

Texas Register

Volume 17, Number 40, May 29, 1992

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- Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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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*.

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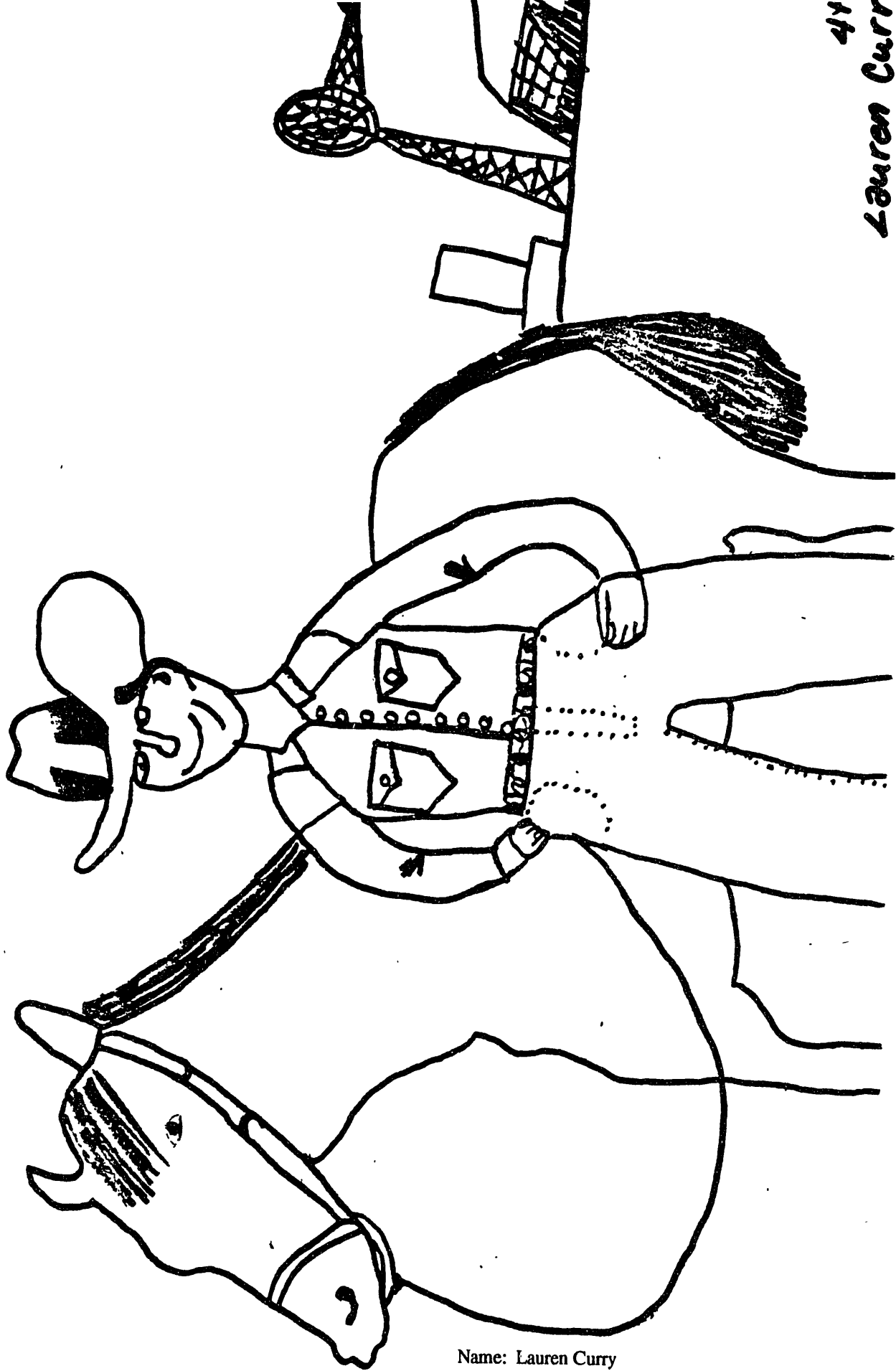
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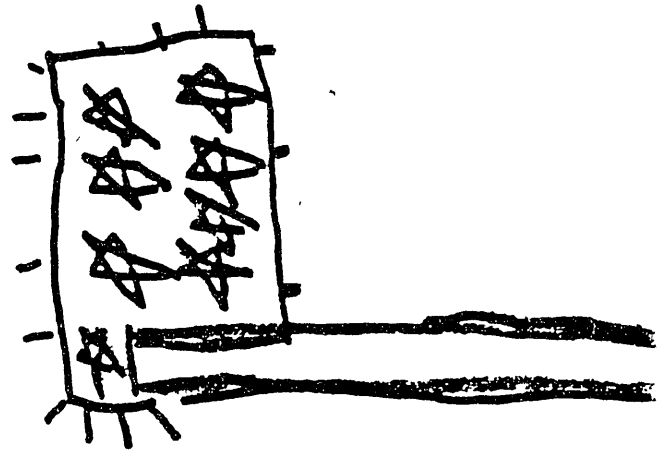
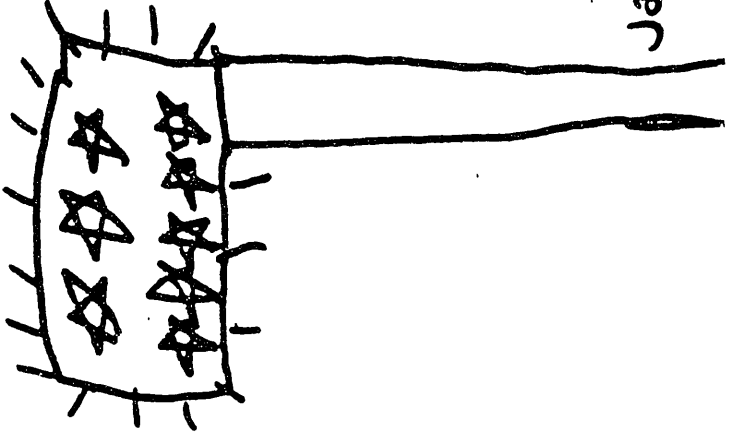
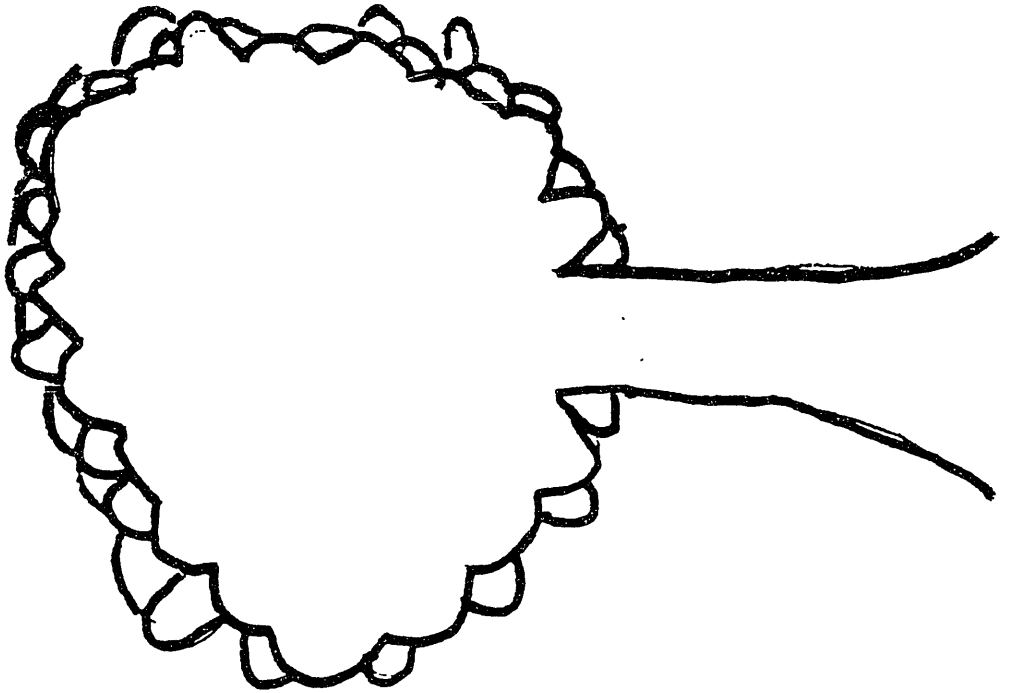
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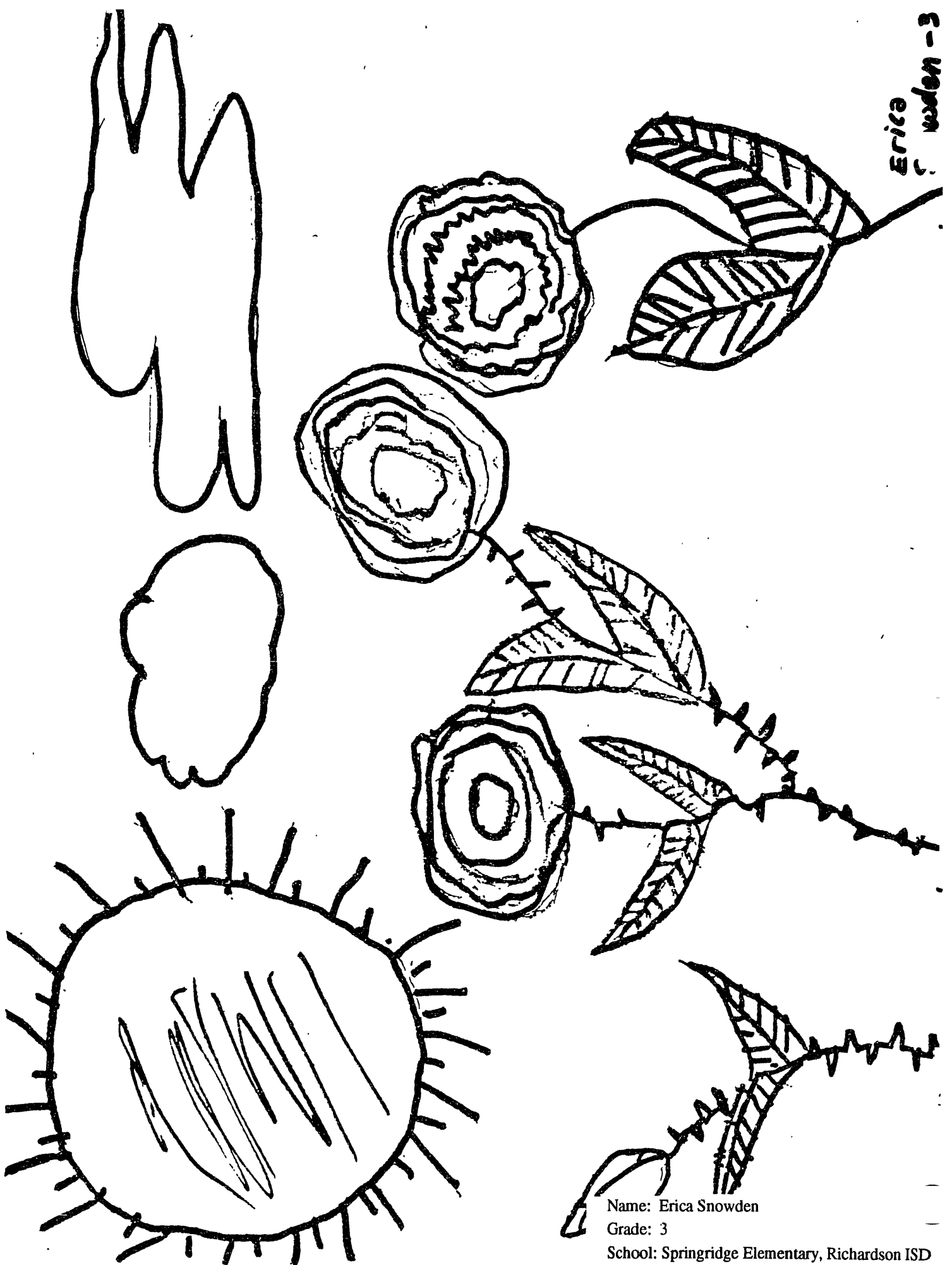


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Lauren Curry

Name: Lauren Curry
Grade: 4
School: Springridge Elementary, Richardson ISD

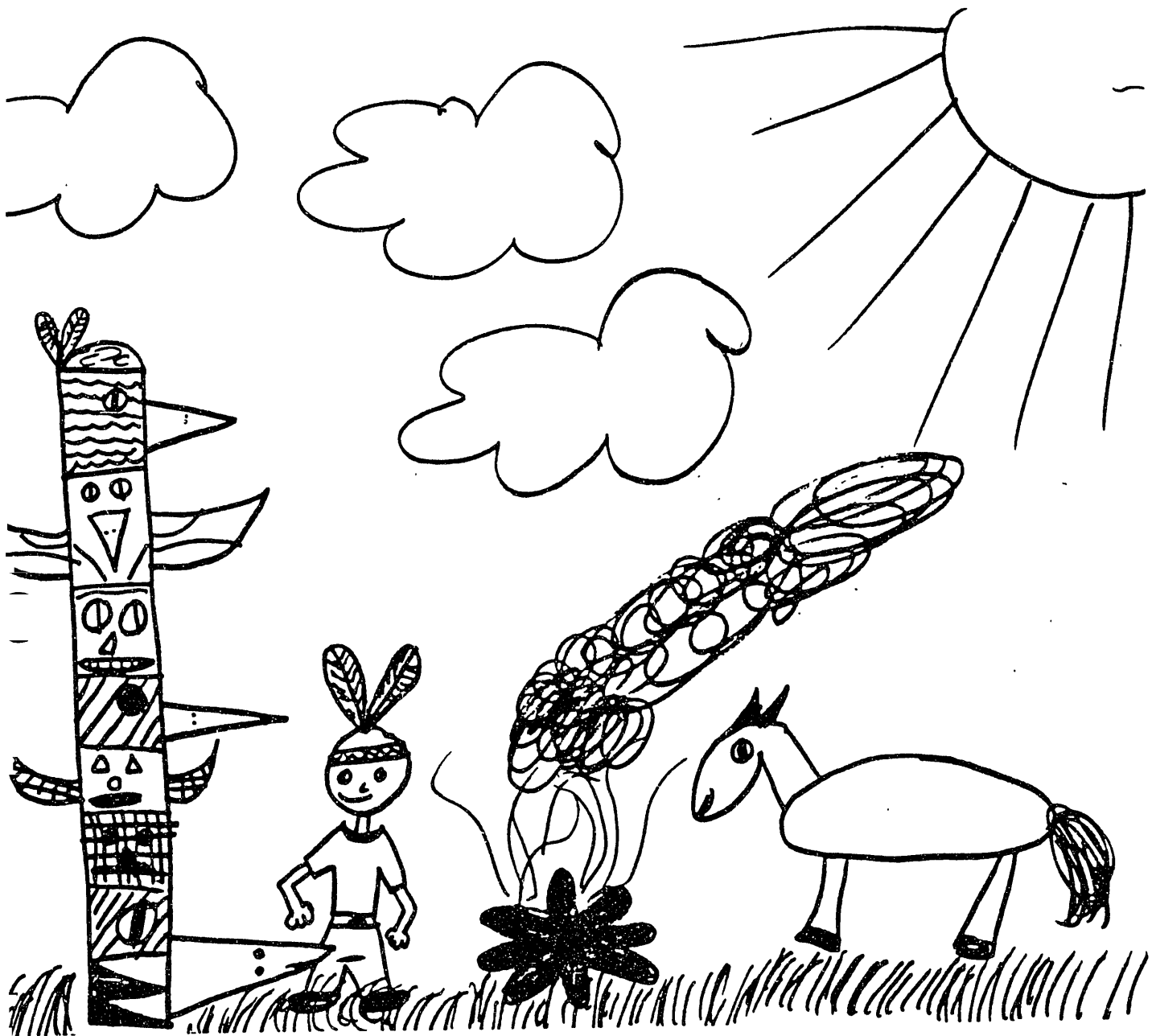


Janet Fan-1



Erica
Snowden - 3

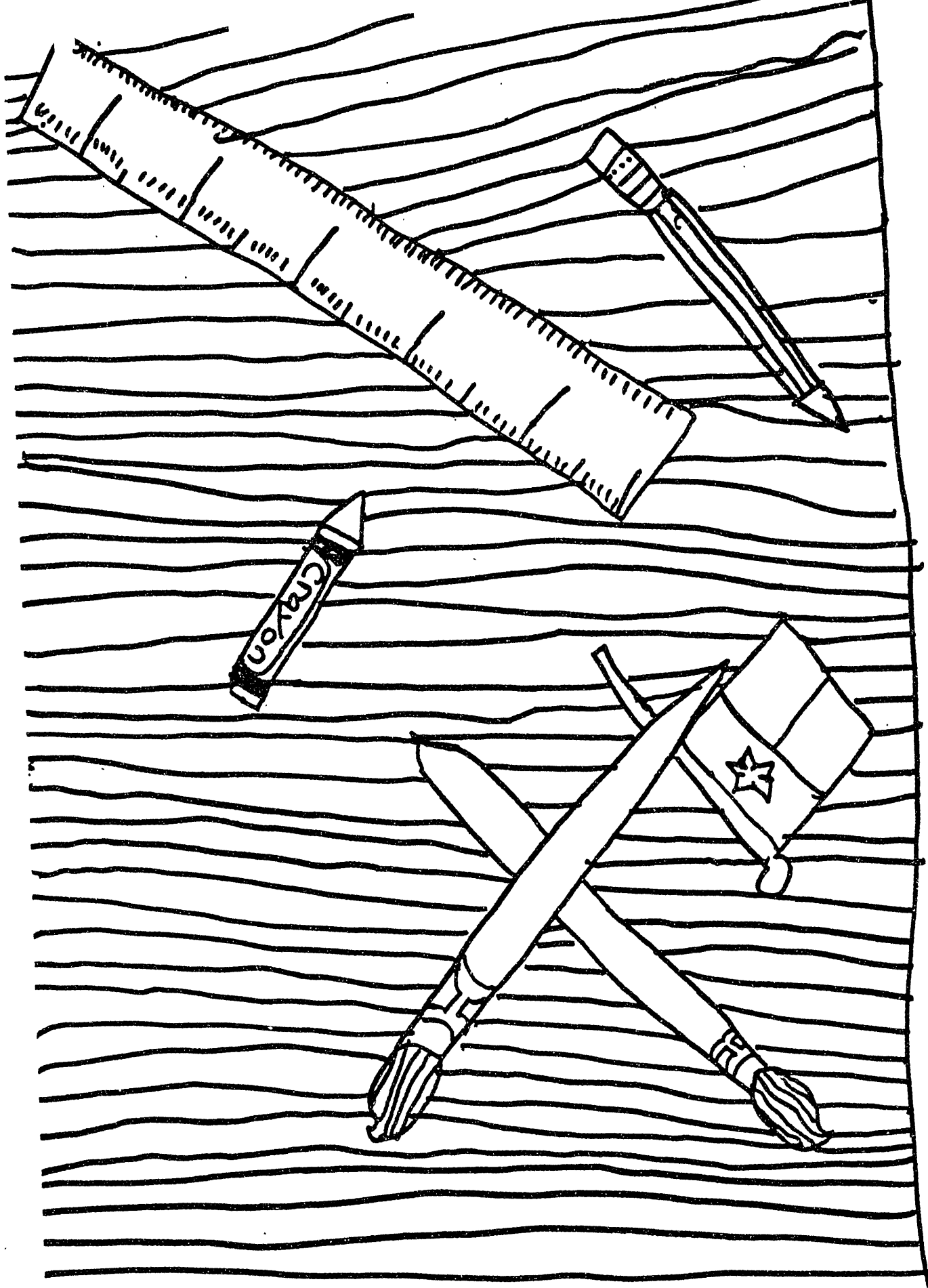
Name: Erica Snowden
Grade: 3
School: Springridge Elementary, Richardson ISD



Name: Emily Morgan

Grade: 4

School: Moss Haven Elementary School, Richardson ISD



Name: Gracie Marshall

Grade: 4

School: Moss Haven Elementary School, Richardson

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 III. Office of the Attorney General

Chapter 59. Collections

• 1 TAC §59.2

The Office of the Attorney General adopts on an emergency basis §59.2, establishing uniform guidelines concerning the process by which state agencies collect delinquent obligations and refer these obligations to the Attorney General for further collection efforts. The new section is adopted on an emergency basis in order to comply with Texas Civil Statutes, Article 6252-5e(2) (c), requiring these guidelines and procedures to be adopted before June 1, 1992.

The section is intended to provide general guidelines for the collection of delinquent accounts owed to state agencies, to assist agencies with in-house collection personnel to develop collection strategies, and to foster the referral of collection matters to the Attorney General where referral procedures do not currently exist. The section is not intended to replace existing procedures with certain state agencies and the Attorney General where collection procedures already have a high degree of formality and sophistication, especially where these relationships are premised on existing statutory mandates, such as the certification of delinquent tax accounts for collection. The Attorney General recognizes that delinquent obligations owed to agencies differ by a wide variety of accounts, debt type, amount and number of individual accounts, that collection of certain debts are facilitated by statutory and legal presumptions, and that many agencies have in-house attorneys and staff to handle specific types of legal proceedings. Agencies may apply to the Attorney General for recognition of a variance from the specific requirements imposed by this section, and for authorization to use in-house counsel in accordance with subsection (b)(1)(A) herein. Finally, the Attorney General recognizes that these guidelines are, by definition, general in nature, and that modifications with particular agencies may be appropriate.

The rule also seeks to quantify and evaluate the type, degree, and effectiveness of outside counsel representation in state agency collection matters, to the extent it exists, to enable the Attorney General to determine whether to undertake representation of the agency in the collection matter as authorized by Texas Civil Statutes, Article 6252-5e(4).

Any comment on the rule should be addressed to Ronald R. Del Vento, Assistant Attorney General, Chief, Collections Division, Office of the Attorney General, P. O. Box 12548, Austin, Texas 78711-2548.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 6252-5e, which was added to Title 110A, Revised Statutes, by Acts, 72nd Legislature, 1st Called Session, Chapter 4, §6.01. In addition, House Bill Number 1, 72nd Legislature, 1st Called Session, Article 5, §74, provides that the Office of the Attorney General may develop a uniform reporting procedure for state agencies and institutions to report uncollected debts and judgments to the Attorney General's Office for further collection efforts.

§59.2. Collection Process: Uniform Guidelines and Referral of Delinquent Collections.

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

(1) Attorney General—The Office of the Attorney General of Texas, acting through the Collections Division of the agency.

(2) Debtor—Any person or entity liable or potentially liable for an obligation owed to a state agency or against whom a claim or demand for payment has been made.

(3) Delinquent—Payment is past due by law or by customary business practice, and all conditions precedent to payment have occurred or been performed.

(4) Make demand—To deliver or cause to be delivered by United States Mail, first class, a writing setting forth the nature and amount of the obligation owed to the agency. A writing making demand is a "demand letter".

(5) Obligation—A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant.

(6) Security—Any right to have property owned by an entity with an obligation to a state agency sold or forfeited in satisfaction of the obligation; and any instrument granting a cause of action in favor of the State of Texas and/or the agency against another entity and/or that entity's

property, such as a bond, letter of credit, or other collateral that has been pledged to the agency to secure an obligation.

(7) State agency—Any agency, board, commission, institution, or other unit of state government.

(b) Uniform guidelines for state agencies in collecting delinquent obligations.

(1) A state agency shall adopt procedures to establish and determine the liability of each person responsible for the obligation, whether that liability can be established by statutory or common law. Agency records shall contain and reflect the identity of all persons liable on the obligation or any part thereof. All agency collection procedures shall apply to every debtor, subject to reasonable tolerances established by the agency. (See, paragraph 8 of this subsection).

(2) A state agency shall adopt procedures to ensure that agency records reflect the correct physical address of the debtor's place of business, and, where applicable, the debtor's residence. Where a fiduciary or trust relationship exists between the agency (or the state) as principal and the debtor as trustee, an accurate physical address shall be maintained. A post office box address should not be used. Agency records may reflect a post office box where it is impractical to obtain a physical address, or where the post office box address is in addition to a correct physical address maintained on the Office of the agency's books and records.

