare them for adulthood by requiring staff to conduct timely assessments of their readiness to live independently.

The amendment will function by ensuring that staff have enough time to conduct initial assessments of the readiness of Preparation for Adult Living Program participants to live independently. The amendment allows eight weeks to complete the assessment after a participant turns 16 years old.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs. The amendment is also adopted under the Texas Family Code, Title 2, Chapter 34, which authorizes the department to provide services to alleviate the effects of child abuse and neglect.

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 May 1, 1992.

TRD-9206066 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: June 1, 1992

Proposal publication date: March 17, 1992

For further information, please call: (512) 450-3765

Chapter 85. General Licensing Procedures

Subchapter U. Day Care Licensing Procedures

• **40 TAC §85. 2033**

The Texas Department of Human Services adopts an amendment to §85.2033, concerning registration, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2118).

The amendment is justified because parents who use child care will be able to place their children in legally operated family homes that are registered and therefore in compliance with the law.

The amendment will function by permitting the issuance of temporary registration of the family day care home. The issuance of the temporary registration allows extra time to correct minor deficiencies while the day care home continues to care for children within the law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 42, which authorizes the department to administer general child care and child-placing licensing 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 May 1, 1992.

TRD-9206067 Nancy Murphy
Agency Liaison, Policy and Document Support
Texas Department of Human Services

Effective date: June 15, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 450-3765

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Part III. Texas Commission on Alcohol and Drug Abuse

Chapter 151. Licensure

General Provisions

• **40 TAC §151.19**

The Texas Commission on Alcohol and Drug Abuse adopts an amendment to §151.19, concerning general provisions, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 39).

The amendment is adopted to further define areas relating to client rights as addressed

under the definition of informed consent and to address definitions affected by changes in law regarding licensed chemical dependency counselors as indicated under qualified credentialed professional.

The amendment is adopted as a result of the commission's commitment to protect the health, safety, and welfare of clients. The amendment strengthens and clarifies provisions that protect the rights of clients receiving chemical dependency treatment in facilities licensed by the commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish procedures and standards for the licensure of chemical dependency treatment facilities.

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 May 1, 1992.

TRD-9206058 Bob Dickson
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: May 22, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 867-8720



Licensure Standards

• 40 TAC §§151.61, 151.64, 151.65, 151.68, 151.69, 151.72, 151.73

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §§151.61, 151.64, 151.65, 151.68, 151.69, 151.72, and 151.73. Sections 151.61, 151.64, 151.65, 151.68, 151.69, and 151.72 are adopted with changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 40). Sections 151.65 and 151.73 are adopted without changes and will not be republished.

These amendments are adopted to further clarify sections pertaining to the reporting of violations of the law and to clarify provisions that protect the rights of clients receiving chemical dependency treatment in facilities licensed by the commission. Changes occur in the facility organization section to clarify process for reporting violations of the law and to set time frames. The personnel and staff development section was revised to further clarify verification procedures for personnel file documentation. Clarification was also provided in the client abuse, neglect, and exploitation section to expand on procedures for reporting abuse of persons who are not clients. The client rights section was also

amended to insure clients are appropriately provided client rights documentation on various occasions if circumstances are not conducive to an understanding. The admission and discharge section was amended to expand the information required to be included in agreements between facilities and other entities to further ensure no payment for referrals occur. Also in this section, changes were made to insure qualified staff make clinical assessments and clients are not forcibly restrained and procedures to follow if a client refuses to provide a written request for discharge.

These amendments are adopted as a result of the commission's commitment to protect the health, safety, and welfare of clients. These amendments strengthen and clarify provisions that protect the rights of clients receiving chemical dependency treatment in facilities licensed by the commission.

Comments accepted and incorporated into these standards include comments received regarding facility organization suggesting further clarification on process and time frame for reporting of violations of law. A suggestion was made regarding the section on admission and discharge addressing payment for referral to include charges for services and to include all services rather than similar services related to the referral and admission process. Numerous staff comments were received as a result of input from the field which affected §151.64(c)(2) by clarifying procedures for verifying staff credentials for personnel files, §151.68(3) regarding procedures for reporting abuse of individuals who are not clients, and §151.69(a)-(c) to ensure clients have a thorough understanding of client rights.

Two comments received regarding the client abuse, neglect, and exploitation section and the client rights section were declined.

The names of groups and associations making comments for and against the section are as follows. For: The Center For Health Care Services; Ocford Counseling; Genikor Foundation. Against: The Center for Health Care Services; The Bridge; Texas Chemical Dependency Association Inc.

The suggestion to define elderly or disabled in §151.68 was declined because these terms are defined in the Human Resources Code. A second comment declined included a concern regarding documentation not provided in client's primary language in §151.69 because the standard is designed to ensure essential information is available at the time of admission for clients who do not speak English as their primary language.

The amendments are adopted under the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 464, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to establish procedures by which the commission is to license chemical dependency treatment facilities.

§151.61. Facility Organization.

- (a) (No change.)
- (b) Facilities shall report all viola-

tions of the laws, rules, or standards that govern chemical dependency treatment to the commission when such violations pose a significant threat to the health, safety, well-being, or rights of chemical dependency clients. This includes the provision of chemical dependency treatment without a license.

(1) The facility director or designee shall make a verbal report within 24 hours of the time the facility becomes aware of the violation. If this occurs on a weekend or holiday, the verbal report must be made immediately on the next business day.

(2) Written notification must also be submitted within two working days of the time the facility becomes aware of the violation.

(c) The facility has a governing authority that is responsible for and has authority over the facility's policies, services, and operations.

(d) The facility has a written program description approved by the governing authority that includes:

- (1) program purpose or mission statement;
- (2) services provided;
- (3) general description of individuals to be served.

(e) All policies are approved by the governing authority.

(f) There are written policies, procedures, or other forms of documentation to substantiate compliance with all licensure standards.

(g) There is documentation that the facility informs staff of changes to written policies and procedures.

§151.64. Personnel and Staff Development.

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

(c) All positions are filled by individuals who meet minimum qualifications specified in the job description.

(1) The facility shall maintain a personnel file for each employee which contains an application or resume that clearly documents required education, training, and related work experience.

(2) The personnel file shall contain documentation that the facility has verified the current status of all professional credentials required by the job description directly with the credentialing authority.

(A) Originals or photocopies of certificates may not be accepted without phone verification.

(B) Status must be reverified when a credential expires or requires renewal.

(d)-(p) (No change.)

§151.68. Client Abuse, Neglect, and Exploitation.

(a) (No change.)

(b) There is a written procedure that ensures compliance with the following standards:

(1) (No change.)

(2) The facility director or designee must make a verbal report to the Texas Commission on Alcohol and Drug Abuse within 24 hours. If the incident occurs on a weekend or holiday, the report must be made immediately on the next business day.

(A) In accordance with the Texas Human Resources Code, §458.36, the report shall identify clients who are elderly or disabled.

(B) In accordance with the Texas Family Code, §34.01, the report shall identify clients who are adolescents.

(3) If the facility has cause to believe that a child who is not a client has been abused or neglected, the facility shall make an oral report to the Department of Human Services or local law enforcement within 48 hours as described in Texas Family Code, §34.01. The facility is not required to report such incidents to the commission or to follow the procedures for client abuse described in this section.

(4)-(9) (No change.)

(10) Failure to comply with these requirements shall be grounds for revocation of a facility's license.

§151.69. Client Rights.

(a) (No change.)

(b) If, owing to the client's condition at the time of admission, the client does not appear to understand the client rights document or the explanation, staff must periodically give the client another written copy and another explanation of the client rights when the client has the ability to understand. The necessity for repeating the rights communication process shall be documented in the client record, signed, and dated by staff. Upon request, staff shall provide an explanation of client rights at any time throughout the span of treatment.

(c) Client rights are written in clear, simple language, appropriate to the client population.

(1) If the facility serves clients who do not speak English as their primary language, translations of the client rights

policy and the client grievance procedure written in the clients' primary language shall be given to each such client.

(2) If the facility serves clients who do not speak English as their primary language, the client rights policy, the client grievance procedure, and the commission's complaint notification form shall be posted both in English and in the clients' primary language at each program site.

(d)-(j) (No change.)

§151.72. Admission and Discharge.