(3) All demand letters should be mailed in an envelope bearing the notation "address correction requested" in conformity with 39 Code of Federal Regulations, §265(d). If an address correction is provided by the United States Postal Service, the demand letter should be re-sent to that address prior to the referral procedures described herein. Demand should be made upon every debtor prior to referral of the account to the Attorney General. The final demand letter shall include a notation that a copy is being sent to the Attorney General.

(4) Where state law gives the agency the right to record a lien securing the obligation, the agency shall cause to be filed a lien in the appropriate records of the

county where the debtor's principal place of business, or, where appropriate, the debtor's residence, is located. The lien shall be filed as soon as the obligation becomes delinquent or as soon as is practicable. After referral, any lien securing the indebtedness may not be released, except on full payment of the obligation, without the approval of the attorney representing the agency in the matter.

(5) Where practicable, agencies shall maintain individual collection histories of each account in order to document attempted contacts with the debtor, the substance of communications with the debtor, efforts to locate the debtor and his assets, and other information pertinent to collection of the delinquent account.

(6) Prior to referral of the obligation to the Attorney General, the agency shall:

(A) verify the debtor's address and telephone number;

(B) transmit no more than two demand letters to the debtor at the debtor's verified address. The first demand letter should be sent no later than 30 days after the obligation becomes delinquent. The second demand letter should be sent no sooner than 30 days, but not more than 60 days, after the first demand letter. Where agency procedures, statutory mandates, or the requirements of this section indicate that a lawsuit on the account may be filed by the Attorney General, the demand letters shall so indicate;

(C) verify that the obligation is not uncollectible. Agencies shall adopt procedures to ensure that referred obligations are not uncollectible. By way of example, the following illustrations apply.

(i) **Bankruptcy.** Agencies should prepare and timely file a proof of claim in the bankruptcy case of each debtor, subject to reasonable tolerances adopted by the agency. Copies of all such proof of claims filed shall be sent to the Attorney General absent the granting of a variance. Agencies shall maintain records of notices of bankruptcy filings, dismissals and discharge orders received from the United States bankruptcy courts pertaining to debtors sufficient to enable the agency to ascertain whether the collection of the agency's claim is subject to the automatic stay provisions of the bankruptcy code or whether the debt has been discharged. Agencies may seek the assistance of the Attorney General in bankruptcy collection matters where necessary, including the filing of a notice of appearance and preparation of a proof of claim.

(ii) **Limitations.** If the obligation is subject to an applicable limitations provision that would prevent collection as a matter of law, the obligation should not be referred unless circumstances indicate that limitations has been tolled or is otherwise inapplicable.

(iii) **Corporations.** If a corporation has been dissolved, is in liquidation under Chapter 7 of the United States Bankruptcy Code, has forfeited its corporate privileges or charter, or had its Certificate of Authority revoked, the obligation should not be referred unless circumstances indicate that the account is nonetheless collectible.

(iv) **Out-of-state debtors.** If the debtor is located out-of-state, or outside the United States, the matter should not be referred unless a determination is made that the domestication of a Texas judgment in the foreign forum would more likely than not result in collection of the obligation, or that the expenditure of agency funds to retain foreign counsel to domesticate the judgment and proceed with collection attempts is justified.

(v) **Deceased debtors.** If the debtor is deceased, agencies should file a claim in each probate proceeding administering the decedent's estate. If such probate proceeding has concluded and there are no remaining assets of the decedent available for distribution, the delinquent obligation should be classified as uncollectible and not be referred. In cases where a probate administration is pending, or where no administration has been opened, all referred obligations should include an explanation of any circumstances indicating that the decedent has assets available to apply toward satisfaction of the obligation.

(vi) **Indicia of inability to pay.** Where circumstances demonstrate a permanent inability of a debtor to pay or make payments toward the obligation, the obligations should not be referred.

(7) Not later the 30th day after the date a state agency determines that normal agency collection procedures for an obligation owed to the agency have failed, the agency shall report the uncollected and delinquent obligation to the Attorney General for further collection efforts as herein-after provided.

(8) Agencies shall adopt reasonable tolerances, subject to review by the Attorney General, below which an obligation shall not be referred. Factors to be considered in establishing tolerances include the size of the debt; the existence of any security; the likelihood of collection through passive means such as the filing of a lien where applicable; expense to the agency and to the Attorney General in attempting to collect the obligation; and the

availability of resources both within the agency and within the Office of the Attorney General to devote to the collection of the obligation.

(9) **Warrant hold.** An agency should utilize the "warrant hold" procedures of the Comptroller of Public Accounts authorized by the Texas Government Code, §403.055 to ensure that no treasury warrants are issued to debtors until the debt is paid.

(c) **Referral to attorneys.**

(1) **Suit on the obligation by in-house attorneys.**

(A) Agencies seeking to use in-house attorneys to collect delinquent obligations through court proceedings must submit a written request to the Attorney General. Upon the written approval of the Attorney General, a state agency may bring suit upon a delinquent obligation through an attorney serving as a full-time employee of the agency. Where circumstances make it impractical to secure Attorney General approval for every delinquent obligation upon which a lawsuit is to be filed, a state agency may apply to the Attorney General for an authorization to bring suit on particular types of obligations through attorneys employed full-time by the agency. Such authorization, if given, must be renewed at the beginning of each fiscal year. A state agency shall comply with reporting requirements that the Attorney General may adopt pursuant to Texas Civil Statutes, Article 6252-5e.

(B) After an obligation is referred to agency attorneys employed as in-house counsel, the obligation shall be reduced to judgment against all entities legally responsible for the obligation where: the lawsuit and judgment will make collection of the obligation more likely; and the expenditure of agency resources in recovering judgment on the obligation is justified.

(C) Where authorized by law, the agency shall plead for and recover attorney's fees, investigative costs, and court costs in addition to the obligation.

(D) Every judgment taken on a delinquent obligation shall be abstracted and recorded by the agency in every county where the debtor: owns real property; operates an active business; is likely to inherit real property; owns any mineral interest; or has maintained a residence for more than one year.

(2) **Referral to the Attorney General.**

(A) Bulk accounts. Agencies are encouraged to explore the exchange of accounts with the Attorney General by computer tape or other electronic data transfer and to discuss any variances as may be appropriate. The agency and the Attorney General may agree upon an exchange of certain minimum account information necessary for collection efforts by the Attorney General.

(B) Individual accounts. Agencies may refer individual accounts to the Attorney General after the procedures set forth in Subsection (a)(6)-(8) of this section. Individual accounts referred to the Attorney General should be accompanied by the following:

(i) the copies of all correspondence between the agency and the debtor;

(ii) a log sheet (see, subsection (a)(5) of this section) documenting all attempted contacts with the debtor and the result of such attempts;

(iii) a record of all payments made by the debtor and, where practicable, copies of all checks tendered as payment;

(iv) any information pertaining to the debtor's residence and his assets; and

(v) copies of any permit application, security, or instrument giving rise to the obligation.

(C) Bonds/security. Delinquent accounts upon which a bond or other security is held shall be referred to the Attorney General no later than 60 days after becoming delinquent. All such accounts where the principal has filed for relief under federal bankruptcy laws shall be referred immediately, since collection of the security may obviate the need to file a claim or to appear in the bankruptcy case.

(D) The Attorney General may decide that a particular obligation, or class of obligations may be assigned after referral to the appropriate division within the Office of the Attorney General.

(3) Referral to collection firms or private attorneys.

(A) Prior approval of attorney general. No agency may contract with, retain, or employ any person other than a full time employee of the agency to collect a delinquent obligation without prior written approval of the Attorney General. Any existing arrangements must receive the written approval of the Attorney General to be renewed or extended in any fashion.

(i) Approval of contract with private firm or attorney. Prior to contracting with, retaining, or employing a person other than a full-time employee of the agency to collect a delinquent obligation, an agency must submit a proposal to the Attorney General requesting the Attorney General to collect the obligation(s). Any agency contracting with any person other than a full-time employee of the agency for the collection of a delinquent obligation must submit the proposed contract to the Attorney General for written approval. The proposal must disclose any fee that the agency proposes to pay the private collection firm or attorney. The Attorney General may elect to undertake representation of the agency on the same or similar terms as contained in the proposed contract. If the Attorney General declines or is unable to perform the services requested, the Attorney General may approve the contract. If the Attorney General decides that the agency has not complied with this subsection, the Attorney General may:

(I) decline to approve the contract; or

(II) require the agency to submit or resubmit a proposal to the Attorney General for collection of the obligation in accordance with this subsection.

(ii) If the Attorney General fails to act as set forth in subsection (a) of the section within 60 days of receipt of the proposed contract or receipt of additional information requested, the Attorney General is deemed to have approved the contract in accordance with this rule.

(B) Requirements of proposed contracts with private persons presented for Attorney General approval. All contracts for collection of delinquent obligations must contain or be supported by a proposal containing the following:

(i) a description of the obligations to be collected sufficient to enable the Attorney General to determine what measures are necessary to attempt to collect the obligation(s);

(ii) explicit terms of the basis of any fee or payment for the collection of the obligation(s);

(iii) a description of the individual accounts to be collected in the following respects:

(I) the total number of delinquent accounts;

(II) the dollar range;

(III) the total dollar amount;

(IV) a summary of the collection efforts previously made by the agency; and

(V) the legal basis of the delinquent obligations to be collected.

Issued in Austin, Texas, on May 19, 1992.

TRD-9206929

Will Pryor
First Assistant Attorney
General
Office of the Attorney
General

Effective date: May 20, 1992

Expiration date: September 17, 1992

For further information, please call: (512) 463-2040

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 519. Practice and Procedure

Practice and Procedure

• 22 TAC §519.18

The Texas State Board of Public Accountancy adopts on an emergency basis an amendment to §519.18, concerning rules of practice and procedure. This amendment is necessary in order to enable the board to effectively prosecute major cases with appropriations for fiscal year 1992.

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

§519.18. Place and Nature of Hearings. All hearings conducted in any proceedings shall be open to the public except for the deliberations between hearing panel members to develop the hearing panel's recommendation(s) and all testimony shall be made under oath. All hearings shall be held in Austin unless for good and sufficient cause the executive director shall designate another place of hearing in the interest of the public.

Issued in Austin, Texas, on May 20, 1992.

TRD-9206976

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: May 20, 1992

Expiration date: September 17, 1992

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

◆ ◆ ◆
TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 133. Hospital Licensing

Standards

• **25 TAC §133.21**

The Texas Department of Health (department) adopts on an emergency basis an amendment to §133.21, concerning hospital licensing standards (standards) which the section adopts by reference. The amendment modifies Chapter 12 in the standards concerning special licensing standards governing the provisions of mental health services in hospitals. Specifically, the amendment changes the definition of "hospital" in Section 12-3.7 in Chapter 12 by including special

hospitals. The Texas Hospital Licensing Law, Health and Safety Code, Chapter 241, allows for the licensing of both general and special hospitals. Because both general and special hospitals may have identifiable parts of the hospital for the provision of mental health services and chemical dependency services, the department believes this amendment should apply to special hospitals which provide mental health services. The amendment also is being proposed for permanent adoption in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis in order to address abuses recently identified in widespread public allegations of state law and patient rights in private psychiatric hospitals. The activities constitute an imminent threat to public health and safety. Accordingly, it is imperative that the department adopt the amendment on an emergency basis in order to address these activities as soon as possible.

The amendment is adopted on an emergency basis under the Health and Safety Code, §241.027, which provides the Texas Board of Health (board) with authority to adopt rules to establish and enforce minimum standards for the licensing of hospitals; §12.001, which provides the board with authority to adopt rules

for the performance of every duty imposed by law upon the board, the department, and the commissioner of health; and Texas Civil Statutes, Article 6252-13a, §5, which provide the board with authority to adopt rules on an emergency basis.

§133.21. Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication effective September 1, 1985, entitled "Hospital Licensing Standards," as amended through June 1992.

(b) (No change.)

Issued in Austin, Texas, on May 20, 1992.

TRD-9206952

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

Effective date: June 9, 1992

Expiration date: November 7, 1992

For further information, please call: (512) 834-6650

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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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter R. Registration of Interstate Operating Authority

• 16 TAC §§5.331-5.355

(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 Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §§5.331-5.355 and new §§5.331-5.349. The repeals of §§5.331-5.355 of this title (relating to Definitions; Operations within Borders of States; Registration of ICC Operating Authority; Designation of Process Agent; Registration and Identification of Vehicles and Driveaway Operations; Form and Execution of Application for Identification Stamps; Form and Execution of Application for Cab Card; Form of Identification Stamp; Form of Cab Card; Use of Cab Cards in Connection with Vehicles Not Used in Driveaway Operations; Use of Cab Cards in Driveaway Operations; Inspection of the Cab Card; Destruction of Cab Cards; Alteration of Cab Card; Replacement; Identification; Evidence of Liability Security; Notice of Security Cancellation; Evidence of Self-Insurance; Interim Operations; Reproduction of Forms; Certificated Interstate Operations by Intrastate Carriers; Exempt Operations by Registered Carriers; Cancellation of Registration; Repeal of Rules and Regulations; and Adoption by Reference-Tariff Publications), comprise Subchapter R, and are replaced by new §§5.331-5.349 of this title (relating to Definitions; Operations Within Borders of States; Registration of Motor Carrier Operations; Registration of Motor Carrier Operations Exempt From Economic Regulation by the ICC; Designation of Process Agent; Identification of Vehicles and Driveaway Operations; Form and Execution of Application for Identification Stamps; Use of Cab Cards in Connection With Vehicles Not Used in Driveaway Operation; Use of Cab Cards in Driveaway Operations; Inspection of the Cab Card; Destruction of Cab Cards; Alteration of Cab Card; Re-

placement; Identification; Evidence of Liability Security; Notice of Security Cancellations; Evidence of Self-Insurance; Certificated Interstate Operations by Intrastate Carriers; Exempt Operations by Registered Carriers; and Cancellation of Registration). The proposed repeals and new sections will change a registration fee and will consolidate the rules for all interstate operations, whether or not regulated by the Interstate Commerce Commission, in one subchapter.

Jackye Greenlee, assistant director-central operations, has determined that for the first five-year period the repeals and new sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. Assistant director Greenlee estimates an annual reduction in revenue of \$25,000 as a result of annual registration fees being lowered from \$11 to \$10. There will be no fiscal implications for local government.

Kenneth W. Mills, hearings examiner, has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the sections will be that all regulations regarding registration of interstate operations consolidated into one subchapter. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Kenneth W. Mills, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The repeals are proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters.

§5.331. *Definitions.*

§5.332. *Operations within Borders of States.*

§5.333. *Registration of ICC Operating Authority.*

§5.334. *Designation of Process Agent.*

§5.335. *Registration and Identification of Vehicles and Driveaway Operations.*

§5.336. *Form and Execution of Application for Identification Stamps.*

§5.337. *Form and Execution of Application for Cab Card.*

§5.338. *Form of Identification Stamp.*

§5.339. *Form of Cab Card*

§5.340. *Use of Cab Cards in Connection with Vehicles Not Used in Driveaway Operations.*

§5.341. *Use of Cab Cards in Driveaway Operations.*

§5.342. *Inspection of the Cab Card.*

§5.343. *Destruction of Cab Cards.*

§5.344. *Alteration of Cab Card; Replacement.*

§5.345. *Identification.*

§5.346. *Evidence of Liability Security.*

§5.347. *Notice of Security Cancellation.*

§5.348. *Evidence of Self-Insurance.*

§5.349. *Interim Operations.*

§5.350. *Reproduction of Forms.*

§5.351. *Certificated Interstate Operations by Intrastate Carriers.*

§5.352. *Exempt Operations by Registered Carriers.*

§5.353. *Cancellation of Registration.*

§5.354. *Repeal of Rules and Regulations.*

§5.355. Adoption by Reference-Tariff Publications.

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 18, 1992.

TRD-9206926

Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 463-7094

◆ ◆ ◆
• 16 TAC §§5.331-5.349

The new sections are proposed under the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters, 49 United States Code, §11506, which authorizes state regulatory agencies to establish registration requirements for interstate motor carriers, and Texas Civil Statutes, Article 6701d, §139(c), which authorize the commission to require a filing fee for proof of insurance.

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

Commission—The Railroad Commission of Texas.

Driveaway operation—An operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported.

IC Act—49 United States Code Annotated, 101.

ICC—The Interstate Commerce Commission.

Law—Includes constitutional and statutory provisions and rules and regulations adopted by a commission.

Motor carrier—A motor carrier of passengers or property holding operating authority issued by the Interstate Commerce Commission, or a motor carrier of passengers or property for compensation engaged in interstate or foreign commerce when those operations are exempt from economic regulation by the Interstate Commerce Commission under the IC Act.

NARUC—The National Association of Regulatory Utilities Commissioners.

State—The State of Texas.

Vehicle—A self-propelled or motor-driven vehicle operated by a motor carrier.

§5.332. Operations Within Borders of

States. Whenever this subchapter refers to operations "within the borders" of the state, such operations shall be deemed to include interstate operations to, from, within, or traversing the State of Texas.

§5.333. Registration of Motor Carrier Operations.

(a) Registration of interstate operating authority. A motor carrier must file and maintain a current record of its authority issued by the ICC permitting operation within the borders of this state, and that motor carrier may not exercise its ICC authority within these borders unless there has been filed with the commission an application for the registration of its authority as prescribed by the provisions of this regulation, and has complied with all other requirements of this section. A motor carrier shall only be required to file with the commission that portion of its ICC authority permitting operation within the borders of this state, and will not be required to file with the commission an emergency or temporary operating authority having a duration of 90 consecutive days or less if the carrier has:

(1) registered its other authority under the provisions of this subchapter; or

(2) furnished to the commission a telegram or other written communication describing its emergency or temporary operating authority and stating that operations thereunder shall be in full accord with the requirements of this subchapter.

(b) Form and execution of application. The application for registration of ICC operating authority shall be Form A/A1.

(c) Filing of application. The application for the registration of ICC operating authority shall be filed in duplicate with the commission. The original to which the copy of the ICC authority must be attached will be retained by the commission. The other copy of the application or an acknowledgment shall be transmitted to the motor carrier when the application is approved by this commission. The application must be accompanied by a fee of \$25 for an application filed by a motor carrier unless filed by a motor carrier who has previously filed a currently effective application for the registration of ICC authority with this commission, in which case the fee shall be \$10. The fee shall be in the form of a cashier's check or money order made payable to the State Treasurer of Texas.

§5.334. Registration of Motor Carrier Operations Exempt From Economic Regulation by the Interstate Commerce Commission.

(a) Registration required. A motor carrier exempt from economic regulation by

the Interstate Commerce Commission under the IC Act shall not operate within the borders of the state unless there has been filed an application for the registration of its operation as prescribed by the provisions of this subchapter, and has complied with all other requirements of this subchapter.

(b) Form and execution of application. The application for the registration of such an operation shall be in the form set forth in Form A/A1. The application must be duly completed and executed by an official of the motor carrier.

(c) Filing of application. The application for the registration of such an operation must be filed in duplicate with the commission. The original will be retained by the commission. The other copy of the application or an acknowledgment will be transmitted to the motor carrier when the application is approved. The application must be accompanied by a fee of \$25. The fee shall be in the form of a cashier's check or money order made payable to the State Treasurer of Texas.

§5.335. Designation of Process Agent.

(a) When designation required. A motor carrier is required to file a designation of a local agent for service of process. A motor carrier shall not engage in interstate or foreign commerce within the borders of this state unless there has been filed with the commission a currently effective designation of a local agent.

(b) Filing of designation. A motor carrier must file a designation of a local agent for service of process with the commission by showing the name and address of its agent on the uniform application for registration of interstate operating authority as set forth in Form A/A1, or by furnishing the commission a true copy of the designation of its agent filed with the Interstate Commerce Commission.

(c) Qualifications of agent. The provisions of this section shall not be construed in any way to affect the qualifications of a local agent for service of process as prescribed by the laws of this state.

§5.336. Identification of Vehicles and Driveaway Operations.

(a) When registration required. A motor carrier must obtain an identification stamp for vehicles operating within the borders of this state. A motor carrier shall not engage in operations within the borders of this state unless a currently valid identification stamp has been obtained from the commission, and it has complied with all other requirements of this subsection.

(b) Identification.

(1) On or before the 31st day of

January of each calendar year, but not earlier than the first day of the preceding October, a motor carrier shall apply to the commission for the issuance of an identification stamp for the identification of the vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of this state during the ensuing year. The motor carrier may apply for any number of stamps as is sufficient to cover the vehicles or driveaway operations which it anticipates will be placed in operation or conducted during the period for which the stamps are effective. The motor carrier may file one or more supplemental applications for additional stamps if the need arises or is anticipated.

(2) If the motor carrier has complied with all applicable provisions of this subchapter, the motor carrier will be issued the number of identification stamps requested.

(3) An identification stamp issued under the provisions of this section shall be used for the purpose of identifying a vehicle or driveaway operations as being operated or conducted by a motor carrier engaged in interstate or foreign commerce. A motor carrier receiving an identification stamp under the provisions of this section shall not knowingly permit the use of same by any other person or organization.

(4) A motor carrier must apply to the National Association of Regulatory Utilities Commissioners (NARUC), Box 684, Washington, D.C. 20044, for the issuance of a sufficient supply of uniform identification cab cards for use in connection with the identification of the vehicle or vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of this state during the ensuing year.

(5) The NARUC will issue to the motor carrier the number of cab cards requested. A motor carrier receiving a cab card under the provisions of this section shall not knowingly permit the use of same by any other person or organization. Prior to operating a vehicle, or conducting driveaway operations, within the borders of this state during the ensuing year, the motor carrier must place an identification stamp on the back of a cab card in the square bearing the name of this state in such a manner that it cannot be removed without defacing it. The motor carrier must then complete and execute the form of certificate printed on the front of the cab card so as to identify the motor carrier and the vehicle or driveaway operation, and enter the appropriate expiration date in the space provided below the certificate. The expiration date must be within a period of 16 months from the date the cab card is executed and may not be later in time than the expiration date of any identification stamp.

(6) The identification of a vehicle or driveaway operations under the provisions of this section and the identification stamp must bear an expiration date of the first day of February in the succeeding calendar year, and registration will terminate on that date unless registration is terminated prior to that date.

§5.337. Form and Execution of Application for Identification Stamps. The application for the issuance of identification stamps must be in the form set forth in Form B/B-1. The application must be duly completed and executed by an official of the motor carrier and accompanied by a fee of \$10 for each stamp, except as modified by reciprocal agreements between Texas and other states reflected on Form B/B-1.

§5.338. Use of Cab Cards in Connection With Vehicles Not Used in Driveaway Operations. In the case of a vehicle not used in driveaway operations, the cab cards must be maintained in the cab of the vehicle for which it is prepared whenever the vehicle is operated within the borders of this state. The cab card shall not be used for any vehicle except the vehicle for which it was originally prepared. A motor carrier shall not prepare two or more cab cards which are effective for the same vehicle at the same time.

§5.339. Use of Cab Cards in Driveaway Operations. In the case of driveaway operations, a cab card must be maintained in the cab of the vehicle furnishing the motive power for the driveaway operation whenever that operation is conducted under the authority of the carrier identified in the cab card.

§5.340. Inspection of the Cab Card. A cab card shall, upon demand, be presented by the driver to any authorized government personnel for inspection.

§5.341. Destruction of Cab Cards.

(a) Each motor carrier shall destroy a cab card immediately upon its expiration, except as otherwise provided in subsection (b) of this section.

(b) A motor carrier permanently discontinuing the use of a vehicle for which a cab card has been prepared must destroy the cab card at the time of discontinuance unless a newly-acquired vehicle is substituted within 30 days of discontinuance. An identification stamp placed on the cab card prepared for the discontinued vehicle (if the card is still in the possession of the carrier) may be transferred to the substitute vehicle by complying with the following procedure.

(1) The motor carrier must com-

plete and execute the form of certificate printed on the front of a new cab card, so as to identify the motor carrier and the substitute vehicle, and enter the appropriate expiration date in the space provided.