(a) Payment for a referral is prohibited.

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

(3) A facility licensed by the commission shall not refer to or accept referrals from any entity or individual who offers or accepts payment for referral.

(4) Any facility having an agreement with another entity or individual to provide marketing, screening, intervention, transportation, aftercare, or any other service related to the admission, referral, or treatment process shall document the agreement in writing and maintain copies at the facility for inspection. The agreement must include a specific description of the service to be provided and all fees and other forms of compensation to be paid. Payments shall be made only for actual services performed.

(b) The facility provides only those categories of service for which it is licensed.

(1) A facility shall not advertise or purport to offer any type of chemical dependency treatment unless it is licensed to provide the specified category of service.

(2) A facility shall not engage in false, misleading, or deceptive advertising.

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

(n) If a voluntary client or a voluntary client's legal consentor requests discharge, the facility shall explain the process for requesting release and give the client or consentor the opportunity to request release in writing. Verbal requests shall be treated as written requests and shall be immediately reduced to writing by staff. When a request for release is documented, signed, or presented to a staff member, the staff member shall sign the request and record the date and time. The refusal or inability of the client or the consentor to sign, a request for discharge shall be documented on the unsigned written request. Whether or not the client or legal consentor signs the request for discharge, the facility shall provide a full explanation of the procedures involved and shall take action in accordance with these standards. When applicable, the facility shall inform the client and the legal

consenter that pursuant to state law, the facility may require a 24-hour period in which to observe the client to evaluate the clinical appropriateness of seeking an involuntary commitment to services.

(1) If there is no reason to believe the client poses a substantial risk of harm to self or others, the facility shall release the client immediately.

(2) If there is reason to believe the client poses substantial risk of harm to self or others, the facility shall take steps to protect the client and other individuals at risk.

(A) Facilities that are not approved by the commission to accept emergency detentions or court commitments shall contact local law enforcement to initiate an emergency detention.

(B) Facilities that are approved by the commission to accept emergency detentions or court commitments shall follow the procedures outlined in paragraph (3) of this subsection.

(C) A facility shall not use restraint or seclusion to detain a client unless the facility has been approved to use them by the commission. A facility using restraint or seclusion to detain a client must comply with all standards contained in §151.66 of this title (relating to Crisis Intervention).

(3) If a request for release is denied then, as soon as possible, but no more than 24 hours after receipt of the request for release, the client shall be examined face-to-face by a licensed physician and assessed for discharge readiness, with input from other staff participating in the client's treatment.

(A) If, in the physician's clinical judgment, the client does not meet the criteria for court-ordered treatment, the facility must discharge the client immediately.

(B) If, in the physician's clinical judgment, the client meets the criteria for court-ordered treatment, the physician must execute a certificate of medical examination within 24 hours of the patient's request for discharge and inform the client of the intent to seek an involuntary commitment. The physician must also inform the legal consentor of any client under 16 and the family of any an adult client who authorizes such notification.

(C) A client must not be detained unless the facility uses the additional time to facilitate the commitment process.

(D) A facility must discharge a client immediately when the client no longer meets the criteria for court-ordered treatment.

(4) In the case of a minor client who is not authorized to give legal consent, the consent of the parent or legal guardian is required to discharge the client.

(5) Statements or actions intended to influence a voluntary client's decision to request discharge which are

unjustified by the client's condition are prohibited. Allegations will be considered and investigated as potential abuse, and substantiated allegations will be grounds for licensure review and possible revocation.

(6) The following information shall be maintained in the client record:

(A) the written request for discharge;

(B) in the case of a minor not authorized to give consent, the consent or refusal of the parent or legal guardian; and

(C) the facility's response to the request, including clinical justification if the client is not immediately discharged.

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 May 1, 1992.

TRD-9206059

Bob Dickson
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: May 22, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 867-8720

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department on Aging

Friday, May 8, 1992, 1 p.m. The Evaluation Subcommittee of the Texas Board on Aging's Options for Independent Living Program Advisory Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 South IH-35, Third Floor Conference Room, Austin. According to the complete agenda, the committee will call the meeting to order; review and discuss proposed purpose, objectives, and process for the evaluation of the Options for Independent Living Program; set next meeting date, if any; and adjourn.

Contact: Peggy Seely, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: April 30, 1992, 1:14 p.m.

TRD-9205980

Texas Department of Agriculture

Thursday, May 14, 1992, 10 a.m. The Texas Rice Producers Board of the Texas Department of Agriculture will meet at the Harris County Extension Center, #2 Abercrombie Drive, Houston. According to the complete revised agenda, the board will discuss approval of the minutes of the last meeting; review 1992 planting survey; review refund data/report; assess revenue/expenses for current fiscal year and take appropriate budgeting action; project revenue and expense budget for 1992-1993 and possibly take action; and discuss other business.

Contact: Curtis Leonhardt, 6699 Rookin, Houston, Texas 77074, (713) 270-6699.

Filed: April 30, 1992, 3:48 p.m.

TRD-9206030

Tuesday, June 2, 1992, 9 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress

Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §76.116(a)(1) and §76.116(a)(6) (Vernon Supplement 1992) and 4 TAC §7.22(a)(1) by Kenneth Lauderdale doing business as Lauderdale Aerial Service.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: April 30, 1992, 2:17 p.m.

TRD-9205986

Texas Antiquities Committee

Friday, May 15, 1992, 9:30 a.m. (revised agenda). The Texas Antiquities Committee will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the committee will meet in executive session to discuss personnel matters regarding the agency consolidation with the Texas Historical Commission; and a proposed amendment to Chapter 45.4 would increase the number of sensitive state land tracts within which an archeological landmark is likely to exist in Texas' submerged lands.

Contact: Kathleen McLaughlin-Neyland, P.O. Box 12276, Austin, Texas 78711, (512) 463-6098.

Filed: May 4, 1992, 9:15 a.m.

TRD-9206072

Texas Board of Architectural Examiners

Thursday, May 14, 1992, noon. The Committee Chairs of the Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda summary, the committee will call the meeting to order; hear

chairman's opening remarks; and consider/act on committee matters. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Carolyn Lewis at (512) 458-1363 two (2) work days prior to the meeting so that appropriate arrangements can be made.

Contact: Robert H. Norris, 8218 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

Filed: May 4, 1992, 10:56 a.m.

TRD-9206109

Texas Commission on the Arts

Wednesday, May 13, 1992, 6 p.m. The Education Committee of the Texas Commission on the Arts will meet at the E. O. Thompson Building, Fifth Floor, 920 Colorado Street, Austin. According to the complete agenda, the committee will call the meeting to order; hold a public hearing; discuss approval of minutes of January 29, 1992 committee meeting; Project BRIDGE update; review of respondents to request for proposals for symposium facilitator: Region VI Education Service Center and Sam Houston State University; University of North Texas; Northwood Institute Arts program; discuss fundraising for arts education task force symposium; and adjourn.

Contact: Connie Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: April 30, 1992, 10:01 a.m.

TRD-9205971

Texas Department of Banking

Monday, May 11, 1992, 2 p.m. The Prepaid Guaranty Fund Advisory Council of

the Texas Department of Banking 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 the 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; discuss the seizure and placement of prepaid funeral funds and the procedures for handling prepaid funds and contracts of a prior permit holder following the commissioner's seizure of said funds pursuant to Texas Revised Civil Statutes Annotated, Article 548b, §8(b); and discuss the dates and times of future meetings.

Contact: Anna E. Gonzales, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: April 30, 1992, 2:43 p.m.

TRD-9205994

Texas Bond Review Board

Tuesday, May 12, 1992, 10 a.m. The Staff Planning Committee of the Texas Bond Review Board will meet at the Clements Building, Room 102, 300 West 15th Street, Austin. According to the agenda summary, the staff will call the meeting to order; discuss approval of minutes; discuss proposed issues; other business; and adjourn.

Contact: Tom K. Pollard, 300 West 15th Street, Clements Building, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: May 4, 1992, 4:28 p.m.

TRD-9206140

Coastal Coordination Council

Thursday, May 14, 1992, 10 a.m. The Coastal Coordination Council will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the council will discuss status of coastal zone management section 305 program development grant; status of General Land Office dune protection, beach access, erosion control, and flood protection rules; status of General Land Office submerged land rules; and status of Texas Water Commission water policies and water quality regulations.

Contact: Peggy Spies, 1700 North Congress Avenue, Room 620, Austin, Texas 78701, (512) 463-5385.

Filed: May 4, 1992, 4:13 p.m.

TRD-9206138

Criminal Justice Policy Council

Monday, May 18, 1992, 9 a.m. The Criminal Justice Policy Council will meet at the El Paso County Courthouse, 500 East San Antonio, Room 303, El Paso. According to the agenda summary, the 71st Texas State Legislature established the new Criminal Justice Information System (CJIS), as codified in Chapter 60, Code of Criminal Procedure. Chapter 60 mandates enhancements to the existing computerized Criminal History (CCH) system; creation of a new Corrections Tracking System (CTS); and establishes new reporting requirements for arrests and case dispositions. Chapter 60, Code of Criminal Procedure, also mandates the Criminal Justice Policy Council, in conjunction with the Department of Public Safety and the Department of Criminal Justice, to conduct regional public hearings on improvements to the proposed CJIS. The purpose is to allow state and local law enforcement officers, prosecutors, courts personnel and other interested parties to provide input on future CJIS development and design improvements.

Contact: Christine Burkhardt, P.O. Box 13332, Austin, Texas 78711-3332, (512) 463-1810.

Filed: May 5, 1992, 8:45 a.m.

TRD-9206144

Texas Department of Criminal Justice, Board of Pardons and Paroles

Tuesday, May 12, 1992, 8:30 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will discuss and act on approval of minutes of February 5, and February 11, 1992; hear chairman's report; parole denial reasons; discuss inmate institutional requirements; protests/additional information procedures; board policies and rules; three-way split votes; use of board member names and/or initials; and adjourn.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5408.

Filed: May 4, 1992, 4:52 p.m.

TRD-9206142

Daughters of the Republic of Texas, Inc.

Saturday, May 9, 1992, 8 a.m. and 1:45 p.m. The Daughters of the Republic of Tex-

as, Inc. will hold their one hundred and first annual convention at the Marriott at the Capitol, Salon EFGH, 710 East 11th Street, Austin. According to the agenda summary, the Daughters of the Republic will determine the quorum; give invocation; pledges to flags; partial report-Credential Committee; reports: Program Committee; convention rules; appointment-Resolutions Committee; report-Bylaws Committee; and election of bylaws. At 1:45 p.m. the Daughters of the Republic will read minutes; report on museum; reports on Alamo, Library, French Legation; report and recommendations from B.O.M.; ratification of actions of B.O.M.; meet in executive session; vote on unfinished public business; and presentation to State Preservation Board.

Contact: Betty F. Burr, 613 Bostwick, Nacogdoches, Texas 75961, (409) 564-7478.

Filed: April 30, 1992, 5 p.m.

TRD-9206042

Texas Education Agency

Tuesday, May 12, 1992, 10 a.m. The Proprietary School Advisory Commission (PSAC) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the commission will introduce new PSAC member; hear director's reports on State Board of Education rules; State Auditor's report and proposed rules; staff reorganization; legislation; subcommittee report on financial stability; school submissions as open records; fees that are imposed upon degree granting schools; rules concerning Proprietary School Advisory Commission chairperson; and discuss reappointment of Proprietary School Advisory Commission members.

Contact: Dee Bednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3454.

Filed: May 4, 1992, 4:51 p.m.

TRD-9206141

Texas Ethics Commission

Friday, May 8, 1992, 1 p.m. The Texas Ethics Commission will meet at the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, after comments from the commissioners and the executive director, the commission will have a briefing, discussion, and possible action on issues relating to acquisition of an electronic database mandated by Vernon's Texas Civil Statutes, Article 6252-9d.1, §1.12; and hear comments from the public.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: April 30, 1992, 3:31 p.m.

TRD-9205997

Texas Feed and Fertilizer Control Service

Thursday, May 14, 1992, 11 a.m. The Texas Feed and Fertilizer Control Service will meet at Room 404, Rudder Tower, Texas A&M University Campus, College Station. According to the complete agenda, the AFIA (American Feed Industry Association), an association of 25 members, has requested a hearing to comment on the following proposed rules: 4 TAC §61.11 (b)(c)(d); accordingly, the agency will hold an open meeting to accept views-oral or written-of any and all interested parties at the date, time and place shown above on the aforementioned rules. Because the meeting depends upon who attends and how those appearing wish to present themselves, the agency has no agenda, but will adopt the following format: registration will begin at 10:30 a.m.; oral testimony; and speakers will be allowed 10 minutes speaking in the order they register. Once all interested parties have spoken, each individual will be allowed 10 minutes to offer additional remarks; and after all testimony is heard, written submissions will be entered into the record.

Contact: Dr. George W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-4111.

Filed: May 1, 1992, 4:14 p.m.

TRD-9206064

Texas Historical Commission

Saturday, May 9, 1992, 3 p.m. The Christopher Columbus Quincentenary Texas Jubilee Commission of the Texas Historical Commission will meet at the Stafford Opera House, Magnolia Homes Tour Office, 425 Spring Street, Columbus. According to the agenda summary, the commission will call the meeting to order; take roll call; establish quorum; discuss approval of the April 3, 1992 minutes; hear committee reports; action items; discussion items; discuss other business; make announcements; and adjourn.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: May 1, 1992, 3:36 p.m.

TRD-9206061

Texas Commission on Human Rights

Tuesday, May 12, 1992, 10:30 a.m. The Texas Commission on Human Rights will meet at the John H. Reagan Building, 105 West 15th Street, Room 104, Austin. According to the agenda summary, the commission will discuss and vote on agenda item(s) covered in executive session as necessary or required; welcome guests; introduce newly appointed commissioner; discuss approval of minutes; training on model selection procedures and work force diversity methodology in compliance with the TCHR Act; administrative reports; update on commission's annual EEO Conference; briefing on staff training; report on task force actions to amend the TCHR Act status of EEO Compliance Training; review of certification for the City of Dallas Fair Housing Ordinance (if submitted by the City of Dallas prior to the commission meeting); HUD FHIP proposals; discuss hosting the 1993 IAOhRA conference; commissioner issue; and discuss unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: April 30, 1992, 2:17 p.m.

TRD-9205987

Texas Department of Human Services

Monday, May 11, 1992, 1:30 p.m. The Interagency Coordinating Council on Dropout Prevention and Recovery of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Conference Room 103-W, Austin. According to the complete agenda, the council will call the meeting to order; make introductions; discuss approval of minutes of the February 6 and April 9, 1992, meetings; discuss compendium status report; continued discussion of future council activities; discuss other business; and adjourn.

Contact: Cindy Marler, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3662.

Filed: April 30, 1992, 2:23 p.m.

TRD-9205990

Tuesday, May 12, 1992, 9:30 a.m. The Child Care Administrators and Facilities Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, West Tower, Conference Room 1W, Austin. According to the complete agenda, the committee will give a report on day care standards revision process; discuss strategic plan; legislative appropriations request; and update on child-

placing agency standards.

Contact: Doug Sanders, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3253.

Filed: April 30, 1992, 2:23 p.m.

TRD-9205992

Tuesday, May 12, 1992, 10 a.m. The Ethics Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Second Floor, West Tower, Classroom 8, Austin. According to the complete agenda, the committee will give a summary of ethics training efforts; view ethics training film; review proposed personnel rules; review proposed contract rules; and hear members comments and suggestions.

Contact: Paul Leche, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3106.

Filed: April 30, 1992, 2:23 p.m.

TRD-9205991

Thursday, May 14, 1992, 10 a.m. The Post-Adoption Services Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will welcome and make introductions; review and discuss approval of minutes; program update; provider's report; information sharing; and adjourn.

Contact: Susan Klickman, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3302.

Filed: May 5, 1992, 9:12 a.m.

TRD-9206146

Thursday, May 14, 1992, 10 a.m. The CPS Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will call the meeting to order; welcome and make introductions; make announcements; discuss approval of minutes; recommendation on LAR proposals; training institute; discuss proposed policy changes; voluntary standards for investigators of child abuse and neglect; statewide intake system; discuss proposed Family Code changes; litigation update; role of licensing; adjourn on LAR and program services plan proposals; discuss presentation to TDHS Board in July; and adjourn.