(2) The motor carrier must indicate the date it terminated use of the discontinued vehicle by entering that date in the space provided for an early expiration date on the cab card prepared for the discontinued vehicle.

(3) The motor carrier must affix the cab card prepared for the substitute vehicle to the front of the cab card prepared for the discontinued vehicle by permanently attaching the upper left hand corners of both cards together in such a manner as to permit inspection of the contents of both cards. Each identification stamp prepared for the discontinued vehicle will be deemed to apply to the operation of the substitute vehicle.

§5.342. Alteration of Cab Card; Replacement.

(a) Any erasure, unauthorized use of a cab card, or improper alteration shall render the cab card void.

(b) If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamps may be issued upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance.

§5.343. Identification. No motor carrier shall be required to display external identification upon a vehicle other than identification required by regulations of the Interstate Commerce Commission. Nothing herein shall be construed to affect state requirements as to the external identification of vehicles to indicate the payment of a state tax or fee imposed for revenue purposes or for any other purpose not within the purview of the IC Act.

§5.344. Evidence of Liability Security.

(a) When liability insurance certificate or surety bond required. Every motor carrier must file and maintain evidence of currently effective bodily injury and property damage liability security. A motor carrier may not engage in interstate or foreign commerce within the borders of this state unless it has filed a currently effective certificate of insurance or surety bond as prescribed by the provisions of this section, and has complied with all other requirements of this section.

(b) Form and execution of liability insurance certificate. The certificate of insurance must state that the insurer has is-

sued to the motor carrier a policy of insurance which by endorsement provides automobile bodily injury and property damage liability insurance covering the obligations imposed upon the motor carrier by the provisions of this section. The certificate shall be in the form set forth in Form E. The Form E must be completed and executed by the insurer. Each certificate filed with the commission shall be accompanied by a fee of \$100.

§5.345. Notice of Security Cancellation.

(a) Notice of insurance cancellation. An insurer under the provisions of §5.344 of this title (relating to Evidence of Liability Security) shall give notice of the cancellation of motor carrier bodily injury and property damage liability insurance by filing with the commission notice as set forth in Form K.

(b) Notice of bond cancellation. A surety or motor carrier under the provisions of §5.344 of this title shall give notice of the cancellation of a motor carrier bodily injury and property damage liability surety bond by filing with the commission notice as set forth in Form L.

§5.346. Evidence of Self-Insurance. Whenever a motor carrier maintains evidence of currently effective qualifications as a self-insurer under the rules and regulations of the Interstate Commerce Commission (ICC), it may not engage in interstate or foreign commerce within the borders of this state unless it has filed with the commission a true and legible copy of the currently effective ICC order authorizing that motor carrier to self-insure under the provisions of the IC Act.

§5.347. Certificated Interstate Operations by Intrastate Carriers.

(a) By filing notice with the commission on the prescribed form, any intrastate motor carrier holding an active Texas certificate or permit may operate in Texas, pursuant to authority granted by the Interstate Commerce Commission (ICC), using equipment which has a current intrastate cab card. No other form of registration is required. Such a motor carrier shall comply with all insurance requirements of these regulations. Each motor carrier operating pursuant to the provisions of this section shall also carry in each vehicle being operated in Texas pursuant to authority granted by ICC a copy of its ICC certificate authorizing those operations.

(b) Alternatively, an intrastate motor carrier may purchase identification stamps as provided in this subchapter.

§5.348. Exempt Operations by Registered

Carriers. A motor carrier holding operating authority issued by the Interstate Commerce Commission and whose authority has been properly registered under the provisions of this subchapter is concurrently authorized to use the highways of Texas in the transportation of commodities exempted from economic regulation by the IC Act.

§5.349. Cancellation of Registration. Failure of a motor carrier to maintain continuous insurance or to register equipment annually, as required by this subchapter, will result in cancellation of the carrier's registration.

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

Issued in Austin, Texas, on May 18, 1992.

TRD-9206927

Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 463-7094

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Subchapter T. Registration of
Operations Exempt from
ICC Regulations

• 16 TAC §§5.371-5.393

(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 Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §§5.371-5.393 of this title (relating to Definitions; Operations within Borders of the State; Registration of Motor Carrier Operations; Designation of Process Agent; Registration and Identification of Vehicles; Form and Execution of Application for Identification Stamps; Execution of Application for Cab Card; Form of Identification Stamp; Form of Cab Card; Use of Cab Cards; Carrier Name Changes; Inspection of the Cab Card; Destruction of Cab Cards; Alteration of Cab Card; Replacement; Identification; Evidence of Liability Security; Notice of Security Cancellation; Evidence of Self-Insurance; Cancellation of Registration; Forms; Exempt Operations of Carriers Certificated by the ICC; Exempt Interstate Operations by Intrastate Carriers; and Existing Exempt Commodity Certificates), comprising Subchapter T. The proposed repeals will consolidate the rules for all interstate operations, whether or not regulated by the Interstate Commerce Commission, in one subchapter.

Jackye Greenlee, assistant director-central operations, has determined that for the first five-year the period repeals are in effect there

will be fiscal implications for state government as a result enforcing or administering the repeals.

Kenneth W. Mills, hearings examiner, has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that all regulations regarding registration of interstate operations will be consolidated into another subchapter. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Kenneth W. Mills, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The repeals are proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the commission to regulate motor carriers in all matters.

§5.371. Definitions

§5.372. Operations within Borders of the State.

§5.373. Registration of Motor Carrier Operations.

§5.374. Designation of Process Agent.

§5.375. Registration and Identification of Vehicles.

§5.376. Form and Execution of Application for Identification Stamps.

§5.377. Execution of Application for Cab Card.

§5.378. Form of Identification Stamp.

§5.379. Form of Cab Card.

§5.380. Use of Cab Cards.

§5.381. Carrier Name Changes.

§5.382. Inspection of the Cab Card.

§5.383. Destruction of the Cab Card.

§5.384. Alteration of Cab Card; Replacement.

§5.385. Identification.

§5.386. Evidence of Liability Security.

§5.387. *Notice of Security Cancellation.*

§5.388. *Evidence of Self-Insurance.*

§5.389. *Cancellation of Registration.*

§5.390. *Forms.*

§5.391. *Exempt Operations of Carriers Certificated by the ICC.*

§5.392. *Exempt Interstate Operations by Intrastate Carriers.*

§5.393. *Existing Exempt Commodity Certificates.*

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 18, 1992.

TRD-9206928

Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 463-7094

Subchapter W. Registration of Commercial Carriers

• 16 TAC §5.507

The Railroad Commission of Texas proposes an amendment §5.507, concerning temporary registration of international commercial carriers. The amendment allows agents selling international registration stamps to take stamps on consignment from the commission and subsequently to remit collected fees to the commission upon sale of the stamps. The amendment sets forth the requirements to be met and procedures to be followed by agents selling the stamps.

Jackye Greenlee, assistant director-central operations, has determined that for of the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. Assistant director Greenlee estimates that the state will gain approximately \$860,000 annually as a result of the fee for international registration stamps being increased from \$2.00 to \$20 per stamp. This estimate is based upon the number of stamps sold during fiscal 1991. There will be no fiscal implications for local governments.

Gary W. Elkins, hearings examiner, 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 ensure compliance by interna-

tional commercial carriers with the commission's insurance requirements. The amendment promotes a system of protection against loss for the public. 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 Gary W. Elkins, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4(a)(13), which require all commercial motor vehicles to be registered with the commission and to pay a registration fee of \$10 per vehicle, and under Texas Civil Statutes, Article 6701d, §139(c), which require all commercial motor vehicles to file proof of insurance with the commission and to pay a fee for those filings. The amendment is also adopted under House Bill 1, First Called Session, 72nd Legislature, which directed the commission to raise the fee for international stamps to \$20 per stamp.

§5.507. *Temporary Registration of International Commercial Carriers.*

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

(c) Procedures.

(1) In lieu of maintaining registration as a commercial motor vehicle in accordance with §§5.501-5.506 of this title (relating to Definitions; Applications for Registration of Commercial Motor Vehicles; Liability Insurance for Commercial Carriers; Cab Cards; Identification Decals; Cancellation of Registration; and Implementation), and upon providing proof of insurance at or above the levels required by the commission, an international commercial carrier shall purchase, for each commercial motor vehicle operating in this state, an international registration stamp. The fee for each stamp is \$20, and will be good for one trip of up to seven days in duration.

(2)[(1)] An insurance agent that [which] has filed evidence of a master liability policy under which temporary insurance policies are issued shall obtain international registration stamps from the commission. For each stamp ordered, the agent shall pay to the commission a filing fee of \$10 and a registration fee of \$10. Stamps shall be ordered on a form approved by the director. Once the evidence of the master insurance policy is filed with the commission, an identification number will be assigned to that policy and to all stamps issued under that policy. Stamps may be obtained, in lots of five stamps per lot, either:

(A) by purchase, at a cost of \$20 per stamp; or

(B) by consignment from the commission, with monies collected upon the sale of the stamps to be remitted to the commission as provided in paragraph (7) of this subsection.

[(2) After the master insurance policy is filed with the commission, an identification number will be assigned to that policy, and to all registration stamps issued under that policy.]

(3) Only insurance agents who are duly licensed in this state and who maintain evidence of master insurance policies on file with the commission will be permitted to obtain and sell international registration stamps on consignment from the commission.

(4)[(3)] For each international registration stamp sold [issued] by the insurance agent, the insurance agent or his designee shall record the name of the company to whom the stamp is sold [issued], the vehicle identification number, the year, the make, and the license number of the vehicle for which the stamp is sold [issued], the date of sale [issuance], the port of entry, the trip policy number, and the effective period of the temporary insurance policy. This information shall be recorded on a form approved by the director.

[(4) The registration stamp shall be affixed to the temporary insurance policy, and shall be carried in the vehicle at all times the commercial vehicle is operated in this state.]

(5) The insurance agent shall file the information recorded for each international registration stamp sold [issued] with the commission no later than 30 days after the sale [issuance] of the stamp by the insurance agent.

(6) The international registration stamp shall be affixed to the temporary insurance policy, and shall be carried in the vehicle at all times the commercial vehicle is operated in this state.

(7) An insurance agent selling international registration stamps on consignment shall file a surety bond in a form approved by the director, issued by a corporate surety authorized to do business in this state. The bond shall ensure the return of all unused stamps, and shall ensure full and timely remittance of monies collected on the sale of stamps. The amount of the bond shall be at least two times the total value of stamps held on consignment at any given time. Written notice of renewal of a bond shall be given to the commission before international stamps may be taken on consignment

from the commission.

(8) An insurance agent selling international registration stamps on consignment shall remit to the commission the fee collected from the sale of a stamp no later than 30 days from the date the stamp is sold. If an insurance agent fails to remit monies to the commission by the due date, the commission shall discontinue issuing stamps to the agent on consignment, and may seek to enforce payment of the surety bond. No stamp shall be held on consignment for a period exceeding one year from its date of consignment by the commission.

(9) Within 90 days of the sale of a stamp to a carrier, the agent shall submit to the commission evidence of the sale, including the information required by paragraph (4) of this subsection.

(10) In the event of a design change on international registration stamps, the commission shall redeem all unused stamps sold by the commission, and shall exchange for new stamps all unused stamps consigned by the commission. If a design change occurs, agents holding unused stamps shall send the stamps to the commission for refund or exchange within 60 days after the effective date of the design change. Stamps not returned within the 60-day period are void.

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 18, 1992.

TRD-9206922 Nolan Ward
Hearings Examiner, Legal
Division-General Law
Railroad Commission of
Texas

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For further information, please call: (512) 463-7095

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**TITLE 22. EXAMINING
BOARDS**

**Part II. State Board of
Barber Examiners**

**Chapter 51. Practice and
Procedure**

Barber Shops

• 22 TAC §51.97

The State Board of Barber Examiners proposes an amendment to §51.97, concerning booth rental permits. The proposed amendment changes some language to make the rule easier to understand.

Jo King McCrorey, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section. The permits are good for two years. We can only estimate the revenue for 1993 and 1995. The effect on state government will be an estimated increase of \$17,900 in 1993 and \$17,900 in 1995.

Ms. McCrorey, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the individual permit holders and the shop owners will be responsible for violations. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be the booth rental permit fee of \$50 in 1993 and \$50 in 1995

Comments on the proposal may be submitted to Jo King McCrorey, Executive Director, 9101 Burnet Road, #103, Austin, Texas 78758, (512) 835-2040.

The amendment is proposed under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners, with the authority to adopt rules and regulations for the transaction of business.

§51.97. Booth Rental Permit.

(a) Licensed barbers or specialists that contract, lease or rent a booth in a barber shop or specialty shop must have an individual booth rental permit [which is classified as a shop within a shop. Licensed barbers or specialists who work on a commission bases are not required to have a booth rental permit].

(b) Booth rental is defined as a shop within a shop. Even though you do not own the shop, you are responsible for the area in which you rent.

(c) If you are issued a W2 form by the owner of the shop at the end of the year, the owner of the shop pays your withholding taxes. You are not required to have a booth rental permit.

(d) If you pay your own withholding taxes, you are required to have a booth rental permit.

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 18, 1992.

TRD-9206999 Jo King McCrorey
Executive Director
State Board of Barber
Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 835-2040



**Part V. Texas State Board
of Dental Examiners**

**Chapter 107. Dental Board
Procedures**

**Procedures Governing Grievances,
Hearings, and Appeals**

• 22 TAC §107.22

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §107.22, concerning classification of pleadings. This section outlines pleadings filed with the agency through the central office of the board.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.22. Classification of Pleadings.

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 19, 1992.

TRD-9207076 C Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
• 22 TAC §107.25

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §107.25, concerning motions. This section outlines procedures for filing motions relating to a pending proceeding with the board office or the hearing officer.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.25. *Motions.*

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 19, 1992.

TRD-9207077 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
• 22 TAC §107.26

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §107.26, concerning amendments. This section states that any pleading may be amended at any time upon motion approved or granted; provided, that the application, complaint, or petition upon which notice has been issued shall not be amended so as to broaden the scope thereof or unreasonably delay the hearing.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.26. *Amendments.*

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 19, 1992.

TRD-9207078 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
• 22 TAC §107.48

The Texas State Board of Dental Examiners proposes an amendment to §107.48, concerning subpoenas. This section outlines procedures for issuing subpoenas, motions for subpoenas, fees to witness, or deponent who is subpoenaed.

C. Thomas Camp, 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. Camp 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 achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. 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 Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.48. *Subpoenas.* Following written request by a party or on its own motion:

(1) Subpoenas for the attendance of a witness from any place in State of Texas at a hearing in a pending proceeding, may be issued at any time by the agency through the executive director, or [, during the course of a hearing conducted by a hearing officer] by a [the] hearing officer [himself].

(2) Motions for subpoenas to compel the production of books, papers, accounts [,or] documents, or other tangible items shall be addressed to the agency, [shall be verified] and shall specify as nearly as may be the books, papers, accounts, [or] documents, or other tangible items desired [and the material and relevant facts to be proved by them]. If the matter sought is relevant material and necessary and will not result in harassment, imposition, or undue inconvenience or expense to the party to be required to produce the same, the agency, through the executive director, may issue a subpoena, compelling production of books, papers, accounts, [or] documents, or other tangible items as deemed necessary.

(3) (No change.)

(4) A witness or deponent who is [may or may] not [be] a party and who is subpoenaed compelled or requested to attend any hearing or proceeding to testify or to give a deposition or to produce books, records, papers, or other objects that may be

necessary and proper for the purposes of the proceeding under the authority to this section is entitled to receive:

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

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

Issued in Austin, Texas, on May 19, 1992.

TRD-9207079 C. Thomas Camp
Executive Director,
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
• 22 TAC §107.51

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §107.51, concerning form and content of briefs, exceptions, and replies. This section outlines the form and content of briefs, exceptions, and replies.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.51. *Form and Content of Briefs, Exceptions, and Replies.*

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 19, 1992.

TRD-9207080 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
Procedures Governing Grievances, Hearings, and Appeals

• 22 TAC §107.53

The Texas State Board of Dental Examiners proposes amendment to §107.53, concerning final decisions and orders. The section outlines procedures for final decisions and orders, stating that all final decisions and order(s) of the agency shall be in writing and shall be signed by the president or other presiding member and secretary; that a final decision shall include findings of fact and conclusions of law; that parties shall be notified either personally or by mail or any decision or order.

C. Thomas Camp, 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. Camp 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 repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. 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 Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The section is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.53. *Final Decisions and Orders.*

[(a)] All final decisions and order of the agency shall be in writing and shall be signed by [a majority] the president or

other presiding member and secretary of the board [members. A final decisions shall include findings of fact and conclusions of law, separately stated, findings of fact must be based explicitly on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submits proposed findings of fact, the decision shall include a ruling on each proposed finding]. Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of the decision or order shall be delivered or mail of any party and to the [his] attorney of record.

[(b) Where a person under the jurisdiction of the board has pled guilty or nolo contendere to a complaint, then a board member who did not attend the hearing cannot be barred from voting on the penalty where such a plea of guilty or nolo contendere was entered, provided such absent board member(s) has reviewed the entire file of the person under consideration before voting on such case.]

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 19, 1992.

TRD-9207081 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

◆ ◆ ◆
• 22 TAC §107.56

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §107.56, concerning rendering of final decision or order. This section states that the final decision or order must be rendered with in 60 days after the date the hearing is finally closed. In a contested case, the agency may prescribe a longer period of time.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result

of enforcing the repeal will be to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Mei Ling Clendennen, Texas State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.56. Rendering of Final Decision or Order.

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 19, 1992.

TRD-9207082 C Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: June 29, 1992

For further information, please call: (512) 477-2985

Part VI. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure

Engineering Experience

• 22 TAC §131.81

The Texas State Board for Registration for Professional Engineers proposes an amendment to §131.81, concerning experience evaluation. The section is amended to incorporate the new requirements for registration as set out in the Texas Engineering Practice Act, §12, which become effective September 1, 1992.

Charles E. Nemir, P.E. 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. Nemir 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 clarification of the new requirements and procedures for registration as a professional engineer in Texas. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Charles E. Nemir, P.E. Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.81. Experience Evaluation. The evaluation of the engineering experience claimed by an applicant for registration under the Texas Engineering Practice Act (the Act), §12(a)(1), (2), [§12(a), (b).] or §21, will include, but not be restricted to, the following.

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

(12) Applicants who claim foreign engineering experience must have, in addition to other experience, at least two years of engineering experience in the United States and show that they have learned to use the United States standards, codes, and other engineering procedures in their engineering practice. Engineering experience claimed for a graduate degree in engineering will not be acceptable for the experience requirement of this paragraph.

(13) (No change.)

(14) Engineering experience, to be considered creditable for registration purposes, shall have been gained after the receipt of the first engineering or related science degree. Those applicants who are applying under the Act, §12(a)(2), must pass or be exempted from the fundamentals of engineering examination before the required eight years of engineering experience will begin to accrue as creditable experience. Exceptions to this requirement include the following.

(A) Individuals who have graduated prior to September 1, 1992, from a four-year curriculum in engineering or related science which has been approved by the board (non-EAC/ABET-accredited degree programs) may claim engineering experience gained up to September 1, 1992, but must pass the fundamentals of engineering examination before any additional experience will be considered creditable for registration purposes.

(B) All individuals who claim engineering experience prior to the receipt of a four-year degree from an EAC/ABET-accredited engineering program, and subsequently receive such a degree, must furnish documented proof to the board explaining the circumstances under which the experience was gained. Such applicant must have gained an additional one year of engineering experience after the receipt of the degree to prove competence in the practice of engineering. The credit for one year of engineering experience allowed for a graduate degree in engineering as described in paragraph (9) of this section will not be acceptable for this one year of additional engineering practice. The applicant may be required to make a personal appearance before the board at the request of the board.

[(14) One of the following may be submitted for experience credit by persons applying under §12(b):

(A) the satisfactory completion of each year, not to exceed three years, of an EAC/ABET-accredited course in engineering, without graduation, can be substituted for one year of experience; or

(B) graduation from a college or university of recognized standing, in a course other than an approved engineering course can be submitted for two years of experience credit.]

(15) Persons applying under the Act, §12(a)(2), [§12(b)] must first show evidence to the board's satisfaction that they have acquired the ability to do acceptable engineering by education, work experience, or a combination of both.

(16) Nonresident applicants applying under the Act, §12, must have met the experience requirements of either 12(a)(1) or (2) [§12(a) or (b)] at the time their out-of-state registration being used as a basis for application was granted.

(17)-(18) (No change.)

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

Issued in Austin, Texas, on May 20, 1992.

TRD-9207001 Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Proposed date of adoption: July 22, 1992

For further information, please call: (512) 440-7723

Education

• 22 TAC §131.91, §131.92

The Texas State Board for Registration of Professional Engineers proposes amendment to §131.91 and §131.92, concerning education. The sections are amended to incorporate the new requirements for registration as set out in the Texas Engineering Practice Act, §12, which become effective September 1, 1992.

Charles E. Nemir, P.E. 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 section.

Mr. Nemir 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 sections will be a clarification of the new requirements and procedures for registration as a professional engineer in Texas. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Charles E. Nemir, P.E. Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendments are proposed under Texas Civil Statutes, Article 3271a, §8(a), which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.91. Approved Courses.

(a) (No change.)

(b) An approved curriculum in engineering or related science curriculum as used in the Act, §12(a)(2), is construed by the board to be a bachelor of science degree of four years or more in an engineering or related science program accredited by a regional or national accrediting agency, or one formally approved by a state authority recognized by the Council on Postsecondary Accreditation (COPA) and/or the U.S. Department of Education. These programs will include the following:

(1) an engineering technology program of four year or more that is accredited by the Technology Accreditation Commission (TAC) of the Accreditation Board for Engineering and Technology, Inc. (ABET), referred to as TAC/ABET;

(2) other four-year degree programs in the mathematical, physical, or engineering science field approved by the board.

(c)[(b)] A list of recognized degrees for subsections (a) and (b) [subsection

(a)(1) and (2)] of this section is available in the board office.

§131.92. Foreign Degrees.

(a) An individual who has completed an [his] undergraduate engineering education and received the equivalent of a baccalaureate degree in engineering from an institution other than one located in the United States and its possessions must apply under the Texas Engineering Practice Act (the Act), §12(a)(2), [§12(b),] except as follows.

(1) If, in addition to the [his] foreign degree, an individual presents an advanced engineering degree meeting the conditions set out in §131.91(a)(3) of this title (relating to Approved Courses), that individual [he] may apply under the provisions of the Act, §12(a)(1) [§12(a)].

(2) Applicants having engineering degrees accredited by the ABET counterpart organizations in Australia, Canada, Ireland, New Zealand, and the United Kingdom may apply under the Act, §12(a)(1) [§12(a)].

(3) If registered in another state by passing a minimum 16-hour written examination acceptable to the board, an applicant with a foreign engineering education may apply under the Act, §12 (concerning registration by nonresidents), or §12(a)(2), [§12(b),] whichever is applicable.

(b) Individuals must submit with their applications complete certified copies or documented proof of all engineering degrees, diplomas, certificates, etc., showing the type of engineering degree awarded (B.S., M.S., Ph.D.), date awarded, branch of engineering, dates attended, and scores, grades, or honors awarded. Verification from the ABET counterpart organizations (such as an Engineering Council) in the foreign country where the engineering degrees were awarded must be submitted with the application for registration. The verification must include the statement that such engineering degrees were suitable for registration purposes as a professional or chartered engineer in that country at the time the degrees were awarded. Documents written in languages other than English shall be accompanied by a certified English translation.

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 20, 1992.

TRD-9207002

Charles E. Nemir, P.E.
Executive Director
Texas State Board of
Registration for
Professional Engineers

Proposed date of adoption: July 22, 1992

For further information, please call: (512) 440-7723

Part XXII. Texas State Board of Public Accountancy

Chapter 519. Practice and Procedure

Practice and Procedure

• 22 TAC §519.18

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

The Texas State Board of Public Accountancy proposes an amendment to §519.18, concerning the place and nature of hearings. The amendment states that all hearing will be held in Austin unless the executive director establishes a different location.