Contact: Virginia Guzman, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3025.

Filed: May 5, 1992, 9:11 a.m.

TRD-9206145

Texas Department of Insurance

Thursday, April 30, 1992, 4:20 p.m. The State Board of Insurance of the Texas Department of Insurance will hold an emergency meeting at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board considered two requests by State Farm Insurance Company for a determination by the State Board of Insurance of weather related events occurring during the period of April 18, 1992 and April 19, 1992 in the Houston, Dallas, San Marcos and Bastrop areas, as a catastrophe in accordance with Article 21.55, Section 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 a catastrophe due to recent flooding conditions.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: April 30, 1992, 1:58 p.m.

TRD-9205985

Tuesday, May 12, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of William Dru Landrum, Wichita Falls and Byers, for a Resident Insurance Adjuster's license. Docket Number 11455.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1992, 10:54 a.m.

TRD-9206108

Wednesday, May 13, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Assurance Company of America, Baltimore, Maryland, Maryland Casualty Company, Baltimore, Maryland, Maryland Insurance Company, Irving, Maryland Lloyds, Irving, Northern Standard Insurance Company, Houston, Northern Insurance Company of New York, Baltimore, Maryland, and Valiant Insurance Company, Baltimore, Maryland which hold a Certificate of Authority. Docket Number 11440.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1992, 10:54 a.m.

TRD-9206107

Wednesday, May 13, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of William Douglas Carden, Amarillo and Canyon, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11463.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1992, 10:54 a.m.

TRD-9206106

Thursday, May 14, 1992, 9 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the renewal application of Omar Rodriguez, Austin, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11465.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1992, 10:53 a.m.

TRD-9206105

Monday, May 18, 1992, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby III, Eighth Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment to the Articles of Incorporation of Safe Mate Life Insurance Company, El Paso, increasing the authorized capital stock. Docket Number 11478.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 4, 1992, 10:47 a.m.

TRD-9206103

Texas Board of Irrigators

Tuesday, May 12, 1992, 9 a.m. The Texas Board of Irrigators will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 513-F, Austin. According to the agenda summary, the board will discuss petition of Mohammad Hamid; review complaint cases referred to Attorney General; discuss procedures for enforcement of complaints; discuss approval of minutes; con-

sider certification of successful L.I. applicants; certification of IN applicants; designate site and dates for next exam; discuss proposed permanent rules; and chairman to report to board.

Contact: Joyce Watson, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990.

Filed: April 30, 1992, 3:55 p.m.

TRD-9206033

Texas Commission on Law Enforcement

Wednesday, May 20, 1992, 10 a.m. The Officer Standards and Education Law Enforcement Management Institute of the Texas Commission on Law Enforcement will meet at the TCLEOSE Headquarters, 1033 LaPosada, Austin. According to the complete agenda, the commission will call the meeting to order; recognize visitors; introduce newly appointed members; elect officers; consider minutes of the November 13, 1991, and February 12, 1992 board of directors meetings; staff activity report; and adjourn.

Contact: Jack L. Ryle, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: May 4, 1992, 8:40 a.m.

TRD-9206069

Texas Department of Licensing and Regulation

Tuesday, May 12, 1992, 10:30 a.m. The Texas Department of Licensing and Regulation will meet at the Westin Paso del Norte Hotel, 101 South El Paso Street, Room 329, El Paso. According to the complete agenda, the department will hold an appeal hearing to consider the grievance of Magdalena Lujan in accordance with the Departmental Administrative Operating Procedures, Section 14, adhering to the limits of §14.14.05 of the same rules.

Contact: Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

Filed: May 5, 1992, 9:23 a.m.

TRD-9206152

Midwestern State University

Thursday, May 7, 1992, 3 p.m. The Executive Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the committee made recommenda-

tions concerning energy distribution and consumption study; discussed sound engineering survey; lease agreement with the Wichita Falls Texans; naming of the new residence hall; and the holiday schedule for 1992-1993.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:43 p.m.

TRD-9206124

Thursday, May 7, 1992, 3:30 p.m. The Finance and Audit Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the committee reviewed and discussed items \$15,000 and under approved by the President per board authorization, will be ratified.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:43 p.m.

TRD-9206125

Thursday, May 7, 1992, 3:45 p.m. The Personnel and Curriculum Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the committee made recommendations concerning the list of 1991-1992 graduates; position changes in the FY 1991-1992 budget; emeritus status for retiring faculty; library position upgrade; sound engineer position; developmental leave of faculty; psychological assessment clinic; Policy manual revisions; recommendations for tenure and promotion; and discussed employee contracts for 1992-1993. The discussion of tenure, promotion and employee contracts will be held in closed session as allowed by the Texas Open Meetings Act.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:43 p.m.

TRD-9206126

Thursday, May 7, 1992, 4:30 p.m. The Student Affairs Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the committee made recommendations concerning Vinson Health Center Physicians Contract; discussed ambulance contract and Youth Opportunities Unlimited Program; and housing occupancy information was presented.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308,

(817) 689-4212.

Filed: May 4, 1992, 2:43 p.m.

TRD-9206127

Thursday, May 7, 1992, 4:45 p.m. The University Development Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, the committee gave a summary of gifts, grants and pledges of September 1, 1991-April 10, 1992, presented as information only; and a resolution of appreciation was recommended for approval for Representative John Hirschi, 1992 MSU commencement speaker.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:43 p.m.

TRD-9206128

Thursday, May 7, 1992, 5 p.m. The Athletics Committee of the Board of Regents of Midwestern State University met at the Hardin Administration Building, MSU, Wichita Falls. According to the complete agenda, up-to-date status reports of athletics team activities were provided at the meeting.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:44 p.m.

TRD-9206129

Friday, May 8, 1992, 9 a.m. The Board of Regents of Midwestern State University will meet at the Hardin Administration Building, MSU, Wichita Falls. According to the agenda summary, the board will discuss approval of prior minutes and accept financial reports (January, February and March 1992); accept recommendations and reports from executive, finance and audit, personnel and curriculum, student affairs and university development committees; and reports will be presented by the Athletics Committee and the president. The MSU Board of Regents reserves the right to discuss any items in executive session whenever legally justified under the Texas Open Meetings Act.

Contact: Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 4, 1992, 2:44 p.m.

TRD-9206130

Board of Nurse Examiners

Tuesday-Wednesday, May 19-20, 1992, 8 a.m. The Board of Nurse Examiners will

meet at the John H. Reagan Building, 15th Street, Room 101, Austin. According to the agenda summary, the board will receive minutes from the March 1992 meeting; consider acceptance of February and March financial statements; receive reports from various committees, including the ad hoc committee on strategic planning; consider a position statement on performance of cutaneous laser therapy; ANP petitions from three RNs, and a request for approval of an accustomation course. The board will review education items-survey visit report to Howard College; summaries of annual reports, faculty petitions; open forum on Tuesday at 1:30 p.m. to consider adoption of \$213.20, licensure of persons who have physical or mental disability/illness, or who are chemically dependent; and consider ratification of proposed board orders.

Contact: Erlene Fisher, P.O. Box 140466, Austin, Texas 78714, (512) 835-8675.

Filed: April 30, 1992, 10:21 a.m.

TRD-9205973

Public Utility Commission of Texas

Monday, May 11, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11109-request of Southwestern Bell Telephone Company to obsolete and grandfather Centrex Services and joint application of the parties to determine if the restrictions, terms, and conditions associated with the sharing of Centrex and Plexar Services are unreasonable as a matter of regulatory policy or in violation of law.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 30, 1992, 3:50 p.m.

TRD-9206031

Tuesday, May 12, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10673-application of Brownsville Public Utilities Board to amend certificate of convenience and necessity within Cameron County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: April 30, 1992, 3:50 p.m.

TRD-9206032

Thursday, May 14, 1992, 1:30 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10733-application of Brazos Electric Power Cooperative, Inc. for a certificate of convenience and necessity for a proposed transmission line within Ellis County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 4, 1992, 3:13 p.m.

TRD-9206133

Monday, September 28, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10995-application of Sugar Land Telephone Company for approval of new optional service, Flexar Service.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 4, 1992, 3:13 p.m.

TRD-9206134

Center for Rural Health Initiatives

Friday, May 15, 1992, 10:30 a.m. The Outstanding Rural Scholar Advisory Committee of the Center for Rural Health Initiatives will meet at the Texas Center for Rural Health Initiatives, Seventh Floor Conference Room, Southwest Tower Building, 211 East Seventh Street, Austin. According to the complete agenda, the committee will review non-continuing students; establish loan collection/repayment procedures; establish recognition application acceptance procedures and set new deadline; review budget estimates; and review nominees.

Contact: Bill Lydon, 211 East Seventh Street, #915, Austin, Texas 78701, (512) 479-8891.

Filed: May 4, 1992, 3:11 p.m.

TRD-9206132

Senate of the State of Texas

Monday, May 11, 1992, 8:30 a.m. The Subcommittee on Elections and Ethics of the Senate of the State of Texas will hold an emergency meeting at the John H. Reagan Building, Room 401, 105 West 15th Street,

Austin. According to the complete agenda, the subcommittee will discuss committee business; hear public testimony concerning 1992 primary elections; and adjourn. The emergency status is necessary as chairman's confirmation was received today.

Contact: Lauren Nelson, P.O. Box 12068, Austin, Texas 78711, (512) 463-0964.

Filed: May 4, 1992, 3:29 p.m.

TRD-9206137

Interagency Council on Sex Offender Treatment

Friday, May 8, 1992, 9 a.m. The Board of the Interagency Council on Sex Offender Treatment will meet at the University of Texas, Medical Branch, Administration Building, Sixth Floor, Conference Room, Galveston. According to the emergency revised agenda summary, the board will discuss revocation notification procedures; hear public comment; and adjourn. The emergency status is necessary as a complaint has been filed on two (2) sex offender treatment providers registered with the agency. Our rules do not currently address this issue.

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711, (512) 454-1314.

Filed: May 4, 1992, 4:23 p.m.

TRD-9206139

The Texas A&M University System

Thursday, May 7, 1992, 8:30 a.m. The Committees of the Board of Regents of The Texas A&M University System met at the Corpus Christi State University, Faculty Center, Conference Room A, Corpus Christi. According to the agenda summary, the committees discussed correction and approval of minutes; holiday schedule; initiation of construction projects; construction matters for the system parts; selection of architects/engineers; quasi-endowments; new statement of purpose and missions; enrollment management plan; establishment of centers; approval of 1992-1993 operating budget and athletic council budget; discussed license agreements; approved fee changes; appropriation from PUF Bond proceeds; selection of commercial paper program dealer; appropriations from AUF; right-of-way easements; terminations; appointments and promotions; tenure; emeritus titles; budget and fiscal transfers; salary increases and new positions; gifts, grants, loans and bequests; appointment of Provost and vice president academic affairs-TAIU; discussed extending appointments of interim deans, College of Business Adminis-

tration and College of Education-TAIU; disposition and acquisition of real estate and naming of facilities; exchange of a portion of TAMU property; acceptance of land; and authorization for the Field of Honor at TAMU; and acted on the appointment of Director and Associate Deputy Chancellor of the Texas Engineering Extension Service.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: May 1, 1992, 11:13 a.m.

TRD-9206047

Texas State Technical College

Friday, May 8, 1992, 10 a.m. The Board of Regents of the Texas State Technical College will hold a Teleconference meeting at the TSTC System Administration Building, Room 112, Waco. According to the complete agenda, the board will call the meeting to order; determine quorum; agenda approval; hear public comments; discuss application for Texas State Technical College Waco to become an Occupational Safety and Health Administration (OSHA) Training Institute Education Center; and adjourn.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 1, 1992, 11:10 a.m.

TRD-9206046

Friday, May 8, 1992, 10 a.m. (Revised agenda). The Board of Regents of the Texas State Technical College will hold a Teleconference meeting at the TSTC System Administration Building, Room 112, Waco. According to the complete agenda, the board will discuss lease agreement with Buffalo Airways, Inc. for Hangar 11-1 and related facilities at Texas State Technical College, Waco.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: May 4, 1992, 2:59 p.m.

TRD-9206131

Texas Water Commission

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 consider various matters within the regulatory jurisdiction of the commis-

sion. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: April 30, 1992, 4:42 p.m.

TRD-9206036

Wednesday, May 13, 1992, 9 a.m. (revised agenda). 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 various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: May 1, 1992, 4:40 p.m.

TRD-9206065

Wednesday, May 13, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission, including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: April 30, 1992, 4:42 p.m.

TRD-9206035

Wednesday, May 13, 1992, 10 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

poned or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: April 30, 1992, 4:43 p.m.

TRD-9206037

Thursday, May 14, 1992, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 102, Austin. According to the agenda summary, the commission will hold a public hearing on assessment of administrative penalties and requiring certain actions of Torque Petroleum Products, Inc.

Contact: Linda Sorrells, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 30, 1992, 4:45 p.m.

TRD-9206041

Wednesday, May 27, 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 118, Austin. According to the agenda summary, the commission will consider a temporary order for Living Waters Artesian Springs, Ltd. to authorize the discharge of treated wastewater effluent from a catfish aquaculture operation at a volume not to exceed an average dry weather flow of 33,200,000 gallons per day. The facility is located at 13690 Southwest Highway 1604 in Bexar County.

Contact: Kevin McCalla, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 30, 1992, 4:45 p.m.

TRD-9206040

Wednesday, June 17, 1992, 1 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Erath County Courthouse, Courtroom, Second Floor, On the Square, Stephenville. According to the agenda summary, the commission will consider an application by Mike Lloyd doing business as Mike Lloyd Dairy for an amendment to Permit Number 03301 to authorize an increase in the number of cows from 600 head to a maximum of 990 head. The dairy is on FM 219, approximately 2.5 miles south of the intersection of FM 219 and 8, in Erath County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 30, 1992, 4:44 p.m.

TRD-9206038

Wednesday, June 17, 1992, 1 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Erath

County Courthouse, Courtroom, Second Floor, On the Square, Stephenville. According to the agenda summary, the commission will consider an application by Robert Lueck doing business as Lueck Dairies-Lingleville for Proposed Permit Number 03439 to authorize disposal of wastes and wastewater from a dairy which will consist of a maximum of 990 head. The dairy is located approximately two miles south of the intersection of FM Roads 219 and 8, immediately east of FM Road 219 in Erath County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: April 30, 1992, 4:44 p.m.

TRD-9206039

Texas Workers' Compensation Commission

Friday, May 8, 1992, 9 a.m. The Medical Advisory Committee of the Texas Workers' Compensation Commission will meet at the Southfield Building, 4000 South IH-35, Austin. According to the agenda summary, the committee will call the meeting to order; review and discuss approval of the April 10, 1992 minutes; discussion, consideration and recommendation regarding: proposed dental fee guideline; physical medicine treatment guideline; discussion on Rule 134.801; discussion on dispute resolution process; discussion on spinal surgery concurrence; report on rule development regarding right of choice for pharmaceutical services; status report on unlisted codes for frequently used treatments and services; establish next meeting date; establish draft agenda; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: April 30, 1992, 10:04 a.m.

TRD-9205972

Regional Meetings

Meetings Filed April 30, 1992

The Archer County Appraisal District Agricultural Advisory Committee met at the Appraisal District Office, 211 South Center, Archer City, May 4, 1992, at 8 a.m. Information may be obtained from Edward Trigg, 211 South Center, Archer City, Texas 76351, (817) 574-2172. TRD-9206034.

The Austin-Travis County Mental Health and Mental Retardation Center Public Relations Committee met at 1430 Collier Street, Board Room, Austin, May 5, 1992, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin,

Texas 78704, (512) 447-4141. TRD-9205995.

The Brazos Higher Education Authority, Inc. Executive Committee, Board of Directors met at the Brazos Club of Waco, Valley Mills and Waco Drive, Waco, May 6, 1992, at 11:45 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9205982.

The Brazos Higher Education Authority, Inc. Executive Committee, Board of Directors will meet at 2600 Washington Avenue, Waco, May 8, 1992, at 9 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9205984.

The Brazos Higher Education Service Corporation Executive Committee, Board of Directors met at the Brazos Club of Waco, Bank One Building, Valley Mills and Waco Drive, Waco, May 6, 1992, at 11:55 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9205983.