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

Mr. Treacy, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the State of Texas will not incur costs associated with moving hearings to locations outside Austin, unless the facts warrant it. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

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

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 20, 1992.

TRD-9206977

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 29, 1992

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

Chapter 523. Continuing Professional Education

Mandatory Continuing Education (CE) Program

• 22 TAC §523.63

(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 State Board of Public Accountancy or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Public Accountancy proposes the repeal of §523.63, concerning mandatory CE attendance. The rule sets forth the Continuing Professional Education requirements.

William Treacy, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Treacy, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that CPA's meet certain educational requirements; the repeal is necessary in order to permit the enactment of the revised §523.63. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

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

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to mandatory continuing education requirements.

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 20, 1992.

TRD-9206975

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 29, 1992

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

◆ ◆ ◆
The Texas State Board of Public Accountancy proposes new §523.63, concerning mandatory CE attendance. The rule sets forth the requirements for Continuing Professional Education for CPA's.

William Treacy, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal

implications for state or local government as a result of enforcing or administering the section.

Mr. Treacy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that CPA's will be required to take continuing professional education. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

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

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a) which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to mandatory continuing education requirements.

§523.63. Mandatory CE Attendance.

(a) Each applicant for a biennial license must during the two-year period immediately preceding the biennial date submit a minimum of 20 continuing education credit hours each calendar year, as a condition to renew a license, and shall complete 120 hours of continuing professional education every three years.

(1) An initial licensee, one who is paying the license fee during the first biennium, shall be exempt from the requirement for the biennial period during which the applicant was first licensed.

(2) A former licensee whose certificate or registration shall have been revoked for failure to pay the license fee and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum CE credit hours missed.

(3) The board will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating retirement status during the biennium for which the exemption is requested. A licensee who has been granted this exemption and who reenters the work force shall be required to accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit

indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury, finance, or audit;

(II) representing to the public that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office;

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management advisory services;

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as "association with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee is a nonresident of Texas, and submits a sworn statement to the board that the continuing education resident requirements have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, does not practice public accountancy during the biennium for

which the exemption was granted, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(4) A licensee who has been granted the retired or disabled status under §515.8 of this title (relating to Retirement Status or Permanent Disability) is not required to accrue continuing education.

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 20, 1992.

TRD-9206974 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: June 29, 1992

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter B. HIV Education Grant Program

General Provisions

• 25 TAC §98.67

The Texas Department of Health (department) proposes an amendment to §98.67, concerning the State HIV Education, Prevention, and Risk Reduction Advisory Committee. The amendment will modify the existing "community-based organization to reach Blacks" membership category to "community-based organization to reach African Americans."

Stephen Seale, Chief Accountant III, Budget Office, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the section.

Mr. Seale 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 clarify a membership category. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. There will be no impact on local employment.

Comments on the proposal may be submitted

to Charles E. Bell, M.D., Bureau Chief, Bureau of HIV and STD Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7463. Public comments will be accepted for 30 days after publication of the section in the *Texas Register*.

The amendment is proposed under the Health and Safety Code, §11.016, which provides the Board of Health with the authority to appoint advisory committees; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect the Health and Safety Code, §98.67.

§98.67. *State HIV Education, Prevention and Risk Reduction Advisory Committee.*

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

(d) Membership. The board shall appoint a 15-member statewide AIDS/HIV Education, Prevention, and Risk Reduction Advisory Committee which is representative of:

(1)-(14) (No change.)

(15) a community-based organization to reach African Americans [blacks].

(e)-(h) (No change.)

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

Issued in Austin, Texas, on May 20, 1992.

TRD-9206948 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: July 25, 1992

For further information, please call: (512) 458-7463

Chapter 133. Hospital Licensing

Standards

• 25 TAC §133.21

The Texas Department of Health (department) proposes an amendment to §133.21, concerning hospital licensing standards (standards) which the section adopts by reference. The amendment will modify Chapter 12 of the standards relating to special licensing standards governing the provisions of mental health services in hospitals. Specifically, the amendment will change the definition of "hospital" in Section 12-3.7 of Chapter 12 to include special hospitals.

The Texas Hospital Licensing Law, Health and Safety Code, Chapter 241, allows for the

licensing of both general and special hospitals. Because both general and special hospitals may have an identifiable part of the hospital for the provision of mental health services, the department believes this amendment should apply to special hospitals which provide mental health services.

Stephen Seale, Chief Accountant III, Budget Division, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as the result of enforcing or administering the section. Additional costs to the state will arise from the department's statutory duty to enforce the section, including added administrative and investigative responsibilities. The department currently licenses 54 special hospitals. Of that number, five currently provide mental health services; the department is unable to determine how many special hospitals may offer those services in the future. Based upon the number currently licensed, for each year of the first five years the section is in effect the department estimates the portion of the increased program costs relating to special hospitals will range from \$12,500 to \$17,500. In addition, the present cost of each administrative hearing conducted by the department is approximately \$1,574 (the number of hearings cannot be projected). There are presently no special hospitals operated by local governments or hospital districts; however, if a local government should establish and operate a special hospital that provides mental health services there will be additional costs to the local government and hospital district. The costs will arise primarily from the hospital's participation in administrative hearings regarding actions against the hospital's license for violation of the standards.

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the correction of the personal and monetary abuses identified in the delivery of mental health services and the recognition of patient rights in special hospitals. The cost to small or large businesses that operate a special hospital that provides mental health services will be the same as previously mentioned for local governments and hospital districts. There is no anticipated economic cost to persons and there will be no impact on local employment.

Comments on the proposal may be submitted to Maurice B. Shaw, Chief, Bureau of Licensing and Certification, 1100 West 49th Street, Austin, Texas 78756, (512) 634-6645. Comments will be accepted for 30 days after publication of the proposed amendment in the *Texas Register*. Copies of the proposed amendments may be obtained at the Health Facility Licensure and Certification Division, Texas Department of Health, 8407 Wall Street, Austin.

The amendment is proposed under the Health and Safety Code, §241.027, which provides the Texas Board of Health (board) with authority to adopt rules to establish and enforce minimum standards for the licensing of hospitals; and §12.001, which provides the board with authority to adopt rules for the performance of every duty imposed by law

upon the board, the department, and the commissioner of health.

§133.21. *Adoption by Reference.*

(a) The Texas Department of Health adopts by reference the rules contained in the department publication effective September 1, 1985, entitled "Hospital Licensing Standards," as amended through September [June] 1992.

(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 20, 1992.

TRD-9206943 Robert A MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: July 25, 1992

For further information, please call: (512) 834-6645

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Chapter 289. Occupational
Health and Radiation
Control

Texas Regulations for Control
of Radiation

• 25 TAC §289.126

The Texas Department of Health (department) proposes an amendment to §289.126, concerning the control of radiation. Section 289.126 adopts by reference Part 12 of the Texas Regulations for Control of Radiation entitled, "Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services."

The proposed amendment revises the format and fee amount for decontamination service licenses. The amendment reflects a more accurate accounting of costs to the department to regulate two types of decontamination service licenses: fixed site and mobile. The fees for decontamination service licenses also includes licensees authorized for naturally occurring radioactive material (NORM) decontamination.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. There will be an increase in revenue from fees of \$25,000 to \$50,000 per year (which is deposited directly to the state general revenue fund) when this proposed amendment is considered in conjunction with proposed new §289.127, relating to licensing of naturally occurring radioactive materials, published in the March 24, 1992, issue of the *Texas Register* (17 TexReg 2176). There will be no fiscal impact on local government.

Ruth E. McBurney, C.H.P., director, division of licensing, registration and standards, bureau of radiation control, 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 collect fees which represent a more accurate accounting of department resources used to regulate decontamination service licenses. The department was directed to recover the costs of regulating radioactive material licenses by the Texas Legislature in the Health and Safety Code, Chapter 401. The proposed revision is a decrease in the current fee amount for decontamination service licenses. There will be a varying impact on small businesses and persons required to comply with the rule because of the fee changes. No impact is anticipated on local employment as a result of implementing the section.

Comments on the proposal may be presented in writing to the Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3189. Public comments will be accepted for 30 days following publication of this proposed amendment in the *Texas Register*. In addition, a public hearing will be held at 9 a.m., Wednesday, June 17, 1992, in the conference room of the Bureau of Radiation Control, Texas Department of Health, located at the Exchange Building, 8407 Wall Street, Room S402, Austin.

The amendment is proposed under the Health and Safety Code, Chapter 401, which provides the Board of Health with the authority to adopt rules and guidelines relating to the control of radiation; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The proposed amendment will affect the Health and Safety Code, Chapter 401.

§289.126. *Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services.*

(a) The Texas Department of Health adopts by reference Part 12, "Fees for Certificates of Registration, Radioactive Material(s) Licenses, Emergency Planning and Implementation, and Other Regulatory Services" of the department's document titled "Texas Regulations for Control of Radiation," as amended in August 1992 [July 1990].

(b) The document adopted by reference in this section is indexed and filed in the Bureau of Radiation Control, Texas Department of Health, located in the Exchange Building, 8407 Wallstreet, [1212 East Anderson Lane.] Austin, Texas 78754 [78752], and is available for public inspection during regular working 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 May 20, 1992.

TRD-9206953 Robert A MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Proposed date of adoption: July 25, 1992

For further information, please call: (512) 834-6688

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TITLE 28. INSURANCE
Part I. Texas Department
of Insurance

Chapter 21. Trade Practices

Subchapter C. Unfair Claims
Settlement Practices

• 28 TAC §§21.202-21.204

The State Board of Insurance of the Texas Department of Insurance proposes amendments to §§21.202-21.204, concerning unfair claims settlement practices. Amendments to the Insurance Code, Article 21 21-2 by the legislature in 1991 require deleting language in §21.202 of this title which requires an insurer to do business under the Insurance Code, Chapter 3, Subchapter G or Chapter 5, Subchapter A, B, or C, to be subject to this subchapter and in §21.203 and §21.204 requiring defined acts to be committed without cause and with frequency in order for the acts to be considered unfair claims settlement practices. Under the amended subchapter a single defined act will be an unfair claims settlement practice. Also §21.203(19), concerning the use of federal income tax returns, is being added to reflect an amendment. Additionally, the board proposes to add a violation of the Insurance Code, Article 21.55, which sets standards for the prompt payment of first party claims, as an unfair claims settlement practice. Also, the board proposes to amend §21.203(10) to provide clearer safe guards for policyholders in the use of reservation of rights letters by insurers, and §21.203(12) to provide additional protection to policyholders by expanding the kind of information that may mislead a policyholder about the coverage she or he has. A previous version of the proposed amendments, published in the January 17, 1992, issue of the *Texas Register* (17 TexReg 387) is being withdrawn.

Robert Schneider, associate commissioner for consumer services, Texas Department of Insurance, 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. Schneider 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 fair settlement of claims. 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 to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed sections in the *Texas Register* to Linda Von Quintus-Dorn, Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, with a copy to Robert Schneider, Associate Commissioner for Consumer Services, Mail Code 111-1A, Texas Department of Insurance, P.O. Box 149091, Austin, Texas 78714-9091.

The amendments are proposed under the Insurance Code, Article 21.21-2, which provides the State Board of Insurance with the authority to adopt regulations defining unfair claims settlement practices.

§21.202. Definitions. The following words or phrases, as used in these regulations, shall have the meanings placed opposite them, unless the explicit wording of a regulation shall otherwise direct:

Advertisement-Includes, but is not limited to:

(A) printed and published material, audio visual material and descriptive literature of an insurer or agent used in direct mail, newspapers, magazines, radio, telephone and television scripts, billboards, and similar displays; and

(B) descriptive literature and sales aids of all kinds issued by an insurer or agent for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(C) prepared sales talks, presentations and materials for use by agents, and those representations recurringly made by agents to members of the public; and

(D) material used to:

(i) solicit additional coverage or policies from existing insureds; or

(ii) modify existing coverage or policies;

(E) material included with a policy when the policy is delivered and materials used in the solicitation of renewals and reinstatements, except those reinstatements provided for in the policy;

(F) lead card solicitations which are hereby defined as communications distributed to the public which, regardless of form, content, or stated purpose, are intended to result in the

compilation or qualification of a list containing names or other personal information regarding persons who have expressed a specific interest in a product or coverage and which are intended to be used to solicit residents of this state for the purchase of a policy; and

(G) any other communication directly or indirectly related to a policy, and intended to result in the eventual sale or solicitation of a policy.

Advertisement does not include:

(A) communications or materials used within an insurer's own organization, not used as sales aids and not disseminated to the public;

(B) communications with policyholders other than materials urging policyholders to purchase, increase, modify, or retain a policy;

(C) a general announcement by a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage;

(D) material used solely for the recruitment, training, and education of an insurer's personnel, agents, counselors, and solicitors, provided it is not also used to induce the public to purchase, increase, modify, or retain a policy of insurance; and

(E) correspondence between a prospective group or blanket policyholder and an insurer or agent in the course of negotiating a group or blanket contract.

Business day—A day other than a Saturday, Sunday, or holiday recognized by this state.

Insurer—Any person, or persons acting in concert, doing or licensed to do business in Texas under the authority, rules, and regulations of the Insurance Code [Chapter 3, Subchapter G, or the Insurance Code, Chapter 5, Subchapters A, B, or C, as amended], and including (when applicable) proprietorships, partnerships, corporations, and unincorporated associations, stock and mutual life, health, accident, fire, casualty, fire and casualty, hail, storm, title, and mortgage guarantee companies; mutual assessment companies; local mutual aid associations; local mutual burial associations; statewide mutual assessment companies; stipulated

premium companies; fraternal benefit societies; group hospital service organizations; county mutual insurance companies; Lloyds; reciprocal or interinsurance exchanges; and farm mutual insurance companies [when transacting such business].

§21.203. Unfair Claim Settlement Practices. No insurer shall engage in unfair claim settlement practices. Unfair claim settlement practices means committing or performing [with such frequency as to indicate a general business practice] any of the following:

(1) (No change.)

(2) failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies, provided that "pertinent communications" shall exclude written communications that are direct responses to specific inquiries made by the insurer after initial report of a claim. An acknowledgment within 15 business [working] days is presumed to be reasonably prompt;

(3)-(5) (No change.)

(6) failure of any insurer to maintain a complete record of all complaints which it has received during the preceding three years or since the date of its last examination by the commissioner of insurance, whichever time is shorter. This record must [shall] indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. A record of such complaints maintained in substantially the form as indicated on the consumer complaint record [Exhibit A attached hereto] will be presumed to be in compliance with this requirement, but the consumer complaint record [Exhibit A] shall not be considered as the exclusive method to record such complaints. [Exhibit A is incorporated herein by reference]. A copy of the consumer complaint record [Exhibit A] may be obtained from the Consumer Services Division (111-1A), P.O. Box 149091, Austin, Texas 78714-9091 [Business Practices and Enforcement Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786];

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

(10) failing to affirm or deny coverage of a claim to a policyholder within a reasonable time after proof of loss statements have been completed. The [taking of a non-waiver agreement or the] submission of a reservation of rights letter by the insurer to the policyholder, is deemed compliance with the provisions of this paragraph, when, under the circumstances, such action by the insurer is reasonable and the

insurer promptly provides defense counsel to the insured, pending determination by the insurer on the issue of coverage;

(11) (No change.)

(12) attempting to settle a claim for less than the amount to which any [a reasonable] person would have believed she/he was entitled by reference to oral or written representation, or an advertisement made by an insurer or a person acting on behalf of an insurer [written or printed advertising material accompanying or made part of an application];

(13)-(17) (No change.)

(18) a violation of the Insurance Code, Article 21.55 by an insurer subject to its provisions;

(19) requiring a claimant, as a condition of settling a claim, to produce the claimant's federal income tax returns for examination or investigation by the insurer unless the claimant is ordered to produce those tax returns by a court of competent jurisdiction, the claim involves a fire loss, or the claim involves a loss of profits or income.

§21.204. Special Claim Reports and Statistical Plan. If it should be found by the Texas Department of Insurance [State Board of Insurance] based on complaint or complaints of unfair claim settlement practices as described in §21.203 of this title (relating to Unfair Claims Settlement Practices), that an insurer [is substantially out of line and] should be subjected to closer supervision with respect to such practices, it may require such insurer to file a report at such periodic intervals as the department [board] deems necessary. [For purposes of this section, the term "substantially out of line" means "a patently disproportionate number of complaints to indicate the existence of a pattern of unfair claim settlement practices as that term is defined in §21.203 of this title (relating to Unfair Claims Settlement Practices)."] Such periodical reports shall contain the following information:

(1)-(5) (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 21, 1992.

TRD-9207034

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

Earliest possible date of adoption: June 29, 1992

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 31. Case Management Services

Subchapter B. Case Management for Children Who Are Blind or [and] Visually Impaired [Children]

• 40 TAC §31.106

The Texas Department of Human Services (DHS) proposes an amendment to §31.106, the portion of its Case Management Services chapter concerning case management reimbursement methodology for children who are blind or visually impaired. The purpose for the amendment is to provide a more accurate reflection of the current structure of this Medicaid program. Since the costs for the program are centrally captured and maintained by the Texas Commission for the Blind (TCB), an amendment is necessary to reflect that one set of financial and statistical information is required for the entire program, rather than separate cost reports for each regional unit of TCB. An amendment is also necessary to reflect that depreciation is not required to be reported to DHS by TCB, since TCB's governmental accounting system does not require depreciation to be calculated and reported in its general ledger. Section 31.106 also is amended to reference Chapter 24, Reimbursement Methodology, which contains DHS's Medicaid general reimbursement rules.

Burton F. Raiford, interim commissioner, 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. Raiford 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 a more accurate reflection in agency rules of the manner in which reimbursement rates are determined for the program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Questions about the content of the proposal may be directed to Nancy Kimble at (512) 450-3496 in DHS's Provider Reimbursement Department. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-120, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with

the authority to administer public and medical assistance programs.

§31.106. Case Management Reimbursement Methodology.

(a) Reimbursement of Texas Commission for the Blind (TCB). As specified in §24.101 and §24.102 of this title (relating to General Specifications and Methodology), the [The] Texas Department of Human Services (DHS) will reimburse TCB for case management services provided by TCB to Medicaid clients through the Blind and Visually Impaired Children's Program (BVICP). The Texas Board of Human Services will determine a reimbursement rate initially, and thereafter at least annually, for case management services according to §24.101 of this title. The determinations will be based on DHS and TCB recommendations and on the reported costs for the provider during the provider's fiscal year. This rate will be designed to reasonably reimburse the costs of an economic and efficient provider. These rates are to be prospective, cost related, and uniform statewide. As specified in §24.501 of this title (relating to Adjusting Rates When New Legislation, Regulations, or Economic Factors Affect Costs), the Texas Board of Human Services may also adjust payment rates when new legislation, regulations, or economic factors affect costs.

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

(d) Allowable costs. The following list of allowable costs is not comprehensive. It is meant to serve as a general guide and to clarify certain key expense areas. The absence of a particular cost does not necessarily mean that the expense is not an allowable cost. Costs allowable in building the reimbursement rate for case management services include.

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

(6) Depreciation and amortization expense. If the provider's accounting system does not require depreciation and amortization expenses, the provider is not required to separately determine depreciation and amortization expenses for use in the calculation of the reimbursement rate for case management. If the provider's accounting system does require depreciation and amortization expenses, the provider should use the following guidelines. Property owned by the provider entity, and improvements to owned, leased, or rented case management property that are valued at more than \$500 at the time of purchase must be depreciated or amortized using the straight line method. The minimum usable lives to be assigned to common classes of depreciable property are:

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

(7)-(11) (No change.)

(e) List of unallowable costs. Unallowable costs are not included in the rate base used to determine recommended rates. The following list clarifies certain expense categories of unallowable costs:

(1)-(22) (No change.)

(23) expenses not reported according to the instructions [of the cost report];

(24) (No change.)

(f) Cost reporting. The Texas Commission for the Blind will submit financial and statistical information in a [cost report or survey] format designated by DHS which [The cost report] will capture the expenses of the management unit, including salaries and benefits, administration, building and equipment, utilities, supplies, travel, and indirect overhead expenses related to the case management unit.

(1) Accounting requirements. All information submitted [on the cost report] must be based on the accrual method of accounting, unless the governmental entity operates on a cash basis. The provider must [complete the cost] report the financial and statistical information according to the prescribed statement of allowable and unallowable costs. Reporting [Cost reporting] should be consistent with generally accepted accounting principles (GAAP). In cases where Medicaid cost reporting rules conflict with GAAP, Internal Revenue Service (IRS), or other authorities, Medicaid cost reporting rules take precedence for purposes of Medicaid auditing and rate setting.

(2) Reporting period. The provider must prepare the financial and statistical information [cost report] to reflect activities during the provider's fiscal year. The financial and statistical information [cost report] is due [three months] after the end of each [this] fiscal year, although an extension may be granted for good cause. DHS may require [cost reports or] other information for other time periods. Failure to file an acceptable [cost] report or complete required additional information will result in a hold on provider payments until the reported [cost report] information or additional information is provided. The provider must certify the accuracy of the [cost] report or additional information.

(3) Review of financial and statistical information [cost reports]. As specified in §24.201 of this title (relating to Basic Objectives and Criteria for Desk Reviews of Cost Reports), DHS reviews reported information [each cost report or survey] to ensure that all submitted financial and statistical information conforms to all applicable rules and instructions. Re-

ports [Cost reports] not completed according to instructions or rules are returned to the provider for proper completion.

(4) On-site audit of financial and statistical information [cost reports]. DHS may perform on-site auditing each year to ensure the fiscal integrity of the case management reimbursement rate. Adjustment consistent with the results of the on-site audit will be made to the rate base in building the prospective rate of payment for the next year.

(5) Record-keeping requirement. The provider must maintain records for at least five years after the date the provider submits the financial and statistical information according to the requirements stated in §69.202 of this title (relating to Contractor's Records) [cost report]. The provider must ensure that the records are accurate and sufficiently detailed to support the financial and statistical information reported [in the cost report]. If the provider does not maintain records which support the financial and statistical information submitted [on the cost report], the provider will be given 90 days to correct this deficiency. A hold on payments to the provider will be made if the deficiency is not corrected within 90 days from the date the provider is notified.

(6) Access to records. The provider must allow DHS or its designated agents access to all records DHS or its designated agents deem necessary to verify information [on the cost report].

(7) Reviews of [cost report] disallowances. A provider who disagrees with audit disallowances [of the items on a cost report] may request a review by DHS staff of the disallowances, as specified in §24.601 of this title (relating to Review and Administrative Hearings). The request must be made in writing.

(8) Exclusion or adjustment of costs. The provider must eliminate unallowable costs from the reported financial and statistical information [cost report]. DHS or TCB excludes from the rate base any unallowable expenses included in the reported financial and statistical information [cost report] and makes adjustment to reported expenses to ensure that the rate base reflects costs which are consistent with efficiency, economy, and quality of care; are necessary for the provision of case management services; and are consistent with federal and state Medicaid regulations. DHS notifies providers of exclusions and adjustments to reported expenses made during desk reviews and on-site audits of reported financial and statistical information according to §24.401 of this title (relating to Notification). If there is doubt as to the accuracy or allowability of a significant part of the information reported,

this information may be eliminated from the base rate.

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 21, 1992.

TRD-9207016

Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: August 1, 1992

For further information, please call: (512) 450-3765

Chapter 71. Public Information

Adoption Registry

• 40 TAC §§71.21-71.28

The Texas Department of Human Services (DHS) proposes to amend §§71. 21-71.28, concerning adoption registry, in its public information chapter. The purpose of the amendments is to reflect relevant organizational changes and a change of address, to make minor editorial changes to clarify the intent of certain passages, and to delete obsolete material.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clearer, more up-to-date information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Ms. Pat Dawson at (512) 450-4919 in DHS's Central Records Management section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support- 086, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 49, which authorizes the department to establish an adoption registry.

§71.21. Other Registries.

[(a)] An agency or entity authorized by the Texas Department of Human Services (DHS) [the department] to place children for adoption must comply with the provisions stipulated in the Human Resources Code, Title 2, Subtitle D, Chapter 49 regarding adoption registries.