The Brazos Student Finance Corporation Executive Committee, Board of Directors met at the Brazos Club of Waco, Valley Mills and Waco Drive, Waco, May 6, 1992, at 11:50 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915. TRD-9205981.

The Brazos Valley Development Council Brazos Valley Regional Advisory Committee on Aging met at the Council Offices, 3006 East 29th Street, Suite Two, Bryan, May 7, 1992, at 2 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9205976.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, May 5, 1992, at 7 p.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9205989.

The Dallas Central Appraisal District Board of Directors met at 2949 North Stemmons Freeway, Dallas, May 6, 1992, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9205988.

The Region 14 Education Service Center Board of Directors will hold an emergency meeting at 1850 Highway 351, Abilene, May 12, 1992, at 5:30 p.m. The emergency status is necessary due to a special board meeting to open and award bids. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601-4750, (915) 675-8608. TRD-9205977.

The San Antonio River Authority Water Policy Committee met at the SARA General Office, Second Floor Conference Room, 100 East Guenther, Bexar County, San Antonio, May 6, 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-9205979.

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Meetings Filed May 1, 1992

The Blanco County Central Appraisal District Agricultural Advisory Board met at the Blanco County Courthouse Annex, Avenue G and Seventh Street, Johnson City, May 4, 1992, at 9 a.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4013. TRD-9206049.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, May 5, 1992, at 5 p.m. Information may be obtained from Bill Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9206060.

The Creedmoor Maha Water Corporation Board of Directors met at 1699 Laws Road, Mustang Ridge, May 6, 1992, at 7:30 p.m. Information may be obtained from Charles P. Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991. TRD-9206043.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, May 5, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9206052.

The Dallas Area Rapid Transit Rail Planning and Development Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, May 5, 1992, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9206053.

The East Texas Council of Governments JTPA Board of Directors met at the Kilgore Community Inn, Kilgore, May 7, 1992, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9206048.

The Erath County Appraisal District Board of Directors will meet at the Erath County Appraisal District Board Room, 1390 Harbin Drive, Stephenville, May 11, 1992, at 4:30 p.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

TRD-9206045.

The High Plains Underground Water Conservation District Number One Board of Directors will meet at Conference Room, 2930 Avenue Q, Lubbock, May 12, 1992, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9206063.

The Hockley County Appraisal District Appraisal Review Board met at 509 Avenue G (Joyce's Cafe), Levelland, May 5, 1992, at 7 a.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9206062.

The Texas Political Subdivisions Self-Insurance Funds Board of Trustees met at the Hyatt Regency Hotel-D/FW Airport, Dallas/Fort Worth, May 4, 1992, at 9 a.m. Information may be obtained from Tom P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-6185. TRD-9206044.

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Meetings Filed May 4, 1992

The Bell-Milam-Falls Water Supply Corporation Board of Directors met at the WSC Office, FM 485, Cameron, May 7, 1992, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9206068.

The Cash Water Supply Corporation will meet at the Administration Office, FM 1564, Greenville, May 12, 1992, at 7 p.m. Information may be obtained from Donna Mohon, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9206121.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 Stemmons Freeway, Dallas, May 8, 1992, at 8 a.m. (Revised agenda). Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9206074.

The Fisher County Appraisal District Board of Directors will meet at the Fisher County Appraisal District, Tax Office, Roby, May 12, 1992, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9206120.

The Grayson Appraisal District Board of Directors will meet at 205 North Travis Street, Sherman, May 20, 1992, at 7:15 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090, (903) 893-9673. TRD-9206115.

The Gregg Appraisal District Board of Directors will meet at 2010 Gilmer Road,

Longview, May 11, 1992, at 9 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9206075.

The Hood County Appraisal District Appraisal Review Board will meet at 1902 West Pearl Street, District Office, Granbury, May 15, 1992, at 9:30 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9206104.

The Jones County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, May 21, 1992, at 8:30 a. m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9206082.

The Liberty County Central Appraisal District Board of Directors held an emergency meeting at 315 Main Street, Liberty, May 5, 1992, at 9:30 a.m. The emergency status was necessary as an executive session was held to discuss National Pipe and Tube lawsuit. Information may be obtained from Sherry Greak, P. O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9206073.

The Palo Pinto Appraisal District Agricultural Advisory Board will meet at the Palo Pinto County Courthouse, Palo Pinto, May 12, 1992, at 7 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9206118.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, May

13, 1992, at 1:30 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9206119.

The Upshur County Appraisal District Agricultural Advisory Committee will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, May 14, 1992, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9206117.

The Upshur County Appraisal District Appraisal Review Board Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, May 14, 1992, at 9 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9206116.





Name: Kenny Cleveland
Grade: 12
School: Rockdale High School, Rockdale ISD

*Kenny
Joe* 92

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board

Correction of Error

The Texas Air Control Board adopted amendments to 31 TAC §112.5, concerning allowable emissions from solid fossil fuel-fired steam generators. The rule was published in the March 6, 1992, *Texas Register* (17 TexReg 1734).

Although the version of the rule printed in the *Texas Register* was an accurate rendition of what the agency submitted, it was not the actual version of the rule adopted by the Texas Air Control Board at its March 13, 1992, meeting. The word "winter" was omitted from several places in the amended rule.

In §112.5(c)(2), the first sentence should read as follows. "(2) The owner/operator of the unit(s) shall fund and support a research study of winter atmospheric haze, also known as "white haze," in the Dallas-Fort Worth (DFW) area..." In the next to last sentence of paragraph (2) the word "winter" should be added as follows. "...pounds per MMBtu will significantly improve winter visibility in the DFW area."

In subparagraph (c)(2)(B), "winter" should be added as follows. "...as defined in subsection (c) of this section, will not significantly improve winter visibility in the DFW area."



Texas Department of Commerce

Bond Trustee Request for Proposal

Purpose. The Texas Department of Commerce (the department) is seeking the services of a commercial bank or trust company to serve as Trustee for the department's proposed economic development commercial paper program. The department's plan of finance calls for the issue to receive final approval from the department board in June, with a closing in early July. The Department expects that the majority of the program funds will be held by the Texas Treasury Safekeeping Trust Company as depository, and Morgan Guaranty Trust Company of New York has been retained as issuing and paying agent. Therefore, the Trustee will be limited to trust duties and funds management as outlined below.

Trustee Functions: Receive and review loan documentation and safeguard collateral on behalf of the commercial paper holders. Collateral will include SBA certificates of guarantee which will be held in Trustee's name and standardized loan documents including promissory notes from various Texas cities; normal and customary trustee functions on behalf of the commercial paper holders; principal conduit for all flow of funds between borrowers and the state treasurer. Trustee will also be responsible for reimbursing the letter of credit provider as commercial paper is

redeemed; perform arbitrage administration of invested funds versus the cost of commercial paper. Please list your fees for this function separately. Trustee will be responsible for all accounting and reporting normally required in the course of carrying out the above functions.

The Department Loan Program. In 1987, the department was authorized by Chapter 481 of the Texas Government Code to issue an unlimited amount of revenue bonds to promote economic development in the state. This program is the first to be initiated under the legislation. The department plans to issue \$25 million of commercial paper for the initial phase of the program, and additional commercial paper in increments of \$25 million over the next several years. The commercial paper will be backed by a letter of credit and supported by small business loans that have an SBA guarantee, the pledge of a municipality's local option sales tax revenue, or other acceptable guarantees. The SBA loans will be serviced by the originating bank with payments passed through the Fiscal and Transfer Agent. The sales tax loans will be serviced either by the originating bank or the local Industrial Development Corporation.

Requested Information. If you wish to be considered for the role of trustee for this issue, please provide the following information.

Each proposal to provide trustee services to the department must include a qualification statement which includes the following information: describe your organization's structure and include the location of offices and employees nationally, internationally, and in Texas; provide a statement of the assets under management in the trust department; provide your most recent certified financial statements, including a statement of deposits, capital, and surplus position; describe your past experience in acting as trustee for Texas revenue bond issues. Please limit this to no more than two pages; provide sample reports used in prior engagements which may be used to provide information to the department; provide three references from Texas issuers for which you have acted as trustee; provide your affirmative action policy, including equal opportunity goals and specifics regarding internal recruitment efforts for minority and women employees, sub-contractors, and joint ventures. Provide an employee profile showing the number and percentage of male, female, and minority employees by category, and describe the degree of ownership and control of your bank by minorities and women. Describe the degree to which minority and/or women-owned business enterprises will participate in this contract; identify the responsible individual for the engagement, and the individuals who will be assigned to the corporation account, if your bank is selected. Provide information regarding the background and experience of each individual.