[(b)] An authorized agency or entity

that does not directly or by contract provide registry services by January 1, 1984, as required by Chapter 49, may not do so. These agencies must send to the department a report of all adoptions of minors placed by the agency before January 1, 1984. The report must be sent to Special Services Division in the department's state office no later than April 1, 1984, on a form supplied by that division.]

§71.22. Court Requirements.

(a) In complying with the Human Resources Code, Title 2, Subtitle D, §49.005, the clerk of the court in which an adoption is granted must send to the department a report on all adoptions granted on or after January 1, 1984. The clerk must send the report to Administrative Services [Special Services Division] in the Texas Department of Human Services' [department's] state office and on a form supplied by Administrative Services [that division]. The form must be sent by the 10th day of the month after the month the adoption is granted.

(b) When the clerk of the court collects the \$15 fee as required by the Texas Family Code, Title II, §11.171 [Texas Civil Statutes, Article 3927c], he must send the fee to the Texas Department of Human Services, Central Adoption Registry W-208, P. O. Box 149030, Austin, Texas 78714-9030 [Resources, Fiscal Division, P.O. Box 730, Austin, Texas 78767].

§71.23. Inquiry Through the Central Index. The Texas Department of Human Services (DHS) [department] charges \$5.00 to persons who inquire of [with] the central index to determine the appropriate registry. The person may send the inquiry and the \$5 inquiry fee to the Texas Department of Human Services, Central Adoption Registry W-208, P. O. Box 149030, Austin, Texas 78714-9030 [Resources, P.O. Box 730, Austin, Texas 78767], or he may inquire in person of Administrative Services in DHS's [with Special Services Division in the department's] state office.

§71.24. Registration in the Central Adoption Registry. To register with the Texas Department of Human Services' (DHS) central adoption registry, a person must comply with the following requirements:

- (1) complete a registration application form;
- (2) provide proof of his identity such as a copy of the birth certificate, a driver's license, the adoption decree, or a notarized statement signed by the registrant and one adoptive parent;
- (3) meet the eligibility requirements for registration as stipulated in Human Resources Code, Title 2, Subtitle D, §49.006;
- (4) not be required to register with another registry;
- (5) pay a registration fee determined by the department. The fee is \$15 or a larger amount if specified by the General Appropriations Act. The fee may be waived if the person is unable to pay it; and
- (6) complete one hour of counseling with a social worker or a mental health professional. The counselor must provide DHS [the department] with a certificate verifying that the counseling was completed.

§71.25. Notification of a Match and Requirements for Release. If the Texas Department of Human Services [department] is able to match a registrant with a [another] registered relative, each registrant is notified in writing that a match exists and that the registrant may withdraw his registration within 30 days after being notified. The registrant must sign a written consent to disclosure before identifying information is released to him.

§71.26. Release. The Texas Department of Human Services [department] releases identifying information to registrants who have not withdrawn their registrations and who have consented in writing to disclosure [in writing].

§71.27. Release of Information without Registrant's Signed Consent. The Texas Department of Human Services (DHS) [department] may release identifying information about a registrant without his signed consent if:

- (1) the registrant does not withdraw his registration within 30 days after [of] being notified of the match;
- (2) (No change.)
- (3) the registrant died, his registration was valid when he died, he specifically authorized the post-death disclosure on the registration application form or in a supplemental statement filed with DHS [the department], and the conditions in §71.28 of this title (relating to Release of Information about a Deceased Birth Parent) are met.

§71.28. Release of Information About a Deceased Birth Parent. The Texas Department of Human Services may not [department must not] release identifying information about a deceased birth parent unless:

- (1) (No change.)
- (2) the child's surviving parent, guardian, managing conservator, or legal custodian consents in writing to the disclosure [in writing].

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

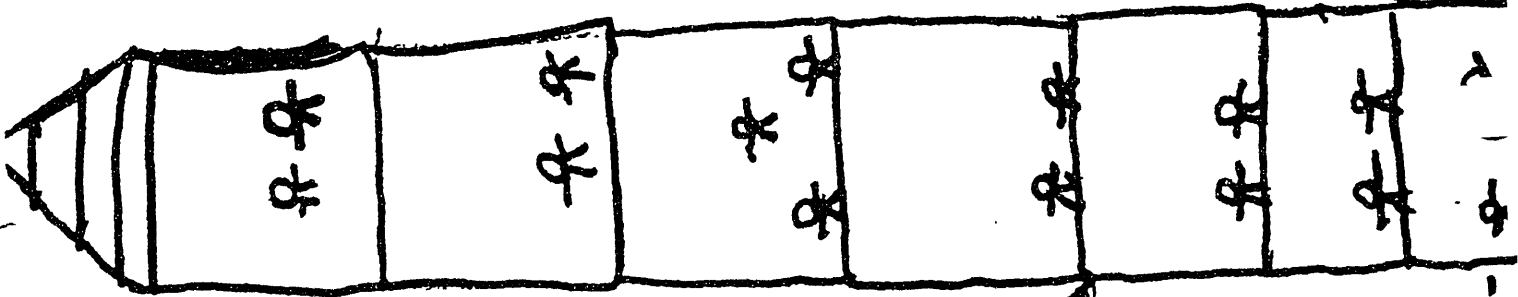
Issued in Austin, Texas, on May 22, 1992.

TRD-9207049 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

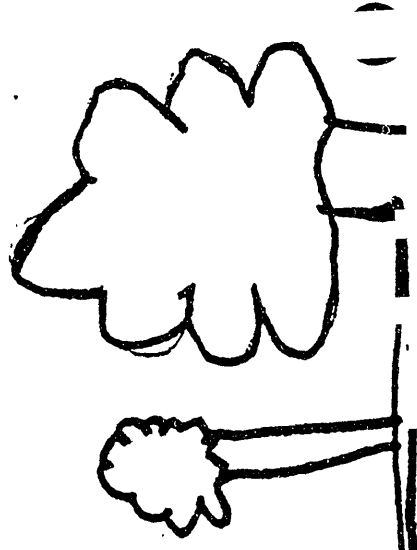
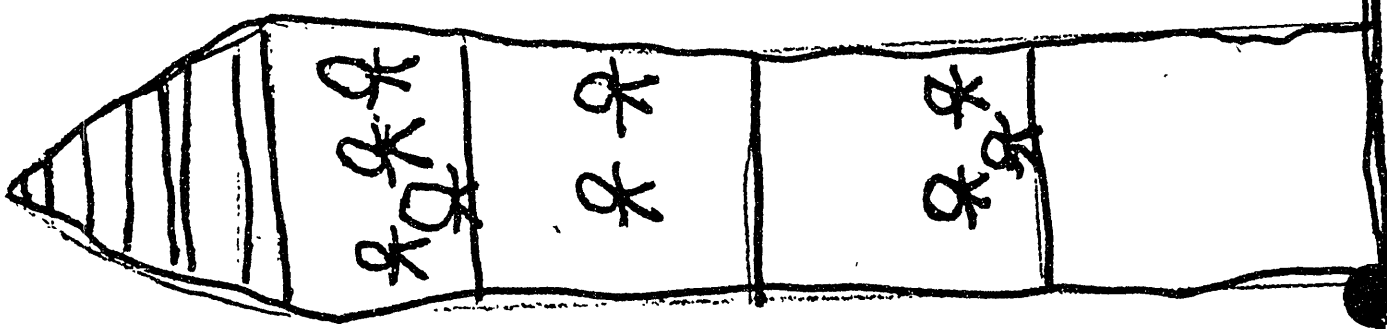
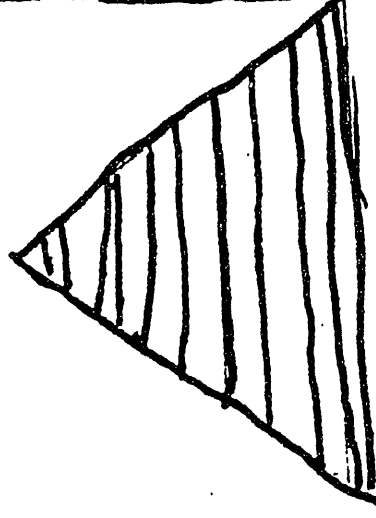
Proposed date of adoption: August 1, 1992

For further information, please call: (512) 450-3765

◆ ◆ ◆



Jason Douglas - 2



Name: Jason Douglas
Grade: 2
School: Springridge Elementary, Richardson ISD

Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 4. AGRICULTURE

Part VII. Texas

Agriculture Resources Protection Authority

Chapter 101. General Rules

Subchapter B. Special Proceedings

• 4 TAC §§101.10-101.13

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §§101.10-101.13, submitted by the Texas Agriculture Resources Protection Authority has been automatically withdrawn, effective May 4, 1992. The withdrawal as proposed appeared in the November 1, 1991 issue of the *Texas Register* (16 TexReg 6188).

TRD-9206935



Chapter 105. Procedures for Appeal

• 4 TAC §§105.1-105.10

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91. 24(b), the proposed new §§105.1-105.10, submitted by the Texas Agriculture Resources Protection Authority has been automatically withdrawn, effective May 4, 1992. The withdrawal as proposed appeared in the November 1, 1991 issue of the *Texas Register* (16 TexReg 6189).

TRD-9206936



TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 97. Communicable Diseases

Control of Communicable Diseases

• 25 TAC §97.16

The Texas Department of Health withdraws the emergency effectiveness of the repeal of §97.16, which was published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1853). The effective date of this withdrawal is 20 days after filing.

Issued in Austin, Texas, on May 20, 1992.

TRD-9206944

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

Effective date: June 10, 1992

Filed: May 20, 1992

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



Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §§98. 101-98.112

The Texas Department of Health withdraws the emergency effectiveness of new

§§98.101-98.112, which was published in the March 13, 1992 issue of the *Texas Register* (17 TexReg 1854). The effective date of this withdrawal is 20 days after filing.

Issued in Austin, Texas, on May 20, 1992.

TRD-9206945

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

Effective date: June 10, 1992

Filed: May 20, 1992

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

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 21. Trade Practices

Subchapter C. Unfair Claims Settlement Practices

• 28 TAC §§21.202-21.204

The Texas Department of Insurance has withdrawn from consideration for permanent adoption proposed amendments which appeared in the January 17, 1991, issue of the *Texas Register* (17 TexReg 387). The effective date of these amendments is May 21, 1992.

Issued in Austin, Texas, on May 21, 1992

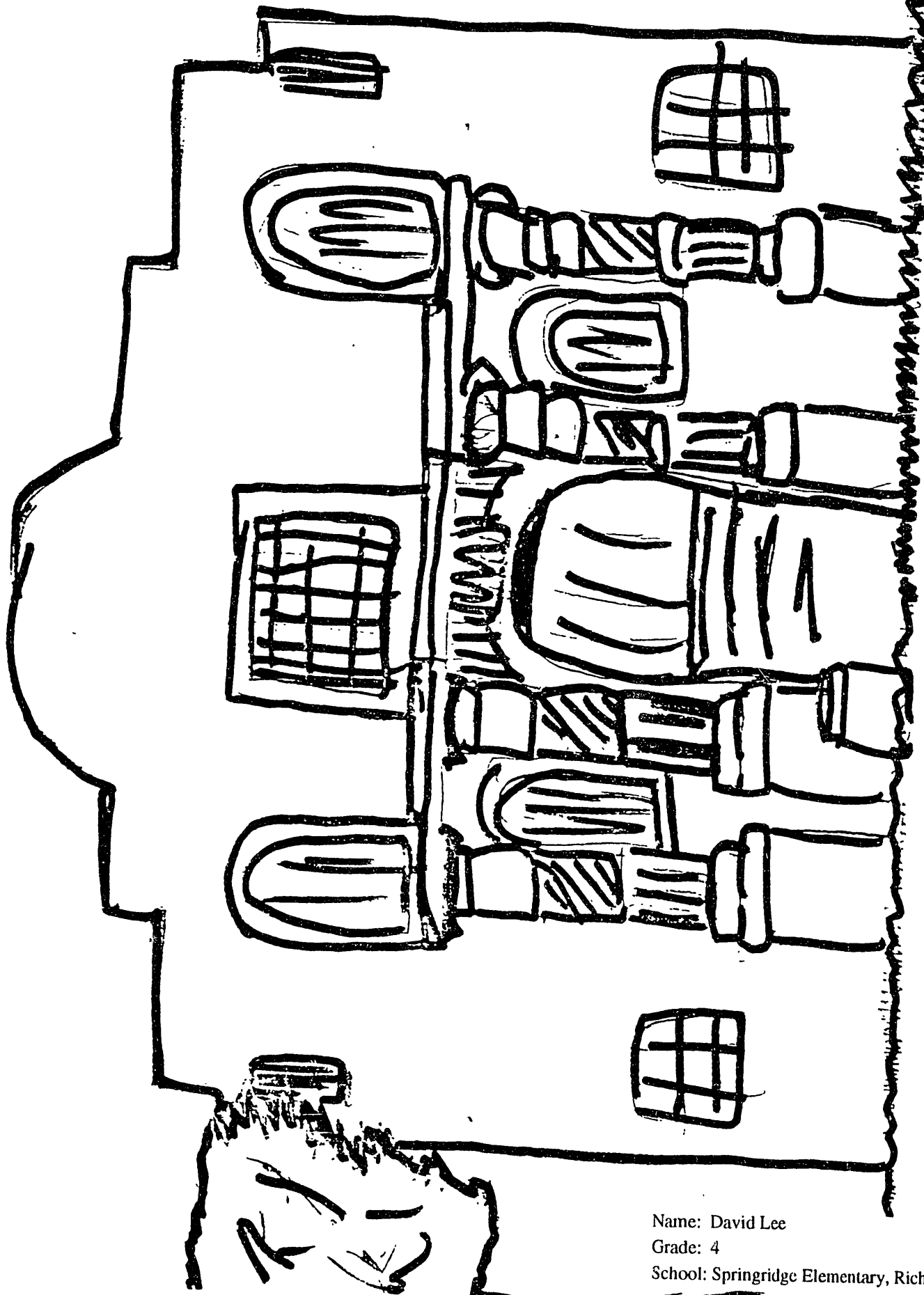
TRD-9207035

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

Effective date: May 21, 1992

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





David Lee.

Name: David Lee
Grade: 4
School: Springridge Elementary, Richardson 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 4. AGRICULTURE Part III. Texas Feed and Fertilizer Control Service

Chapter 61. Feed

Permitting and Registration

• 4 TAC §61.11

The Texas Feed and Fertilizer Control Service adopts an amendment to 4 TAC §61.11 concerning application for registration, with changes to the proposed text as published in the April 3, 1992, issue of the *Texas Register* (17 TexReg 2367-8).

Section 61.11(b): provides users that feed directions are correct and that feed components are approved for use; provides service to small manufacturers who cannot stay current on labeling policies, minimizes chances products enter the marketplace which place legitimate dealers at risk; enables service to fulfill request of a 1988 ad hoc committee recommending service advise feed manufacturers of a potential health hazard, review feeding directions carefully before registration, particularly multi-species, and "complete" feeds.

Section 61.11(b) requires submission of a label for every newly registered product and defines conditions under which the service may require safety and efficacy of data.

Section 61.11(b)-Those favoring the proposed subsection stated it would strengthen policing of labels and reduce mislabeling. Those opposing stated: product registration was being eliminated or should be; the rule is costly and burdensome; benefits claimed are illusory; no need because feed industry has a good labeling record.

Section 61.11(c)-No comments favoring the proposed subsection were received. One adverse comment maintained that §61.1(c) would conflict with statutory language if the service rejected registration.

Names of groups and associations making comments for the section were: Texas Farm Bureau; Texas Poultry Federation; Associated Milk Producers, Inc. (Texas Division); Texas Veterinary Medical Diagnosis Laboratory; and Texas Farmers Union. Names of groups and associations making comments against the section were: Industrial Grain Products; Texas Grain and Feed Association; Tindle Mills, Inc.; Central Soya; Hi-Pro Feeds; Texas Farm Products; Pittman-Moore; Moorman Mfg.; IntAgra; Vigortone Agriculture Products; Bioproducts; Prince/Agri Products; Nutrena Feeds (Cargill); Trade One, Inc.;

Kent Feeds; Diamond V Mills, Inc.; Wayne Feed aka Continental Grain; and AFIA-General Office and Feed Control Committee.

Prior to adoption, the service received adverse comments on subsection (b) from 18 organizations (the American Feed Industry Association general office and its feed committee commented separately, but are counted as one organization) either orally or in writing. Of those 18, two do not do business in Texas; four are Texas-based. Five organizations, all Texas based, favored the proposed rule. In an open meeting, (the text of which is available), three groups spoke for the proposed rule; three made adverse comments. In reviewing the adverse comments, both those received by letter and those articulated at the open meeting, the service has been able to group them into general categories with common underlying themes. For economy of space, it proposes to respond to the themes expressed rather than answering each similar comment directly.

Eight of the correspondents opposing the rule maintain that the national trend in feed labeling is to eliminate product registration. Apparently these writers link product registration with label review. The office sees no such link. The Texas Commercial Feed Act, §141.021(a), requires product registration, but §141.022(c) leaves the extent of label review to the discretion of the service. The service, therefore, may require no label submission whatsoever or it may, as proposed here, require 100% submission. Thus, in Texas, label submission is not linked to product registration. Nor is facility registration linked with lesser label review, e.g., North Dakota, despite facility registration, has extensive label review and many of the states cited as adopting facility registration review labels initially or require labels to be submitted on an annual basis with the facility registration. Even if the two were linked, the service has no authority to adopt only facility registration. That is a task for the legislature. The service, therefore, does not need to determine what the national trend is nor does it give any weight to such arguments either for or against the rule. (It is instructive, however, to note that both Illinois and West Virginia have recently adopted new laws similar to Texas' which maintain product registration, the latter because "it was felt that the existing system of permanent product registration provides more control over feed sold in the state" and that all states contiguous to Texas have product registration laws.)

Four comments suggest centralized label review is not cost effective in one sense or another and that label review in the field would be more effective. The service strongly disagrees for these reasons.

Field inspectors can review only a very small number of labels. One commentator makes this specific: "Why have thousands of reviewed labels on file when only a small percentage-probably less than 50%-are picked up in the field for internal processing." Since the industry is free to use any of these thousands of labels at any time, the service believes the consumer needs the much higher level of protection that complete, consistent label review provides.

In the service's opinion, field review by inspectors subjects a firm to a variety of interpretations unless the interpretations are coordinated by a central authority. Field review of labels is, in the service's opinion, far more costly and more of a hindrance to commerce than the service's proposal.

Since most of the labels are not seen (see above), field review presupposes the industry has a good track record of correctly labeling products. Although this statement is made by four commentators, they offer no particular statistics except to comment that violations shown in the service's annual report remain constant. The service notes the following:

The industry track record in horse feeds (as one example of products which under present rules are not necessarily reviewed) does not inspire that confidence. Indeed, the instance of misuse of unapproved additives displayed on the horse feed labels was so widespread that the Service felt compelled to publish an article in *Backstretch* and to some 22 trade magazines warning against their use and asking individuals to pay close attention to label claims and to feeding directions and institute two special programs to locate these products because under the present rule the Office was not seeing the labels. The service has observed that a significant number of these violative products originated in states which do not have pre-market reviews.

The fiscal year 1991 Annual Report shows that packaged products had an overall label violation rate of 2.9%; however, the violation rate for vitamin-mineral mix was 7.4%, that of sheep and goat feed, 5.4%, that of dairy products, 5.5%. The service believes that the rate of violation may be far higher among labels not now reviewed. And these violations are not the "misspellings or slightly incorrect minor infractions" commentators cite as the errors which will occupy the attention of the service. Those minor infractions are not counted as violations in the report. What are counted are substantial, significant labeling errors. The service also notes that industry error rates have not been reduced under the present program: in FY 1988, the label violation rate for a vitamin-mineral mix was 6.1%.

There was sufficient concern in 1988 about labeling quality that an ad hoc committee of 15 members of extension and research faculty from the departments of Animal Science, Poultry and the Texas Veterinary Medical Diagnostic Laboratory as well as five industry advisors recommended "the State Chemist should review feeding directions carefully before registration (*italics added*), particularly multi-species feeds and complete feeds." The service's response by Dr. W. Y. Cobb was, "It is impossible to carry labeling review further at present due to personnel limitations." The service believes the need is such that it is prepared to carry out the task.

The service subscribes to the belief articulated by Lee Boyd in a speech to the AAFM (June 1987) that "label review is the focal point of regulation" and deems it the point in the regulatory process where it may most economically service and protect all facets of the feed community and if companies do not have good track records, identify and correct problems before they appear in the field.

All adverse correspondence either specifically state or imply that the new rule will increase industry's burden. That burden cannot be economic despite the contention of five correspondents. One writer specifically concedes, "submission of all labels would not pose an economic burden per se." Nor can it be an increase in staff. The office has actually reduced staff from 78 in 1984, to 65 in 1987, to 62.5 full-time equivalents (FTE) in 1992 while expanding operations and proposes to accommodate this task within that 62.5 figure. The burden is apparently then "an added hindrance in not allowing the quick distribution of legally labeled products into the marketplace." The service found no specific comment as to why this would happen offered by any commentator. The service does not believe that legally-labeled products would be hindered from quick distribution and no evidence other than an assertion has been offered. The Texas State Chemist has been notably successful in reducing turnaround times in other areas, e.g., the laboratory, to acceptable levels; he believes the service has both the sophistication and the expertise to handle the task in a timely manner.

A number of statements have noted that companies could voluntarily submit labels for review if they are unsure of labeling requirements; thus, mandatory submission need not be required. The service agrees they could, but would they, particularly if firms truly believed that the entrance of their products into the marketplace would be hindered by review? If hindrance-to- distribution is truly an industry concern, then the service believes it unlikely that any questionable issues will ever be presented voluntarily. It is precisely these questionable issues that the service wishes to resolve before a product reaches the marketplace.

Two comments propose to rebut the service's assertion of a public benefit of complete label review accruing because the rule would minimize "chances products enter the marketplace which place legitimate manufacturers at competitive disadvantage." Although they differ on the primary cause, the commentators

maintain the feed label is "not a priority consideration when consumers purchase feed." The service does not know on what basis consumers make their decisions in the marketplace, but it does not propose to shape policy based on any particular theory. The service subscribes to the AAFCO philosophy that "Consumers are concerned about what they are purchasing and label disclosure can serve to inform them about product content. Armed with information from competing products the consumer can make calculated purchase decisions" (AAFCO Official Publication, p. 64.). Should consumers choose not to utilize the information offered, that is their business, but the service believes they are entitled to have easily comparable, consistent label information from which they can make valid comparisons of products and product claims. The service also believes that the legitimate manufacturer deserves to have a level playing field against those whose puffery or unsatisfactory or incomplete labeling gives them an advantage in the marketplace.

Another correspondent proposes to rebut the benefit that "The label review provides protection from liability," noting "We have never seen any evidence that a state label review has limited our liability." The service cannot speak to the experience of this particular company, but it takes notice of the comment made by James Hurston, "a pioneer in approved label expediting business" according to "Feed Chemical News," (17 Feb. 1992, p. 39), who in reviewing the FSIS's prior label approval system for meat and poultry says that it is "extremely beneficial" to packers because it protects them from litigation. The service believes that same benefit can and should accrue to the legitimate manufacturers of feed.

One comment was received in reference to subsection (c) which notes this section would appear to have the effect of requiring a formal hearing to "affirmatively refuse" a registration if the label were unsatisfactory. The service agrees with the observation and understands that is implicitly the case. The phrase was suggested by the Texas Grain and Feed Association to clarify what constituted "registration" and the service was prepared to accept the burden because the association felt it clarified §61.11(b); however, the service has had a recent instance where the rule would have allowed registration despite gross improprieties in the registration procedure. The commentator offered no suggestions for remedy nor a rewording. The service will not adopt this amendment to the section; however, it would consider other proposals if they address mutual concerns satisfactorily.

Succeeding paragraphs and subparagraphs will be numbered in the final rule to conform to the deletion.

The amendment is adopted under the Texas Commercial Feed Act, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of this chapter following notice and public hearing.

§61.11. Application for Registration.

(a) Each brand and product name of a commercial feed must be registered before it may be distributed.

(b) The labeling information required to accompany bagged or bulk commercial feed by the Texas Commercial Feed Act, §141.051 or §141.052 concerning labeling of commercial feed shall be submitted with all applications for registration.

(c) The service may require the applicant to present evidence of authorization to use a registered trademark or other labeling reference as a condition for the registration of a product.

(d) The service may require the applicant to submit evidence satisfactory to the service respecting the safety and efficacy of a commercial feed prior to the approval of a registration application and label for the feed if it contains any additive (including drugs, special purpose and/or non-nutritive additives) not previously recognized as safe and effective by the United States Food and Drug Administration for its labeled use or does not possess GRAS animal status.

(e) The net weight shall be provided as a condition for registration of specialty products packaged and marketed in containers weighing one pound or less whose net contents are declared on the label of the product in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code, §1415, et seq. and regulations promulgated thereunder.

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 College Station, Texas, on May 19, 1992.

TRD-9206921 George W. Latimer, Jr.
Texas State Chemist
Texas Feed and Fertilizer
Control Service

Effective date: June 10, 1992

Proposal publication date: April 3, 1992

For further information, please call: (409) 845-1121

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Li- censes

• 16 TAC §5.44

The Railroad Commission of Texas adopts new §5.44, concerning incidental transportation by oil field service companies, with

changes to the proposed text as published in the March 24, 1992, issue of the *Texas Register* (17 TexReg 2175).

The new section implements House Bill 2454 enacted by the 72nd Legislature. The amendment exempts from the provisions of the Texas Motor Carrier Act transportation provided by oil field service companies which is incidental to the performance of oil field services. Without tucking authority, a person providing oil field service may: transport up to a specified amount of oil field equipment, including spare parts, for use at an oil or gas field location; and transport oilfield equipment removed from the location for reconditioning, return to inventory, or disposal.

Two comments generally in favor of the proposed section were received. However, the commenters urged that minor changes in the rule as proposed would more closely follow the legislative intent. The commenters recommended that the term "lessor" be changed to "lessee" in subsections (a)(1) and (b)(5); that the singular instead of plural form be used in subsection (a)(2) and (3) (A) and (B); and that in subsection (b)(6) the term "merely" be included. The commenters also recommended that the term "incidental" be explained.

The commission agrees with the comments, except the commenter that recommends a further explanation of "incidental." The commission disagrees with that proposed addition because it excludes beginning oil field service companies from engaging in transportation when performing oil field services, and because such an explanation is not included in the statutory language.

The new section is adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §1a(4)(a), which exempts from regulation certain transportation provided by oil field service companies.

§5.44. Incidental transportation by Oil Field Services Companies.

(a) A transporter of oil field equipment is not a motor carrier when the oil field equipment is:

(1) owned by an owner, lessee, or operator of the oil or gas field location; or owned by a provider of oil field services that has an established place of business for performing such services;

(2) transported between one or more oil or gas field locations and one or more other places of business; and

(3) transported either:

(A) to one or more oil or gas field locations for use by the person transporting the equipment to perform oil field services to begin within 24 hours of delivery of the equipment; or

(B) from oil or gas field location or locations to one or more places of business for return to inventory or for

reconditioning, disposal, or storage for reconditioning or disposal.

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

(1) Oil field services—The actual construction, operation, repair, maintenance, or dismantling of an oil or gas field location; excluding the discovery and drilling of oil and gas wells; pipe refurbishing, inspection, and stringing; transportation of oil field rental tools; and services connected with the refining of oil.

(2) Oil or gas field location—The facilities or land used for the production, processing, or pipeline movement of natural gas or petroleum, excluding an oil or gas well being drilled.

(3) Owned—Title to the oil field equipment being transported at the time of transportation.

(4) Owns—Any ownership interest in the oil or gas field location whether in fee or not, including the rights granted by license, easement, right-of-way, or similar right.

(5) Place of business—A warehouse, service yard, shop, or other business site operated by the owner, lessee, or operator (in whole or in part) of an oil or gas field location, or by the provider of oil field services.

(6) Transportation—Transportation merely incidental to an established business of performing oil field services.

(c) Notwithstanding any other provision of this section:

(1) the total weight of the oil field equipment being transported at one time in connection with oil field service shall not exceed 1,500 pounds;

(2) the transportation of pipe and tubing shall be limited to five or less joints of pipe or tubing with four-inch diameter or less; and

(3) shall not include transportation of oil field casing or drill pipe.

(d) A provider of oil field services may transport spare parts commonly needed for anticipated maintenance or repairs between points defined in subsection (a)(2) of this section, regardless of whether the spare parts are used at the oil or gas field location within 24 hours of arrival at the location.

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 18, 1992.

TRD-9206925
Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: June 10, 1992

Proposal publication date: March 24, 1992

For further information, please call: (512) 463-7096

Subchapter U. General and Special Rules of Practice and Procedure

The Railroad Commission of Texas adopts amendments to §§5.402, 5.404, and 5.456, concerning object of rules, filing of documents, and effective date, and the repeal of §§5.403, 5.405, 5.406, 5.408-5.410, 5.413-5.422, 5.425-5.430, and 5.432-5.455, concerning general and special rules of practice and procedure, without changes to the proposed text as published in the March 31, 1992, issue of the *Texas Register* (17 TexReg 2322).

The amendments and repeals will operate to apply the general rules of practice and procedure for the commission, as set out in Chapter 1 of this title (relating to Practice and Procedure), to applications before the Transportation Division of the Railroad Commission of Texas. The rules that are not repealed will continue to apply to proceedings before the Transportation Division, and cover circumstances unique to those proceedings.

No comments were received regarding adoption of the amendments and repeals.

• 16 TAC §§5.402, 5.404, 5.456

The amendments are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the Railroad Commission of Texas to regulate motor carriers in all matters, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which authorizes the commission to adopt procedural rules.

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

Issued in Austin, Texas, on May 18, 1992.

TRD-9206925
Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: June 10, 1992

Proposal publication date: March 31, 1992

For further information, please call: (512) 463-7095

• 16 TAC §§5.403, 5.405, 5.406, 5.408-5.410, 5.413-5.422, 5.425-5.430, 5.432-5.455

The repeals are adopted under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorizes the Railroad Commission of Texas to regulate motor carriers in all matters, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes,

Article 6252-13a, which requires agencies to adopt rules of practice.

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 18, 1992.

TRD-9206924

Lena Guerrero
Chairman
Railroad Commission of
Texas

Effective date: June 10, 1992

Proposal publication date: March 31, 1992

For further information, please call: (512) 463-7095

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 105. State Dental Peer Review-Grievance Committee

Area Committee and State Ap- peals Committee

• 22 TAC §§105.1-105.27

The Texas State Board of Dental Examiners adopts the repeals of §§105.1-105.27, concerning area committee and state appeals committee, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2085).

The board adopts the repeal of this rule as it is in conflict with the Dental Practice Act, Article 4551i.

The repeal of the sections removes language that was in conflict with the Dental Practice Act, Article 4551i.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Articles 4551i, which provides the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207075

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

Immunity for Peer Review, Ju- dicial or Grievance Commit- tee

• 22 TAC §105.41

The Texas State Board of Dental Examiners adopts the repeal of §105.41, concerning peer review grievance committee areas, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2085).

The board adopts the repeal of this rule as it is in conflict with the Dental Practice Act, Article 4551i.

The repeal removes language which conflicts with the Dental Practice Act, Article 4551i.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Articles 4551i, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207074

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

Chapter 107. Dental Board Procedures

Board

• 22 TAC §107.1

The Texas State Board of Dental Examiners adopts the repeal of §107.1, concerning officers, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2086).

The board adopts the repeal of this rule to simplify board procedures, eliminate unnecessary positions, and provide the board with greater flexibility in conducting its business.

The repeal simplifies board procedures and eliminates unnecessary positions.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Articles 4543 et seq which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207073

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

• 22 TAC §107.2

The Texas State Board of Dental Examiners adopts the repeal of §107.2, concerning meetings, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2086).

The board adopts the repeal of this rule to simplify board procedures, eliminate unnecessary positions, and provide the board with greater flexibility in conducting its business.

The repeal simplifies board procedures and eliminates unnecessary positions.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Articles 4543 et seq which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207072

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

• 22 TAC §107.3

The Texas State Board of Dental Examiners adopts an amendment to §107.3, concerning hearings, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2086).

The board adopts the amendment of this rule to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also to achieve uniformity in standard civil practices.

The section outlines the procedures for hearings.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 4543 et seq which provides the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207071 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

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Procedures Governing Grievances, Hearings, and Appeals

• 22 TAC §107.55

The Texas State Board of Dental Examiners adopts an amendment to §107.55, concerning motions for rehearing, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2087).

The board adopts the amendment of this rule to achieve consistency and uniformity with the Administrative Procedure and Texas Register Act. Also, to achieve uniformity in standard civil practices.

The amendment outlines the requirements for filing a motion(s) for rehearing and also outlines the procedures for replies to a motion(s) for rehearing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 4543 et seq which provides the Texas State Board of Dental Examiners

with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207070 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

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Chapter 109. Conduct

Fair Dealing

• 22 TAC §109.144

The Texas State Board of Dental Examiners adopts an amendment to §109.144, concerning records and their transfer, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2087).

The board adopts the amendment of this rule to clarify by making it explicit that the rule does not require any written transfers or agreement pertaining to dental records in situations where a dentist is working for another dentist or entity.

The amendment clarifies the rule by making it explicit that the rule does not require any written transfers or agreement pertaining to dental records in situations where a dentist is working for another dentist or entity.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 4549-2, which provides the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207067 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

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Infection Control

• 22 TAC §109.222

The Texas State Board of Dental Examiners adopts an amendment to §109.222, concerning required sterilization and disinfection, without changes to the proposed text as published in the March 20, 1992, issue of the *Texas Register* (17 TexReg 2087).

The board adopts the amendment of this rule to protect laboratory technicians from potentially infectious materials.

The amendment clarifies those items being sent to a dental laboratory for repair to be considered biohazardous and states that such items must be rendered nonbiohazardous according to established DSHA guidelines. Rule 109.222 protects laboratory technicians from potentially infectious materials

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Articles 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 19, 1992.

TRD-9207068 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 12, 1992

Proposal publication date: March 20, 1992

For further information, please call: (512) 477-2985

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

Chapter 1. Board of Health

Procedures and Policies

• 25 TAC §1.4, §1.9

The Texas Department of Health (department) adopts amendments to §1.4 and §1.9 concerning procedures and policies, without changes to the proposed text as published in the February 4, 1992 issue of the *Texas Register* (17 TexReg 926). The sections cover committees and actions requiring Board of Health approval. The amendment to §1.4

modifies the provision on appointment of advisory committees by providing that board members may nominate candidates to the advisory committees as vacancies occur, notwithstanding any other board rule and consistent with existing law. Such nominations will be in addition to nominations from other designated sources. The amendment to §1.9 modifies the provision concerning board approval of expenditures over \$50,000 for purchases of major items of equipment. The section now states that the board shall approve an annual operating budget and capital asset replacement plan to guide the expenditure of funds by the department for a fiscal year.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §11.013, which provides the board with the authority to adopt policies and rules to govern the department; §11.016, which provides the board with authority to appoint advisory committees to assist the board; and §12.001 which provides the board with authority to adopt rules for its own procedure and for the performance of each duty imposed by law on the board

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 20, 1992.

TRD-9206946 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: June 10, 1992

Proposal publication date: February 4, 1992

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

Chapter 97. Communicable Diseases

Control of Communicable Diseases

• 25 TAC §97.16

The Texas Department of Health (department) adopts the repeal of §97.16, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1883). The text of the section has been modified, restructured, and moved to Chapter 98 in Title 25 which is a more appropriate location; it has become new §98.101-98.112.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Health and Safety Code, §85.063, which provides the Board of Health with authority to adopt rules covering procedures and guidelines for the HIV Medication Program; and §12.001, which provides the board with authority to adopt rules to implement every duty imposed by law on the board, the department and the Com-

missioner of Health. The repeal will affect Chapter 85 of the Health and Safety Code.

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 20, 1992.

TRD-9206949 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: June 10, 1992

Proposal publication date: March 13, 1992

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

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §§98. 101-98.112

The Texas Department of Health (department) adopts new §§98.101-98.112 concerning general provisions, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1884).

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

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program, and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of

every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

This agency hereby certifies that the 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 20, 1992.

TRD-9206950 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: June 10, 1992

Proposal publication date: March 13, 1992

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

Advisory Committee • 25 TAC §98.121

The Texas Department of Health (department) adopts new §98.121 concerning Texas HIV Medication advisory committee, without changes to the proposed text as published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1589).

The new section implements the provisions of the Health and Safety Code, §85.066, which provides for the establishment of an advisory committee to assist the Board of Health and the department in the development of procedures and guidelines for the Texas HIV Medication Program. The committee also will make recommendations for eligibility for participation, medication coverage, priority of treatment and application process in the HIV Medication Program. The new section specifically covers its purpose, committee responsibilities and recommendations, membership, term of officers, officers, subcommittees, meetings, and public participation.

No comments were received regarding adoption of the new section.

The new section is adopted under the Health and Safety Code, §85.066, which provides the Texas Board of Health with the authority to establish an HIV Medication Program Advisory Committee; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

This agency hereby certifies that the 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 20, 1992.

TRD-9206951 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of
Health

Effective date: June 10, 1992

Proposal publication date: March 3, 1992

For further information, please call: (512) 458-7500

Chapter 123. Respiratory Care Practitioner Certification

• 25 TAC §§123.2-123.7, 123.9-123.11, 123.13-123.14

The Texas Department of Health (department) adopts amendments to §§123.2-123.7, §§123.9-123.11, and §§123.13-123.14, concerning respiratory care practitioner certification, without changes to the proposed text as published in the November 22, 1991 issue of the Texas Register (16 TexReg 6735).

The amendments will clarify existing sections and implement the provisions of Chapter 292, Acts of the 72nd Legislature, Regular Session, 1991 (House Bill 541) which amended Texas Civil Statutes, Article 4512I, relating to the certification and regulation of respiratory care practitioners. The amendments will: modify the definition of "respiratory care education" to include education programs seeking accreditation through an American Medical Association approved program (Joint Review Committee for Respiratory Therapy Education); require the advisory board to meet at least once per year rather than once per calendar quarter; remove the 60 and 120 day reinstatement periods; establish one reinstatement fee rather than two; allow the department to issue temporary permits to graduates of education programs as well as to students who are about to graduate; allow students to continue working after they have completed the clinical portion of the education program; establish procedures to follow for practitioners who do not obtain continuing education; modify the provision concerning disapproval of an application by a person who holds a license, certification, or registration in another state; add a provision on denying the renewal of a certificate or permit if the renewal involves a student loan default; expand the provisions concerning reinstatement of a certificate; establish procedures for practitioners who do not renew due to active military duty; and make additional editorial changes throughout the sections to remove unnecessary language and to clarify existing language.

Comment: Concerning §123.2, one commenter requested that the definition of respiratory care education program be more specific with regard to "appropriate education agency," and that the department define appropriate agency as the Texas Higher Education Coordinating Board and the Texas Education Agency.

Response: "Appropriate education agency" includes the Texas Education Agency and the Texas Higher Education Coordinating Board, and if the respiratory care education program is out-of-state, the term will include the appropriate education agency in that state. Since it is not possible to list all agencies, the department has determined that the language is appropriate and has made no change.

Comment: Concerning §123.9(d)(3), one commenter requested that "on or" be deleted from the language "on or prior to the expiration of the certificate" because it implies that a respiratory care practitioner could wait until the last part of the renewal month to submit the completed renewal forms and fees to the department.

Response: The Texas Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §18(b), provides that when a certificate or permit holder has made timely and sufficient application for the renewal, the existing certificate or permit does not expire until the certificate or permit has been finally issued, and if the renewal application is denied, until the last day for seeking review of the department's order denying the application. Therefore, a respiratory care practitioner can continue to practice since the expired certificate or permit will continue to be effective, even after the expiration date, if timely and sufficient application for renewal is made. The department has determined that no change to the rules is necessary.

Two individuals provided comments regarding the proposed amendments; they were neither for or against the amendments but offered suggestions and comments.

The amendments are adopted under Texas Civil Statutes, Article 4512I, §3, which provide the Texas Board of Health the authority to adopt rules concerning respiratory care practitioners; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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 20, 1992.

TRD-9206947

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

Effective date: June 10, 1992

Proposal publication date: November 22, 1991

For further information, please call: (512) 834-6632

◆ ◆ ◆ TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 5. Funds Management (Fiscal Affairs)

Claims Processing-Electronic Funds Transfers

• 34 TAC §§5.11-5.15

The Comptroller of Public Accounts adopts new §§5.11-5.15, concerning claims processing-electronic funds transfers. Section 5.12 is adopted with changes to the proposed text as published in the April 17, 1992, issue of the *Texas Register* (17 TexReg 2731). Sections 5.11 and 5.13-5.15 are adopted without changes and will not be republished.

The new sections define terms and prescribe procedures for making certain payments to vendors, state employees, annuitants, and

governmental entities via the comptroller's electronic funds transfer system.

Section 5.12(d)(2)(A) was changed by substituting "vendor" for "state employee." The change was necessary to correct a typographical error.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Government Code, §403.016, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the electronic funds transfer system.

§5.12. Paying Vendors Through Electronic Funds Transfers.

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

(1) Authorization form—The form designed by the comptroller that is used in accordance with this section.

(2) Custodial state agency—The participating state agency to which a vendor or a participating vendor submitted a properly completed authorization form to designate an EFT account.

(3) EFT account—An account that has been designated in accordance with this section to receive credit entries from participating state agencies.

(4) Participating state agency—A state agency for which the comptroller and the state treasurer have agreed to initiate credit entries in payment of the agency's obligations to certain vendors. The term includes the comptroller.

(5) Participating vendor—A vendor that receives credit entries initiated by the comptroller.

(6) Paying state agency—With respect to a particular credit or debit entry, the state agency that requested the comptroller to initiate the entry.

(7) State agency—A governmental entity that submits payment vouchers to the comptroller to request payments by the comptroller on behalf of the entity to the persons or entities named on the vouchers.

(8) Vendor—An individual or entity other than a state employee, an annuitant, or a governmental entity as defined by §§5.13-5.15 of this undesignated head (relating to Claims Processing-Electronic Funds Transfers).

(b) Participation.

(1) Obtaining authorization forms. Except as provided in subsection (c)(3) and (5) of this section, a vendor or a participating vendor may obtain an authorization form from any participating state agency.

(2) Becoming a participating vendor. A vendor may become a participating vendor only by properly designating an

EFT account in accordance with subsection (c)(1) of this section.

(3) Agreements with participating state agencies. A participating vendor and a participating state agency may agree on which payments from the agency will be made through the electronic funds transfer system. Unless the comptroller is a party to the agreement:

(A) the comptroller is not required to take any actions to facilitate or ensure the agency's compliance with the agreement; and

(B) the comptroller is not liable for any damages that result from the agency's failure to comply with the agreement.

(4) A participating vendor's termination of its participation.

(A) A participating vendor may terminate its participation only by terminating the designation of each of the vendor's EFT accounts in accordance with subsection (c)(3) of this section.

(B) The comptroller may not initiate a credit entry to a participating vendor on or after the effective date of the termination of the designation of the vendor's last EFT account.

(5) A custodial state agency's termination of a participating vendor's participation.

(A) A custodial state agency may terminate a participating vendor's participation only if the agency is the only custodial state agency for the vendor.

(B) If a custodial state agency is the only custodial state agency for a participating vendor, then the agency may terminate the vendor's participation by terminating the designation of each of the vendor's EFT accounts in accordance with subsection (c)(4) of this section.

(C) The comptroller may not initiate a credit entry to a vendor on or after the effective date of the termination of the designation of the vendor's last EFT account.

(D) A participating vendor's participation may be terminated under this paragraph without prior notice to the vendor.

(6) Inquiries.

(A) A participating vendor must contact the paying state agency before contacting the comptroller when the vendor has a question about a particular credit entry or debit entry.

(B) If a participating vendor receives an unidentified credit entry or debit entry, the vendor must first contact its financial institution to obtain necessary information about the entry. If the institution is unable to provide the information, then the vendor may ask the comptroller for the information.

(C) A participating vendor may contact any participating state agency if the vendor has a question about this section.

(7) Rules. A participating vendor shall comply with the rules as amended from time to time.

(c) EFT accounts.

(1) Designating an EFT account.

(A) A vendor or a participating vendor may designate an EFT account if:

(i) the vendor or the participating vendor properly completes an authorization form and submits the form to a participating state agency;

(ii) the account to be designated as an EFT account is a checking or savings account of the vendor or the participating vendor; and

(iii) the account to be designated as an EFT account would be at a financial institution that allows credit entries to be made to the account.

(B) A custodial state agency shall promptly submit a properly completed authorization form or the information on the form to the comptroller in accordance with the comptroller's requirements.

(C) If a vendor or a participating vendor properly designates an EFT account, the effective date of the designation is the fourteenth calendar day after the comptroller processes the information on the authorization form. The comptroller may initiate credit entries to the EFT account on or after the effective date.

(2) Multiple EFT accounts.

(A) A participating vendor may not designate more than one EFT account unless the vendor obtains the comptroller's prior written consent for each account beyond the first account.

(B) This subparagraph applies only if a participating vendor has already designated an EFT account and received the comptroller's permission to designate an additional account. The vendor may designate the additional account by properly completing an authorization form and submitting the form to either the custodial state agency for the first account or any other participating state agency.

(C) A participating state agency may not submit a participating vendor's authorization form to the comptroller if:

(i) the form would designate an EFT account for the vendor;

(ii) the vendor has already designated an EFT account; and

(iii) the vendor has not provided to the agency a copy of the comptroller's written consent for the designation of the additional account.

(D) A participating state agency may not submit a participating vendor's authorization form to the comptroller if:

(i) the form would designate an EFT account for the vendor; and

(ii) the vendor has already designated the same account as an EFT account.

(E) A participating state agency is not prohibited from being the custodial state agency for more than one EFT account of a participating vendor.

(F) A participating vendor that has multiple EFT accounts and a participating state agency may agree that a certain type of payment from the agency will be made only to the EFT account or accounts designated in the agreement. Unless the comptroller is a party to the agreement:

(i) the comptroller is not required to take any actions to facilitate or ensure the agency's compliance with the agreement; and

(ii) the comptroller is not liable for any damages that result from the agency's failure to comply with the agreement.

(3) A participating vendor's termination of the designation of an EFT account.

(A) A participating vendor may terminate the vendor's designation of an EFT account only by:

(i) obtaining an authorization form from the custodial state agency for the account;

(ii) properly completing the form; and

(iii) submitting the form to the agency.

(B) A custodial state agency shall promptly submit a properly completed authorization form or the information on the form to the comptroller in accordance with the comptroller's requirements.

(C) The comptroller may not initiate a credit entry to an EFT account on or after the date on which the comptroller processes the information on the authorization form that terminates the designation of the account.

(4) A custodial state agency's termination of the designation of an EFT account.

(A) A participating state agency may terminate the designation of an EFT account if:

(i) the agency is the custodial state agency for the account; and

(ii) the agency properly completes an authorization form and submits the form or the information on the form to the comptroller in accordance with the comptroller's requirements.

(B) The comptroller may not initiate a credit entry to an EFT account on or after the date on which the comptroller processes the information on the authorization form that terminates the designation of the account.

(C) The designation of an EFT account may be terminated under this paragraph without prior notice to the vendor or the participating vendor that owns the account.

(5) Modifying information about an EFT account.

(A) A participating vendor may modify information about an EFT account of the vendor only by:

(i) obtaining an authorization form from the custodial state agency for the account;

(ii) properly completing the authorization form; and

(iii) submitting the authorization form to the custodial state agency.

(B) A custodial state agency shall promptly submit a properly completed authorization form or the information on the

form to the comptroller in accordance with the comptroller's requirements.