Compensation. The department is a state agency supported by state tax dollars. The department intends to conserve public funds at all times. Accordingly, you are

strongly urged to develop innovative, cost-effective proposals. Please provide a comprehensive list of all services you would provide, their corresponding fees, and your proposed method of charging for them. In order to be considered, it is imperative that you specifically answer all of the above questions, and preferably in the above order and format.

Conflict of Interest. The offeror shall identify any officer or employee of Commerce who has a financial interest, directly or indirectly, in the offeror's firm or who is related within the second degree of consanguinity (blood) or affinity (marriage) to a person having such a financial interest, together with a full disclosure of the nature of such financial interest, and the relationship if applicable. If there is no such person, the offeror shall so state in the proposal submitted in response to this Request for Proposal.

Prior State Employment. The offeror shall disclose whether any of the personnel whom the offeror proposes to use in performing the requested services have been employed by an agency of the State of Texas at any time during the two years preceding the date of submission of this proposal. If such employment has existed, the offeror shall disclose the agency and the nature of the previous employment with such agency; the date of termination of the employment; and the annual rate of compensation for the employment at the time of termination. If such employment has not existed then the offeror shall so state in the proposal.

Please be advised that any responding bank which has clients that would present actual or potential conflicts of interest with the department may be disqualified for participation on this solicitation. Should your bank determine it has a client which appears, on its face, to present a possible conflict of interest, please list any and all such clients so that the department may make a determination as to whether an actual or potential conflict exists. The selection for trustee will be based primarily on the following factors: projected fee schedule for the services provided; acceptability to national bond rating agencies and the letter of credit provider; projected ability to satisfactorily serve as a Trustee bank for the proposed commercial paper program; trustee functions and personnel carrying out those functions are located in Texas.

Terms of Agreement. The department recognizes that continuity is valuable to the continued success for the department's program and views the contract term with the selected firm to be until the commercial paper is retired and the program is collapsed. However, the department will retain the right to terminate the contract for any reason and at any time upon the payment of the then-earned fees and expenses.

Costs Incurred in Responding. All costs directly or indirectly related to preparation of a response to this request or any oral presentation required to supplement and/or clarify a proposal which may be required by the department shall be the sole responsibility of and shall be borne by your bank. In addition, costs associated with negotiating a contract with the department (including a scope of work and fee schedule) will be borne by your bank.

Release of Information. Information submitted relative to this request for proposal shall not be released by the department during the proposal evaluation process or prior to contract award. All information submitted to and retained by the department becomes public record and sub-

ject to disclosure under the Texas Open Records Act, unless an exception under such Act is applicable.

Proprietary Information. If your bank does not desire proprietary information in the proposal to be disclosed under the Texas Open Records Act or otherwise, you are required to clearly identify (and segregate, if possible) all proprietary information in the proposal, which identification shall be submitted concurrently with the proposal. If you fail to clearly identify proprietary information, you agree, by the submission of a proposal, that those sections shall be deemed non-proprietary and made available upon public request after the contract is awarded.

Other. Responses should be sent to the Department's Co-Structuring Agent: Mr. Reuben McDaniel, Walton Johnson & Company, 2911 Turtle Creek Boulevard, Suite 1280, Dallas, Texas 75219, Phone: (214) 522-6770, Fax: (214) 520-1588.

Three bound copies of your proposal should be submitted by 12 noon on Monday, May 18, 1992. Please limit your responses to 10 pages or less.

Issued in Austin, Texas, on May 4, 1992.

TRD-9206085 Cathy Bonner
Executive Director
Texas Department of Commerce

Filed: May 4, 1992

For further information, please call: (512) 320-9666

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Interagency Council on Early Childhood Intervention

Request for Proposal

The Texas Interagency Council on Early Childhood Intervention (ECI) announces a request for proposal (RFP) for funding early childhood services in Jefferson and Orange counties in fiscal year 1993. The scope of services include a comprehensive array of services to 36 families for the period beginning September 1, 1992, and ending August 31, 1993. The funds available for request may not exceed \$168,278. All applicants must comply with all program requirements under the Human Resource Code, Chapter 73 and under 25 Texas Administrative Code, §621.21-621.33.

The RFP is available to all interested providers upon request from the Early Childhood Intervention program; 1100 West 49th Street, Austin, Texas 78756, or by calling (512) 458-7673. All applications to be considered for funding must be received by the program by 5 p.m. on June 19, 1992, or postmarked by June 18, 1992. Questions should be directed to the program office at (512) 458-7673.

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

Issued in Austin, Texas, on April 30, 1992.

TRD-9205965 Austin Kessler
Chairperson of the Interagency Council on
Early Childhood Intervention
Texas Department of Health

Filed: April 30, 1992

For further information, please call: (512) 458-7673

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Texas Department of Health

Applications for Emergency Medical Services (EMS) Provider Training--(TEXEMS)

Background. The Texas Department of Health (TDH) is responsible for implementation of the Omnibus Health Care Rescue Act, House Bill 18, Section 30, 71st Legislature, 1991, which requires TDH to develop and maintain a trauma reporting and analysis system (EMS/Trauma Registry). A standardized patient record keeping system, known as TEXEMS, was developed under previous contracts and enables automated EMS system assessment, evaluation and planning. As part of developing an EMS/Trauma Registry, TDH intends to provide training in the use of TEXEMS to EMS providers throughout Texas.

Use of TEXEMS to transmit TDH's prehospital standard data set satisfies one of the rules for EMS provider licensure. Legal, clinical and managerial uses make efficient data collection an important consideration for EMS providers. Training should occur in each of the TDH eight public health regions and can be presented in either large or small groups. It will need to include rationale for collecting and using data at local and state levels. A major criterion of training effectiveness will be the successful and consistent transmission of data by prehospital providers to TDH's central computer. Accordingly, TDH is accepting proposals for training prehospital providers about the need and use of TEXEMS.

General information. The postmark deadline to submit a proposal is May 22, 1992. Organizations shall submit only one proposal. Only proposals delivered to the TDH's Bureau of Emergency Management by the deadline will be considered for funding regardless of circumstance. Proposals may not be submitted by fax machines. A maximum of \$118,275 is available for the period beginning June 1, 1992-September 30, 1992. Funding is contingent on the availability of monies to TDH. Successful applicants will be notified following May 22, 1992. The date of notification and project starting date may vary. After the awards have been granted, a contract will be negotiated between TDH and the applicant. Progress reports shall be required each month, unless otherwise specified by TDH. A report explaining the results of the project will be required at the conclusion of the project.

Qualification of applicants. Applicants must provide assurances that they have the capability and all required resources readily available to satisfactorily perform the services identified in their proposal. All contractors must provide documentation of ability to complete the specified project.

Application procedure. Applicants may request assistance from Gene Willard, EMS/Trauma Registry, Emergency Medical Services Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. A proposal should include, but need not be limited to: a brief description of the problem to be addressed; a statement of the project's principal objectives; a workplan for the project; the qualifications of the institution and the project's principal personnel; timetable for the project, and total estimated budget; and any plans for evaluation of the project's results. Applicant should attach any agreements that have been obtained relating to this project. Up to three letters of support should be attached to the application.

Review of proposals. TDH reserves the right to accept or reject any or all proposals submitted. Funding of projects is contingent on availability of funding to the TDH. Proposals that exceed 15 pages will not be reviewed. Each proposal will be evaluated independently based on criteria described below. These criteria will be used to assign point values. Proposals with the highest points will determine the successful applicants. Proposals will be reviewed by TDH staff.

Evaluation criteria. TDH will use the following criteria: experience-a maximum of 40 points will be awarded based on a background in the areas of emergency medical services; management information systems; and computer software training. Workplan and budget-a maximum of 30 points will be awarded based on a budget appropriate for the project; project plan that can be completed within the specified time frame; presentation of the information in a clear, professional format; use of state of the art resources; and a method of procuring equipment or supplies. Likelihood of impacting performance indicators-a maximum of 30 points will be awarded based on performance indicators to impact, including the number of EMS providers contacted about availability of TEXEMS, EMS providers participating in TEXEMS, EMS providers that received training in TEXEMS, EMS personnel trained in TEXEMS, and TEXEMS training sessions conducted; innovation or creativity of approach; qualifications/experience of course instructors; and current activities related to the project.