(C) New information about an EFT account applies to credit entries that the comptroller initiates on or after the fourteenth calendar day after the comptroller processes the information on the authorization form that provides the new information.

(d) The comptroller's powers and responsibilities.

(1) Initiating credit entries.

(A) The comptroller may initiate credit entries to an EFT account of a participating vendor as payment for obligations that participating state agencies owe to the vendor.

(B) The comptroller may initiate a credit entry to an EFT account of a participating vendor even if the vendor requests a particular payment to be made by warrant. This subparagraph does not apply after the designation of the account has been terminated.

(C) The comptroller is not obligated to make a payment via the electronic funds transfer system even if a participating vendor or a participating state agency requests it.

(2) Initiating debit entries.

(A) The comptroller may initiate a debit entry to an EFT account of a participating vendor if the appropriate paying state agency determines that an erroneous credit entry has been made to the account.

(B) The comptroller may initiate a debit entry to an account of a vendor if:

(i) the appropriate paying state agency determines that an erroneous credit entry has been made to the account;

(ii) the erroneous credit entry was made to the account when it was an EFT account; and

(iii) the erroneous credit entry was made when the vendor was a participating vendor.

(C) The comptroller may initiate a debit entry without prior notice to a participating vendor or a vendor.

(3) Compliance with the rules. The comptroller must comply with the rules when initiating credit entries and debit entries.

(4) Contacts. The comptroller may contact a participating state agency or a participating vendor if the comptroller has a question about a credit entry or debit entry.

(5) Termination of a participating vendor's participation. The comptroller may terminate the participation of a participating vendor for any reason, at any time, and without prior notice to the vendor.

(6) Termination of the designation of an EFT account. The comptroller may terminate the designation of an EFT account for any reason, at any time, and without prior notice to the participating vendor that owns the account.

(7) Stop payments. The comptroller's authority to stop the payment of a credit entry is equivalent to the comptroller's authority to stop the payment of a warrant.

(e) Acceptance and return of credit entries.

(1) Voluntary acceptance of credit entries. Neither a participating vendor nor a participating vendor's financial institution is required to accept a credit entry. However, a rejected credit entry must be returned in accordance with the rules.

(2) Liability resulting from the rejection of credit entries.

(A) The comptroller, the state treasurer, and a paying state agency are not liable for the damages resulting from the rejection of a credit entry by a participating vendor or its financial institution.

(B) When a credit entry is rejected, the State of Texas and its participating state agencies:

(i) are not in default on any obligation; and

(ii) shall not suffer any loss of discount or incur any penalty, interest, or late charge by reason of the rejection.

(3) Texas Prompt Payment Act. Paragraph (2)(B)(ii) of this subsection applies to the interest that would otherwise be payable under the Texas Prompt Payment Act.

(4) Rejection of credit entries. Even if a participating vendor or its financial institution does not reject a credit entry in accordance with the rules, the vendor does not accept a credit entry as being in the correct amount if:

(A) the participating vendor ensures that the paying state agency re-

ceives written notice by no later than the thirtieth calendar day after the participating vendor's financial institution receives the credit entry; and

(B) the written notice clearly states that the amount of the credit entry is erroneous.

(f) Credit for paying state agencies.

(1) Applicability. This subsection applies unless a participating vendor returns a credit entry in accordance with subsection (e) of this section.

(2) When credit required. A participating vendor shall credit the paying state agency for the amount of a credit entry on the effective date of the credit entry, regardless of when the vendor's financial institution posts the credit entry to the vendor's EFT account.

(3) Accrual of interest and other charges or fees. The accrual of interest or other charges or fees payable with respect to the amount of a credit entry shall cease when a participating vendor credits the paying state agency for the credit entry.

(g) Credit entry information.

(1) Definition. For a particular credit entry, the term "credit entry information" means:

(A) the participating vendor's invoice number up to seven digits (if and as supplied to the comptroller by the paying state agency);

(B) the paying state agency's voucher number (if supplied to the comptroller by the agency);

(C) the agency number of the paying state agency; and

(D) the telephone number of the paying state agency.

(2) Responsibility of the comptroller. The comptroller shall accompany each credit entry with credit entry information.

(3) Liability for refusal to provide credit entry information. The comptroller, the state treasurer, and a paying state agency are not liable for the failure, inability, or refusal of a participating vendor's financial institution to give credit entry information to the vendor.

(h) Liability.

(1) Liability for actions of certain parties. A participating vendor, the State of Texas, a participating state agency, a paying state agency, the comptroller, the

state treasurer, and a custodial state agency are not liable for the act or omission of any automated clearing house, financial institution, or other person or entity except as specified in the rules.

(2) Liability for actions of participating state agencies or paying state agencies. Neither the comptroller nor the state treasurer is liable for damages arising out of delays caused or errors committed by a participating state agency, a paying state agency, or a custodial state agency.

(i) Miscellaneous provisions.

(1) Effective date. Except as otherwise provided in this subsection, this section takes effect on the earliest date it may take effect under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(2) Termination of contracts. The contracts entitled "Agreement for the Direct Deposit of Payments from the State of Texas: Pilot Program" between the comptroller, the Texas State Treasury Department, and certain vendors that were executed before the effective date of this section are terminated on June 1, 1992, or on the effective date of this section, whichever is later.

(3) Applicability of section. This section applies to all vendors whose payments from participating state agencies are made through the electronic funds transfer system, including vendors whose payments were first made through the electronic funds transfer system before the effective date of this section.

(4) Existing accounts.

(A) This subparagraph applies to each account of a vendor that received a payment to the vendor through the electronic funds transfer system before the effective date of this section. Each account is an EFT account for the purpose of this section unless:

(i) the vendor properly notified the custodial state agency of the account before the effective date of this section that the account would no longer be available to receive electronic funds transfers; and

(ii) the notification is still in effect on the effective date of this section.

(B) A vendor that has one or more EFT accounts under subparagraph (A) of this paragraph on the effective date of this section is a participating vendor for the purpose of this section.

(C) A custodial state agency for more than one EFT account of a participating vendor on the effective date of this

section may terminate the designation of one or more of those accounts only if subsection (c)(4) of this section authorizes the termination. The requirement in subsection (c)(2) of this section to obtain the consent of the comptroller before designating a second or subsequent EFT account does not apply to the accounts that are EFT accounts under subparagraph (A) of this paragraph on the effective date of this section.

(D) An account that is an EFT account under subparagraph (A) of this paragraph on the effective date of this section loses its status as an EFT account at 11:59 p.m. on May 31, 1992, or on the effective date of this section, whichever is later.

(i) The vendor that owns the account may prevent this loss of status if the vendor redesignates the account as an EFT account by properly completing and submitting an authorization form in accordance with this section and the redesignation takes effect before the account loses its status.

(ii) If an account has lost its status as an EFT account under this subparagraph, then the vendor that owns the account may reinstate the account as an EFT account if the vendor redesignates the account by properly completing and submitting an authorization form in accordance with 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 20, 1992.

TRD-9206931

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: June 10, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 463-4028

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 29. Purchased Health Services

Subchapter A. Medicaid Procedures for Providers

• 40 TAC §29.3

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the

authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on May 21, 1992.

TRD-9207018 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 450-3765

Subchapter E. Medicaid Chiropractic Program

• 40 TAC §29.402

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on May 21, 1992.

TRD-9207019 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 450-3765

Subchapter P. Hearing Aid Services

• 40 TAC §29.1504

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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 21, 1992.

TRD-9207020 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 450-3765

Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

Subchapter J. Medical Phase

The Texas Department of Human Services (DHS) adopts new §33.135 and an amendment to §33.317, without changes to the proposed text as published in the April 17, 1992, issue of the *Texas Register* (17 TexReg 2751).

The justification for the new and amended sections is to clarify the time limits within which claims must be received by the health insuring agent to be considered for payment. Also in this issue of the *Texas Register*, DHS is adopting related rules in Chapter 29, Purchased Health Services.

The new and amended sections will function by ensuring a better understanding of the claims filing deadlines which are applied to Medicaid claims.

No comments were received regarding adoption of the new and amended sections.

• 40 TAC §33.135

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

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

Issued in Austin, Texas, on May 21, 1992.

TRD-9207021 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 450-3765

Subchapter R. Dental Services

• 40 TAC §33.317

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

This agency hereby certifies that the rule as

adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 21, 1992.

TRD-9207022 Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: July 1, 1992

Proposal publication date: April 17, 1992

For further information, please call: (512) 450-3765

Part X. Texas Employment Commission

Chapter 301. Unemployment Insurance

• 40 TAC §301.16

The Texas Employment Commission adopts an amendment to §301.16, concerning unemployment insurance, without changes to the proposed text as published in the April 7, 1992, issue of the *Texas Register* (17 TexReg 2461).

The amendment will eliminate the necessity of taking testimony from parties and witnesses in the absence of participation by the appellant. Statistics show that of such testimony taken in the absence of the appellant, only 3.0% was used in reaching a decision.

The amendment will eliminate the necessity of taking testimony in those cases where such testimony would be non-productive while preserving the authority of the Appeal Tribunal to do so in appropriate cases.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5221b, which provide the Texas Employment Commission with the authority to adopt, amend, or rescind rules as it deems necessary for the effective administration of this Act.

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

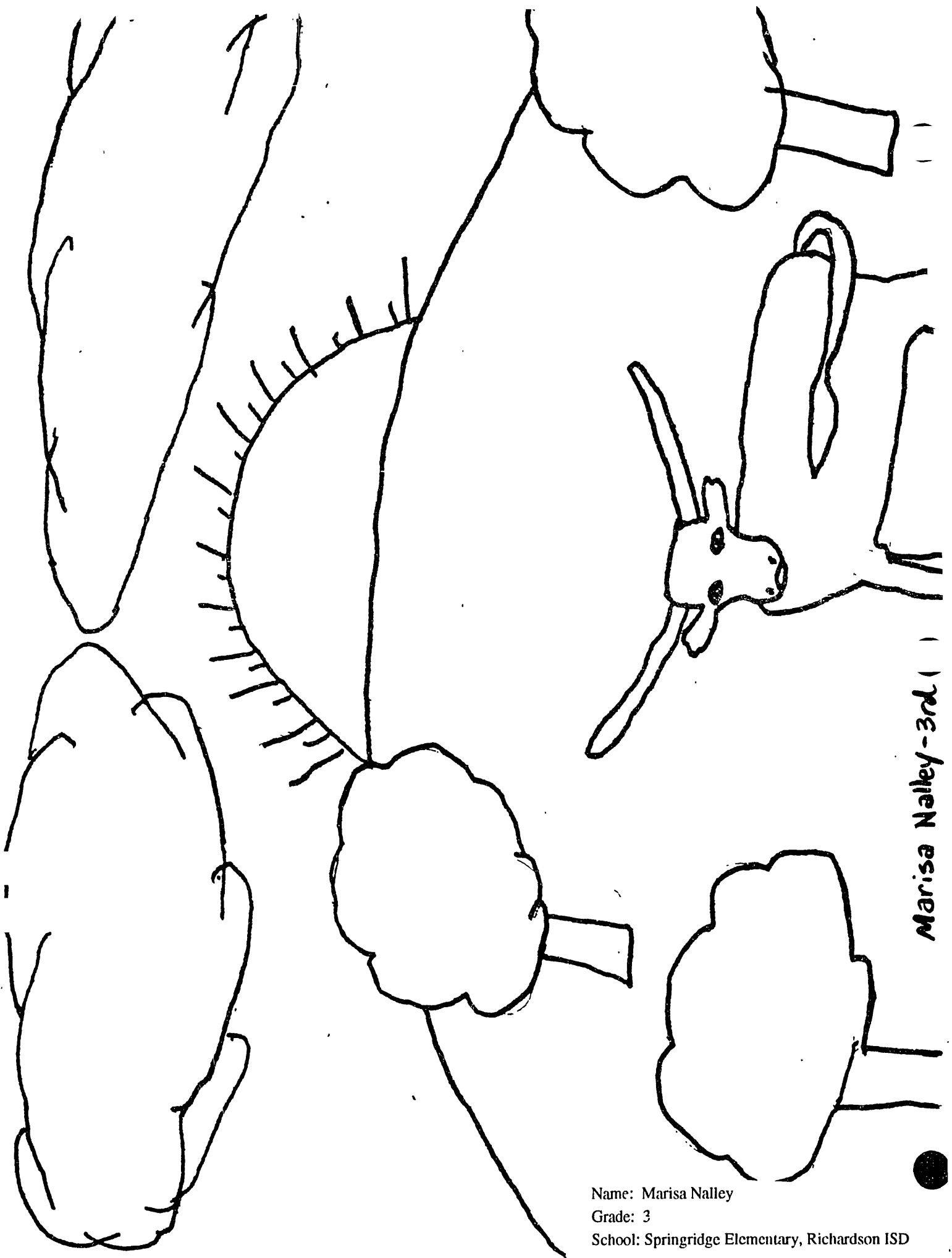
Issued in Austin, Texas, on May 21, 1992.

TRD-9207025 J. Ferris Duhon
Legal Counsel
Texas Employment
Commission

Effective date: June 11, 1992

Proposal publication date: April 7, 1992

For further information, please call: (512) 463-2291



Marisa Nalley - 3rd ()

Name: Marisa Nalley

Grade: 3

School: Springridge Elementary, Richardson ISD

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department on Aging

Tuesday, June 9, 1992, 9 a.m. The Texas Board on Aging's Funding Formula and Area Agency on Aging Operations 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; discuss approval of the minutes of the May 20, 1992 meeting; committee meeting to receive public input on the draft of Title III funding formula and development of recommendations to board for publication; carryover policy recommendation to board for action; ombudsman program update and review of staff recommendations; retired senior volunteer program (RSVP) funding formula report and proposal to board for action if necessary; and adjourn.

Contact: Jose E. Camacho, 4214 Medical Parkway, Suite 201, Austin, Texas 78756, (512) 454-4583.

Filed: May 26, 1992, 9:36 a.m.

TRD-9207171

Wednesday, June 10, 1992, 10 a.m. The Texas Board on Aging's Minority Elderly Committee of the Texas Department on Aging will meet at 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; discuss approval of the minutes of the May 20, 1992 meeting; finalize program for Minority Elderly Conference to be held August 12-14, 1992; finalize budget for Minority Elderly Conference; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

TRD-9207172

Texas Department of Agriculture

Thursday, June 18, 1992, 9 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Stephen F. Austin Building, 1700 North Congress Avenue, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §101.001 et seq. and §102.001 et seq. (Vernon 1982) by G & L Wholesale Food Services as petitioned by Chaparral Fruit Sales, Inc.

Contact: Ivry J. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 463-1668.

Filed: May 22, 1992, 9:33 a.m.

TRD-9207058

Wednesday, July 1, 1992, 10 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Stephen F. Austin Building, 1700 North Congress Avenue, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code §76.075(b) and Texas Administrative Code §7.18(b) by Jesse Thompson.

Contact: Ivry J. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 463-1668.

Filed: May 22, 1992, 9:32 a.m.

TRD-9207057

Tuesday, July 7, 1992, 10 a.m. The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, Stephen F. Austin Building, 1700 North Congress Avenue, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of 4 Texas Administrative Code, §6.1-6.4 by Gus Whalon, Sr.

Contact: Ivry J. Pollard, P.O. Box 12847, Austin, Texas 78711, (512) 463-1668.

Filed: May 21, 1992, 1:54 p.m.

TRD-9207030

Office of the Attorney General

Friday, June 5, 1992, 9 a.m. The Crime Victims Compensation Division of the Office of the Attorney General will meet at 1124 South IH-35, Room 309, Austin. According to the agenda summary, the office will conduct a public hearing to receive comments regarding the proposed Crime Victims Compensation rules, 1 TAC §§59.1-59.34 as published in the February 18, 1992 issue of the *Texas Register*. Persons with disabilities who have special needs who are planning to attend the meeting should contact the Office of the Attorney General at (512) 320-5334.

Contact: Diane W. Morris, P.O. Box 12548, Austin, Texas 787 11-2548, (512) 320-5334.

Filed: May 22, 1992, 9:38 a.m.

TRD-9207069

Texas Bond Review Board

Tuesday, June 2, 1992, 10 a.m. The Staff Planning Committee of the Texas Bond Review Board will meet at the Clements Building, Room 101, 300 West 15th Street, Austin. According to the agenda summary, the committee will call the meeting to order; discuss: Texas Turnpike Authority re-funding bond proposal; State Capitol planning and budgeting procedures; and adjourn.

Contact: Tom K. Pollard, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: May 22, 1992, 2:33 p.m.

TRD-9207121

Texas State Board of Examiners of Professional Counselors

Tuesday, May 26, 1992, noon. The Complaints Committee of the Texas State Board of Examiners of Professional Counselors held an emergency meeting at the Board Offices, Room 400, Exchange Building, 8407 Wall street, Austin. According to the complete agenda, the committee considered action on agreed orders concerning licenses of P.U.U., A.E.T., and N.S.M.; considered action on order concerning R.D.M. and reported on complaints, investigations and pending hearing(s); and heard update on lawsuit involving Gerald Caldwell. The emergency status was due to urgent public necessity to address the resolution or investigation of pending complaints before the next regularly scheduled meeting.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

Filed: May 22, 1992, 4:11 p.m.

TRD-9207146

Tuesday, May 26, 1992, 12:45 p.m. The Budget Committee of the Texas State Board of Examiners of Professional Counselors held an emergency meeting at the Board Offices, Room 400, Exchange Building, 8407 Wall street, Austin. According to the complete agenda, the committee discussed and possibly acted on expenditures relating to computer equipment purchases. The emergency status was necessary to meet deadlines set the General Services Commission.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

Filed: May 22, 1992, 4:11 p.m.

TRD-9207145

Tuesday, May 26, 1992, 1:30 p.m. The Texas State Board of Examiners of Professional Counselors held an emergency meet-

ing at the Board Offices, Room 400, Exchange Building, 8407 Wall street, Austin. According to the complete agenda summary, the committee discussed and possibly acted on expenditures relating to computer equipment purchases and amendments to rules for submission to the Board of Health for final adoption. The emergency status was necessary to meet deadlines set by the General Services Commission and because rules needed to be submitted to the Board of Health prior to the next regularly scheduled meeting of the Texas State Board of Examiners of Professional Counselors.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

Filed: May 22, 1992, 4:10 p.m.

TRD-9207144

Texas Diabetes Council

Friday, June 5, 1992, 9 a.m. The Texas Diabetes Council will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the council will adopt minutes of February 28, 1992, meeting; discuss and possibly act on: appointments to council; chairman's report on staff expansion; subcommittee report on diabetes eye program; grant sites update; appropriations request/state plan; American Diabetes Association report; and staff report. For ADA assistance, call Richard Butler at (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: Richard Kropp, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534.

Filed: May 22, 1992, 4:12 p.m.

TRD-9207149

Texas Education Agency

Tuesday-Wednesday, June 2-3, 1992, 8:15 a.m. and 8:45 a.m. The Commission on Braille Textbook Production of the Texas Education Agency will meet at Conference Room E, Region 20 Education Service Center, 1314 Hines Avenue, San Antonio. According to the agenda summary, on Tuesday, the commission will call the meeting to order; make welcoming remarks; announcements; chairman's preview; braille textbooks for blind parents; unified code development; production from diskettes acquired in 1991; preparation of diskettes needed in 1992; select a format for braille production; file formats for paper braille, refreshable braille, and audiotapes; workbooks; teacher editions; transmission of textbook data; open forum June 3; call the

meeting to order and hear chairman's remarks; software for brailing of mathematics, foreign language, and music textbooks; coordinating with publishers; text 2000 system; electronic textbooks; braille textbooks for other states; discuss future activities; and hear public comment.

Contact: Charles Mayo, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: May 22, 1992, 3:56 p.m.

TRD-9207143

Texas Employment Commission

Tuesday, June 2, 1992, 8:30 a.m. The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will approve prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster, et al.; actions, if any, resulting from executive session; hear staff reports; internal procedures of commission appeals; consider and act on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 22; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 22, 1992, 3:24 p.m.

TRD-9207134

Office of the Governor

Tuesday, June 2, 1992, 2 p.m. The Committee on People with Disabilities of the Office of the Governor will meet at the Governor's Reception Room, Second Floor, Capitol, Austin. According to the agenda summary, the committee will conduct an awards ceremony for Barbara Jordan media awards.

Contact: Virginia Roberts, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4385.

Filed: May 22, 1992, 2:31 p.m.

TRD-9207120

Texas Department of Health

Tuesday, June 9, 1992, 2 p.m. The Advisory Committee for Personal Care Facilities of the Texas Department of Health will meet at the Exchange Building, 8407 Wall Street, Room S400, Austin. According to the complete agenda, the committee will

hear opening remarks and discuss and possibly act on task force sub-committee progress report. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: Janice Caldwell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7709.

Filed: May 22, 1992, 4:12 p.m.

TRD-9207150

Thursday, June 11, 1992, 9 a.m. The Advisory Council on Massage Therapy Ad Hoc Curriculum Advisory Committee of the Texas Department of Health will meet at the Exchange Building, 8407 Wall Street, Room N-218, Austin. According to the complete agenda, the committee will discuss and possibly act on report on May, 1992 examination; and increasing written examinations; and videotape development. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: Jim Zukowski, Ed.D., 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

Filed: May 22, 1992, 4:11 p.m.

TRD-9207148

Friday, June 12, 1992, 10 a.m. The Advisory Council on Massage Therapy of the Texas Department of Health will meet at the Exchange Building, 8407 Wall Street, Room N-218, Austin. According to the complete agenda, the council will discuss approval of minutes of October 11, 1991 meeting; hear presentation by Dwight C. Byers on practice of reflexology, and discuss and possibly act on: Curriculum Advisory Committee report; amendments to massage therapy rules in 25 TAC Chapter 141; memorandum of understanding with Texas Education Agency; and hear announcements and comments. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6616.

Filed: May 22, 1992, 4:11 p.m.

TRD-9207147

Texas Higher Education Coordinating Board

Thursday, June 11, 1992, 9:30 a.m. The Community and Technical Colleges Committee of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Office Complex, Building Three, Room 3.109, 313 East Anderson Lane,

Austin. According to the complete agenda summary, the committee will give a report on the assessment of need and capacity for technical education and training in Texas to develop a skilled work force; report on the Texas State Technical College System; report on community college service areas and annexation; and discuss reports.

Contact: Dale Campbell, P.O. Box 12788, Austin, Texas 78711, (512) 483-6250.

Filed: May 22, 1992, 9:32 a.m.

TRD-9207056

Texas Department of Housing and Community Affairs

Friday, May 29, 1992, 3 p.m. The Board of the Texas Department of Housing and Community Affairs will meet at 811 Barton Springs Road, Suite 300, Conference Room, Austin. According to the agenda summary, the board will pass a resolution approving and authorizing the Collateralized Home Mortgage Revenue Bonds, Series 1991B and Series 1991C; resolution authorizing the issuance, sale and delivery of the Home Mortgage Revenue Bond, Series 1992A, Series 1992B, and Series 1992C; resolution authorizing the extension of the term of the commitment agreement dated June 1, 1990 between the Resolution Trust Company and the Texas Housing Agency; designation of new members of the Finance Committee of the Board; designation of additional officers of the board; and selection of independent auditors.

Contact: Susan J. Leigh, 811 Barton Springs Road, Austin, Texas 78704, (512) 474-2974.

Filed: May 21, 1992, 4:33 p.m.

TRD-9207043

Texas Department of Human Services

Thursday, June 4, 1992, 9:30 a.m. The Hospital Payment 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 complete agenda, the committee will hear opening comments; deputy commissioner's comments; approval of minutes; reports on strategic plan; House Bill 7 transition and medical policy suggestions; advisory committee procedures; results of case mix data run; clarification of disproportionate share terms; final revision of disproportionate share survey document; managed care report; open discussion by members; set next meeting date; and adjourn.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: May 22, 1992, 10:13 a.m.