Issued in Austin, Texas, on May 4, 1992.

TRD-9206090 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 4, 1992

For further information, please call: (512) 458-7550

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Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Thomas P. West, D.D.S.(registrant-R10736) of Abilene to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected. The bureau determined that the registrant is using equipment that constitutes an immediate threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

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 May 1, 1992.

TRD-9206089 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 4, 1992

For further information, please call: (512) 834-6688

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tem is under no legal requirement to execute a contract on the basis of this notice. If an award is made pursuant to this notice, it will be based upon a variety of factors, including cost, which are deemed to be the best combination available to achieve the system's objectives.

For additional information regarding this notice, contact Mary J. Hurley, Director of System Operational Analysis, The Texas A&M University System, College Station, Texas 77843-1141, (409) 845-8558.

Issued in College Station, Texas, on May 4, 1992.

TRD-9206110 Eddle J. Davis
Executive Deputy Chancellor
The Texas A&M University System

Filed: May 4, 1992

For further information, please call: (409) 845-0920

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Texas Southern University Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, Texas Southern University Thurgood Marshall School of Law requests all interested parties to submit proposals to analyze data for the first year law school courses.

Description of Services. The scope of the proposals shall include, but not be limited to, review and evaluate the performance of each item on all multiple choice tests.

Score all the multiple choice tests, conduct, and report on a preliminary evaluation of the performance of each item on each test and revise the scoring key as needed on the basis of this analysis. In addition, the consultant must generate letter grades that will conform to a distribution established by the law school at Texas Southern University.

We seek a consultant with data methodology which will distribute each professor's portion of the grade in conformity with each student's performance on the standardized test. Finally, the successful bidder must conduct and interpret a detailed item analysis of each test and prepare a detailed report on the procedures used and the statistical results obtained.

Closing Date. Closing date for offers to provide these services is June 1, 1992.

Effective Date. The effective date for the contract is on or about June 15, 1992 and it will terminate on August 31, 1992.

Procedure for Selecting Consultant. Texas Southern University will select a consultant based on the evaluation and recommendations of the dean of the law school and Academic Standing Committee. Selection of the consultant will be based on the following factors: a demonstration of competence and knowledge of the procedures necessary to accommodate proposed request; the adequacy and effectiveness of the methodology recommended in reference to the requirements; the competitiveness and reasonableness of the costs.

Terms and Conditions of the Contract. The following terms and conditions must be accepted by all respondents; TSU reserves the right to reject any and all proposals; the selected consultant will be required to submit a monthly status report to the dean of law school; TSU reserves the right to review the work of the consultant at any time; all information generated is confidential and the exclusive property of TSU.

Contact Person. Any consultant interested in submitting a proposal may obtain a copy of the request for proposal test scores analysis by contacting McKen Carrington, Associate Dean, Thurgood Marshall School of Law, Texas Southern University, 3100 Cleburne Avenue, Houston, Texas 77003, (713) 527-7126.

Issued in Houston, Texas, on April 23, 1992.

TRD-9206111 Everett O. Bell
Executive Director for Board Relations
Texas Southern University

Filed: May 1, 1992

For further information, please call: (512) 527-7011

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FREO 92

Name: Freo Vega

Grade: 11

School: Rockdale High School, Rockdale ISD

TAC Titles Affected

The following is a list of the administrative rules that were published in the January-April, 1992, issues.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §3.603.....	319
1 TAC §§3.603, 3.608, 3.609, 3.625	1849, 1859

Part II. Texas Ethics Commission

1 TAC §§1.1, 1.3, 1.5, 1.7, 1.9, 1.11, 1.13, 1.23, 1.25, 1.27, 1.29, 1.31, 1.43, 1.45, 1.47, 1.49, 1.51, 1.71, 1.81 1491	
1 TAC §§3.111, 3.113, 3.115, 3.117, 3.119, 3.131, 3.133, 3.135, 3.137.....	1489, 1493
1 TAC §3.211.....	1423, 1443
1 TAC §§3.213, 3.215, 3.217, 3.219 ..	1431, 1443
1 TAC §5.1.....	357, 369
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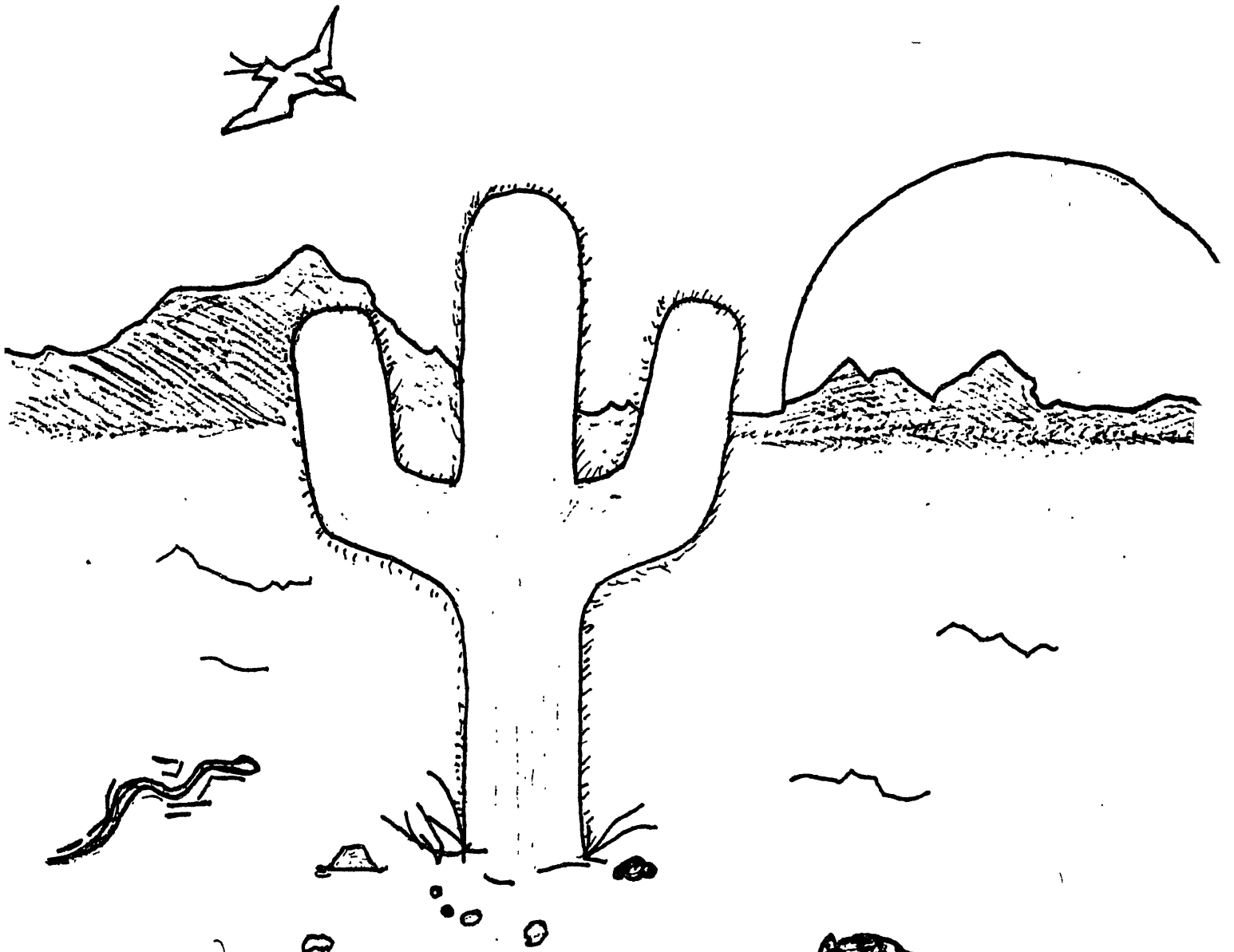
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1992 Publication Schedule for the *Texas Register*

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.

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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

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