TRD-9207087

Thursday, June 4, 1992, 10 a.m. The Client Self-Support Services Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Conference Room Two, Austin. According to the complete agenda, the council will call the meeting to order; discuss approval of minutes of February 6, 1992; hear deputy commissioner's remarks; strategic plan; net steps discussion; DHS program reform initiatives project; biennial update of JOBS and supportive services state plan; FY93 JOBS contract issues; commercial delivery update; proposed family planning program rule changes relating to DHS direct delivery staff; electronic benefit transfer; managed care roles of family health nurses EPSDT medical screening performance; teen pregnancy initiatives; strategic plan update; and plan next meeting agenda.

Contact: Lucretia Dennis-Small, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: May 22, 1992, 10:13 a.m.

TRD-9207086

Texas Department of Insurance

Tuesday, June 2, 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 agenda complete summary, the section will conduct a public hearing to consider the application for amendment to the Articles of Incorporation of Mayflower National Life Insurance Company of Texas, Dallas, increasing the authorized capital stock. Docket Number 11472.

Contact: Kelly Townsell, 333 Guadalupe Street, Hobby III, Austin, Texas 78701, (512) 475-2983.

Filed: May 22, 1992, 3:56 p.m.

TRD-9207142

Texas Commission on Jail Standards

Wednesday, May 27, 1992, 9 a.m. The Texas Commission on Jail Standards met at the John H. Reagan Building, Room 105, 15th and Congress Avenue, Austin. According to the emergency revised agenda sum-

mary, the commission discussed old business: El Paso County-status of planning; new business: Zapata County-violation of remedial order; effect of parole in absentia; heard director's report; and jail training by Texas Commission on Jail Standards. The emergency status was necessary as unexpected development requiring the immediate attention of the commission.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: May 22, 1992, 1:52 p.m.

TRD-9207104

Legislative Oversight Committee on Workers' Compensation

Thursday, June 4, 1992, 9:30 a.m. The Legislative Oversight Committee on Workers' Compensation will meet at the Capitol Building, House Chamber, Austin. According to the complete agenda, the committee will meet to order; discuss approval of minutes of last meeting; hear public testimony; and adjourn.

Contact: June L. Karp, Sam Houston Building, Room 1005, Austin, Texas 78711, (512) 475-4991.

Filed: May 21, 1992, 4:28 p.m.

TRD-9207042

Texas State Board of Medical Examiners

Thursday, May 21, 1992, 2 p.m. The Executive Committee of the Texas State Board of Medical Examiners held an emergency meeting at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the committee considered temporary suspension of license. For further information, the complaint is on file at the board office. The emergency status was necessary as information had come to the attention of the agency and required prompt consideration. (Executive committee meeting under the authority of §4.13 of the Medical Practice Act. Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: May 21, 1992, 12 p.m.

TRD-9207023

Midwestern State University

Wednesday, May 27, 1992, 10 a.m. The Board of Regents of Midwestern State University held a meeting via teleconference set-up, Hardin Building Board Room, Wichita Falls. According to the complete agenda, the board presented for approval Stage II of MSU's strategic master plan to the board.

Contact: Deborah L. Barrow, 3410 Taft Boulevard, Wichita Falls, Texas 76308, (817) 689-4212.

Filed: May 22, 1992, 2:04 p.m.

TRD-9207105

Texas State Board of Examiners of Psychologists

Tuesday-Friday, June 2-5, 1992, 8:30 a.m. The Texas State Board of Examiners of Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the complete agenda, the board will call the meeting to order; introduce new board members; hear public comments; elect officers; meet in executive session to consider personnel matters, pursuant to Texas Revised Civil Statutes Annotated, Article 6252-17, §2(g) regarding the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of the agency's executive director and/or to hear complaints or charges against such employee from board members, and/or present former employees of the agency and meet with Assistant Attorney General to seek legal advice, pursuant to Texas Revised Civil Statutes Annotated, Article 6252-17, §2(e), regarding personnel matters pertaining to the agency's executive director; meet in open session to consider and possibly act on personnel matters relating to the executive director; meeting continues; and adjourn.

Contact: Patricia S. Tweedy, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: May 22, 1992, 11:46 a.m.

TRD-9207101

Texas Racing Commission

Monday, June 1, 1992, 10 a.m. The Texas Racing Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 101, Austin. According to the complete agenda, the commission will call the meeting to order; take roll call; discuss approval of minutes of May 4, 1992; vote to adopt the following Horse and Greyhound Rules: §§303.201, 303.202, 309.196, 313.111, 313.304, 305.51, 309.360, 311.171; vote to propose the following

Horse and Greyhound Rules: §309.200, §321.232; hear public testimony on §§309.64, 311.153, 309.198, 319.3, 319.5, 319.111; consider and vote on the following matters: request by TVMDL for a change in the per sample drug testing charges; request by THBPA for recognition as statewide horsemen's organization; request by Gulf Greyhound Partners, Ltd., for approval of kennel leasing agreement form and greyhound booking agreement; request by Valley Racing Association for approval to place Larry Cox on Joint Venture Committee; issues relating to stakes kennel requirements at Valley Greyhound Park and Corpus Christi Greyhound Race Track discuss approval of June 6, 1992, as a charity day for Manor Downs; order regarding 1992 simulcasting; reports from: La Bahia, Longhorn Downs and Lubbock Downs regarding preparation for racing; Bandera Downs, Manor Downs, Trinity Meadows; discuss old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78701, (512) 794-8461.

Filed: May 22, 1992, 4:39 p.m.

TRD-9207159

Railroad Commission of Texas

Monday, June 1, 1992, 9:30 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, Room 12-126, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-7187.

Filed: May 22, 1992, 11:03 a.m.

TRD-9207089

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78711, (512) 463-6710.

Filed: May 22, 1992, 11:03 a.m.

TRD-9207090

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78711, (512) 463-7251.

Filed: May 22, 1992, 11:04 a.m.

TRD-9207091

The commission will consider category determination under sections 102(c)(1) (B), 102(c)(1)(C), 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Box 12967, Austin, Texas 78711, (512) 463-6755.

Filed: May 22, 1992, 11:03 a.m.

TRD-9207092

The commission will consider and act on the Office of the Executive Director's report on commission budget and fiscal matters, administrative and procedural matters, personnel and staffing, state and federal legislation, and contracts and grants. The commission will discuss the implementation of individual operating budgets for each individual commissioner's office. The commission will discuss a proposed training agreement for the Gas Utility Section of the Legal Division. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel, and pending litigation. Consideration of a contract for public information services.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: May 22, 1992, 11:04 a.m.

TRD-9207093

The commission will consider and act on the Division Director's report on budget and personnel matters relating to organization of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: May 22, 1992, 11:05 a.m.

TRD-9207094

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711, (512) 463-6257.

Filed: May 22, 1992, 11:05 a.m.

TRD-9207095

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: May 22, 1992, 11:05 a.m.

TRD-9207096

The commission will consider various matters within the jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various action, including, but not limited to scheduling an item in its entirety or for particular action at a future time or date. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act, including to receive legal advice regarding pending/and/or contemplated litigation.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: May 22, 1992, 11:05 a.m.

TRD-9207097

School Land Board

Tuesday, June 2, 1992, 10 a.m. The School Land Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will discuss approval of previous board meeting minutes; pooling applications, Spraberry (Trend Area) Field, Midland County; Giddings (Austin-Chalk-3) Field, Burleson and Fayette Counties; applications to lease highway rights of way for oil and gas, Leon and Washington Counties; status report on suspended state leases; direct land sales, Stephens and Comanche Counties; consideration of tracts, terms and conditions for a sealed bid land sale on August 4, 1992; good faith claimant applications, Haskell and Stonewall Counties; coastal public lands-commercial easement application, Lower Laguna Madre, Cameron County; Laguna Madre, Cameron County; structure permit terminations, Guyton Cut, Brazoria County; structure permit renewals, Laguna Madre, Kenedy County; discuss revisions to submerged land rules; meet in executive session to discuss pending and proposed litigation; and easement application, Laguna Madre, Cameron County.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: May 22, 1992, 4:23 p.m.

TRD-9207154

Stephen F. Austin State University

Thursday, May 28, 1992, 10 a.m. The Board of Regents of the Stephen F. Austin State University will meet at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the complete agenda, the board will discuss approval of strategic plan; and approval of interim compensation for general counsel.

Contact: William J. Brophy, P.O. Box 6078, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: May 22, 1992, 4:24 p.m.

TRD-9207155

Texans' War on Drugs, Inc.

Friday, May 22, 1992, 10:30 a.m. The Board of Directors of the Texans' War on Drugs, Inc. held an emergency meeting via teleconference, Texans' War on Drugs Conference Room, 11044-D Research Boulevard, Suite 200, Austin. According to the complete agenda, the board called the meeting to order; elected temporary chairperson; adopted resolutions: naming Dan Buie president and registered agent of the corporation; discussed and considered: Odessa office; Texas Prevention Partnership RFP; set next meeting date; and adjourned. The emergency status was necessary to discuss urgent personnel matters.

Contact: Janis Pittel, 11044 D Research Boulevard, Suite 200, Austin, Texas 78759, (512) 343-6950.

Filed: May 21, 1992, 4:03 p.m.

TRD-9207040

Texas Appraiser Licensing and Certification Board

Friday, May 29, 1992, 8 a.m. The Budget Subcommittee of the Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the complete agenda, the subcommittee will call the meeting to order; discuss and possibly make recommendations to the board concerning the operating budget, including review of expenditures; review of travel and compensatory per diem; and the emergency and deficiency grant from the Governor's office; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: May 21, 1992, 1:19 p.m.

TRD-9207026

Friday, May 29, 1992, 10 a.m. The Texas Appraiser Licensing and Certification Board will meet at the TREC Headquarters, Conference Room 235, Second Floor, 1101 Camino La Costa, Austin. According to the agenda summary, the board will call the meeting to order; consider the minutes of the April 24, 1992 meeting; hear staff reports; report from the budget subcommittee; discuss and possibly approve action of courses for meeting educational requirements; discuss and possibly act: concerning appraiser continuing education; to publish an amendment to 22 TAC §§153.15 relating to experience required for the state licensed real estate appraiser classification; concerning certified or licensed appraisers performing broker's opinions of value or appraisals which do not meet USPAP standards and USPAP departure provisions; review and possibly act concerning applications referred by staff; discuss and possibly act concerning applications and other board procedures, policies and interpretations; concerning the TALCB strategic plans for 1992-1998; comments and presentations from visitors; selection of date of subsequent meeting; and adjourn.

Contact: Renil C. Liner, 1101 Camino La Costa, Austin, Texas 78752, (512) 465-3950.

Filed: May 21, 1992, 1:20 p.m.

TRD-9207027

Texas Municipal League Intergovernmental Risk Pool

Friday, May 29, 1992, 3 p.m. The Board of Trustees Executive Committee of the Texas Municipal League Intergovernmental Risk Pool will meet at the Colorado Room, Stouffer Hotel at the Arboretum, 9721 Arboretum Boulevard, Austin. According to the complete agenda, the committee will review committee assignments; performance compensation; amendments to personnel rules; and TML membership survey report.

Contact: Marvin Townsend, 211 East Seventh, Suite 500, Texas 78701, (512) 320-1325.

Filed: May 22, 1992, 3:53 p.m.

TRD-92707138

Saturday, May 30, 1992, 8:30 a.m. The Board of Trustees of the Texas Municipal League Intergovernmental Risk Pool will meet at the Stouffer Hotel, Trinity Room, 9721 Arboretum Boulevard, Austin. According to the agenda summary, the board will consider by-law amendment; results of six-month budget review; financial and in-

vestment reports; amend non-owned auto coverage; discuss establishing workers' compensation, liability and property rates for 1992-93; proposal for initiating in-house claims staff for Austin area workers' compensation cases; amendments to personnel rules; TML membership survey report; and staff reports.

Contact: Marvin Townsend, 211 East Seventh, Suite 300, Texas 78701, (512) 320-1325.

Filed: May 22, 1992, 3:54 p.m.

TRD-9270139

Friday, May 29, 1992, 3 p.m. The Board of Trustees Finance Committee of the Texas Municipal League Intergovernmental Risk Pool will meet at the Stouffer Hotel, Canadian Room, 9721 Arboretum Boulevard, Austin. According to the complete agenda, the committee will discuss results of six-month budget review; March financial and investment reports; outstanding loss checks; and request for authority to use the state purchasing and general services commission for cooperative purchasing.

Contact: Marvin Townsend, 211 East Seventh, Suite 300, Texas 78701, (512) 320-1325.

Filed: May 22, 1992, 3:54 p.m.

TRD-92707140

Friday, May 29, 1992, 3 p.m. The Board of Trustees Underwriting Committee will meet at the Stouffer Hotel, Guadalupe Room, 9721 Arboretum Boulevard, Austin. According to the complete agenda, the committee will discuss amending non-owned auto coverage; establishing workers' compensation rates for 1992-93; establishing liability and property rates for 1992-93; reinsurance; proposal for initiating in-house claims staff for Austin area workers' comp cases; discussion regarding workers' compensation service contractors for 1992-93; and recommended changes in the list of approved attorneys.

Contact: Marvin Townsend, 211 East Seventh, Suite 300, Texas 78701, (512) 320-1325.

Filed: May 22, 1992, 3:55 p.m.

TRD-92707141

Texas State University System, Board of Regents

Wednesday, May 27, 1992, 10 a.m. The Board of Regents of the Texas State University System held a telephone conference called meeting, Speaker Phone Available in Room 505, Sam Houston Building, Austin. According to the complete agenda, the board discussed approval of strategic plan-Stage II for the System and its Universities.

(Where appropriate and permitted by law, executive sessions may be held).

Contact: Lamar Urbanovsky, Sam Houston Building, Austin, Texas 78701, (512) 463-1808.

Filed: May 22, 1992, 3:33 p.m.

TRD-9207137

Texas Turnpike Authority

Thursday, May 28, 1992, 9:30 a.m. The Board of Directors of the Texas Turnpike Authority met at the Marriott Park Central Hotel, 7750 LBJ Freeway at Coit Road, Dallas. According to the emergency revised agenda summary, the board included a change in acceptance of the minutes of the meetings of the Contract Awards Committee and Privatization Committee. The emergency status was necessary as it was anticipated that the referenced minutes would be prepared in time for this meeting.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: May 22, 1992, 11:18 a.m.

TRD-9207099

University of North Texas/Texas College of Osteopathic Medicine

Tuesday, May 26, 1992, 9 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the University of North Texas, Board Room, Administration Building, Denton. According to the agenda, the board submitted the University of North Texas Strategic Plan; and Texas College of Osteopathic Medicine Strategic Plan.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: May 22, 1992, 2:09 p.m.

TRD-9207117

Texas Board of Veterinary Medical Examiners

Thursday-Friday, June 11-12, 1992, 8:30 a.m. The Texas Board of Veterinary Medical Examiners will meet at 1946 South IH-35, Fourth Floor Conference Room, Austin. According to the agenda summary, the board will act on rules reflected on the agenda; consider negotiated settlement of docketed cases; act on proposals for decision in cases not settled through negotiation; approved cancellation of delinquent licenses; and conduct other business. The items may, however, be taken out of order

and/or continued from June 11 until June 12, 1992. Where appropriate and permitted by law, executive sessions may be held on the subjects listed on the agenda. Persons with disabilities who plan to attend this meeting, and who may need auxiliary aids or services, are requested to contact Judy Smith, 1946 South IH-35, Suite 306, Austin, Texas 78704, or call (512) 447-1183, within 72 hours of the meeting, in order that appropriate arrangements can be made.

Contact: Buddy Matthijetz, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: May 22, 1992, 9:31 a.m.

TRD-9207052

Texas Water Commission

Tuesday, June 9, 1992, 10 a.m. The Groundwater Protection Committee of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 1149, Austin. According to the agenda summary, the committee will discuss and take action on the following: subcommittee reports presented from Agricultural Chemicals, Groundwater Classification, Data Management, Joint Ground Water Monitoring and Contamination; presentation of proposed rules on Risk Assessment; Groundwater Protection Program Profile-post-consolidation update; role of the Texas Department of Health after program consolidation; status update on Water Well Drillers and Pump Installers rules; groundwater nonpoint source annual effectiveness report; and Groundwater Quality Subcommittee report.

Contact: Mary Ambrose, 1700 North Congress Avenue, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 22, 1992, 4:42 p.m.

TRD-9207161

Monday, June 22, 1992, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 6-101, Austin. According to the agenda summary, the commission will hold a hearing on Diamond Head Water Supply Corporation's application for certificates of convenience and necessity (CCN) to allow it to provide water and sewer utility services in Montgomery County. Diamond Head Water Supply Corporation also proposes decertification of Peninsula, Ltd.'s Water CCN 10338 and Sewer CCN 20134. The proposed service area is approximately 5 miles west of Panorama Village and 8.5 miles northwest of downtown Conroe. Docket Numbers 9224-C and 9225-C.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 21, 1992, 1:55 p.m.

TRD-9207032

Monday, June 22, 1992, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 6-101, Austin. According to the agenda summary, the commission will hold a hearing on Diamond Head Water Supply Corporation's increase in water and sewer rates for customers in the Regency Point Subdivision (Regency Point Townhome Association, Inc.). Docket Number 9467-W.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 21, 1992, 1:55 p.m.

TRD-9207033

Thursday, June 25, 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 1028A, Austin. According to the agenda summary, the commission will hold a hearing on Bruni Rural Water Supply Corporation's application to acquire water utility facilities for William A. Layton doing business as Bruni Water Works. Bruni Rural Water Supply Corporation has also asked to amend Docket Number 9286-C to change the applicant's name to Bruni Rural Water Supply Corporation and to request that the certificate of convenience and necessity be issued in the name of Bruni Rural Water Supply Corporation. The water utility service area affected by these applications is located approximately forty (40) miles east of downtown Laredo. This application, which has been designated as Docket Number 9480-S, will be consolidated with and amend Docket Number 9286-C.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 21, 1992, 1:55 p.m.

TRD-9207031

Monday, June 29, 1992, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Sam Houston Building, 201 East 14th Street, Room 117, Austin. According to the agenda summary, the commission will hold a public hearing on appeals pursuant to §26.177 of the Texas Water Code. Citizens for Responsible Government and Save Barton Creek Association, Inc. and Tim Brown have filed petitions appealing Ordinance Number 911017-B of the City of Austin.

Contact: Deborah Thomas, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 22, 1992, 2:08 p.m.

TRD-9207114

Tuesday, June 30, 1992, 7 p.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the John R. Harris Elementary School, 801 Broadway, Houston. According to the agenda summary, the commission will consider a Class 3 permit modification to hazardous waste permit Number HW50095 from Rhone-Pulenc Basic Chemicals Company, 8615 Manchester, Houston.

Contact: Linda Sorrels, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 22, 1992, 2:08 p.m.

TRD-92070155

Monday, July 6, 1992, 10 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Environmental Pollution Control, 7411 Park Place, One Mile South of Loop 610 at the Intersection of Telephone Road, Houston. According to the agenda summary, the commission will hold a public hearing to consider an application by Gulf Coast Waste Disposal Authority for renewal of Permit Number 01740 which authorizes a discharge of treated industrial and municipal wastewater effluent into the Houston Ship Channel, Segment Number 1007 of the San Jacinto River.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 22, 1992, 2:08 p.m.

TRD-9207113

Thursday, July 9, 1992, 1 p.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Waller Lions Center, 3007 Waller Street, Waller. According to the agenda summary, the commission will consider an application by Destara Chemicals, Inc., 18314 Mathis Road, Waller, for a permit (Proposed Permit Number HW50312-001) to authorize construction and operation of a commercial hazardous and non-hazardous industrial solid waste storage and recycling facility.

Contact: Deborah Parker Thomas, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 22, 1992, 2:09 p.m.

TRD-9207116

Texas Workers' Compensation Commission

Thursday, May 28, 1992, 9 a.m. The Texas Workers' Compensation Commission met at the Southfield Building, Room 910-911, 4000 South IH-35, Austin. According to the agenda summary, the commission called the meeting to order; dis-

cussed approval of minutes for the public meeting of April 23, 1992; correction of minutes for the meeting of March 26, 1992; discussed and considered TWCC strategic plan; rules for proposal; rule-making petition; physical medicine treatment guideline; report on donations and gifts received; met in executive session; action, if any, on matters considered in executive session; heard general reports; discussed and possibly acted on issues relating to commission activities which may include, but are not limited to, the following: discussed future public meetings; and adjourned.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

Filed: May 22, 1992, 2:48 p.m.

TRD-9207125

Texas Workers' Compensation Insurance Facility

Tuesday, June 2, 1992, 1:30 p.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda summary, the committee will discuss approval of minutes of April 30, 1992 meeting; consider and possibly approve proposed rules and regulations governing small premium policy plan; employers rejected risk fund; requests for reimbursement from servicing companies and of audit fees, PPO charges by Lumbermens Mutual Casualty Company; report on medical cost containment survey; fee schedule for furnishing documents or copies to outside parties; rate differential deviation plan underwriting requirements to implement the tabular surcharge rating plan; revised TWCIF application forms; revised bid procedure for sale of surplus equipment; facility anti-fraud program budget and facility data processing budget; appeals subcommittee; and discuss the take out credit rule; hear executive director's report and meet in executive session.

Contact: Russell R. Oliver, 8303 MoPac Expressway, #310, Austin, Texas 78759, (512) 345-1222.

Filed: May 22, 1992, 2:07 p.m.

TRD-9207111

Regional Meetings

Meetings Filed May 21, 1992

The Bastrop Central Appraisal District Appraisal Review Board met at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, May 28, 1992, at 7 p.m. Information may be obtained from Dana

Ripley, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9207039.

The Bastrop Central Appraisal District Board of Directors will meet at the Bastrop Central Appraisal District, 1200 Cedar Street, Bastrop, June 18, 1992, at 7:30 p.m. Information may be obtained from Dana Ripley, P.O. Drawer 578, Bastrop, Texas 78602, (512) 321-3925. TRD-9206038.

The Brazos Valley Solid Waste Management Agency Board of Trustees met at the College Station Public Services Department Training Room, 2613 Texas Avenue South, College Station, May 27, 1992, at 1:15 p.m. Information may be obtained from Cathy Locke, 1101 Texas Avenue, College Station, Texas 77840, (409) 764-3507. TRD-9207036.

The Ellis County Appraisal District Board of Directors met at 406 Sycamore Street, Waxahachie, May 28, 1992, at 7 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9207024.

The Lamar County Appraisal District Appraisal Review Board met at 521 Bonham Street, Paris, May 26, 1992, at 10 a.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (903) 785-7822. TRD-9207029.

Meetings Filed May 22, 1992

The Andrews Center Board of Trustees met at 2323 West Front Street, Tyler, May 28, 1992, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9207098.

The Austin-Travis County Mental Health and Mental Retardation Center Executive Committee met at 1430 Collier Street, Board Room, Austin, May 28, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9207168.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, May 28, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 440-4081. TRD-9206160.

The Central Appraisal District of Johnson County Board of Directors met at 109 North Main Street, Suite 201, Room 202, Cleburne, May 28, 1992, at 4:30 p.m. Information may be obtained from Priscilla A. Bunch, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986. TRD-9207063.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 4, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9207055.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 10-11, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9207054.

The Comal Appraisal District Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 16-18, 1992, at 9 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9207053.

The Dallas Area Rapid Transit Minority Affairs Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, May 26, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9207131.

The Dallas Area Rapid Transit Audit Committee and Mobility Impaired Committee met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, May 26, 1992, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9207132.

The Dallas Area Rapid Transit Customer and Community Relations Committee met at the DART Office, 601 Pacific Avenue, Board Conference Room, Dallas, May 26, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9207128.

The Dallas Area Rapid Transit Audit Committee met at the DART Office, 601 Pacific Avenue, Executive Conference Room, Dallas, May 26, 1992, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9207127.

The Dallas Area Rapid Transit Board of Directors met at the DART Office, 601 Pacific Avenue, Board Room, Dallas, May 26, 1992, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9207129.

The El Oso Water Supply Corporation Board of Directors held an emergency meeting at their office, FM 99, Karnes City, May 26, 1992, at 8 p.m. The emergency status was necessary as the board needed to

pass a resolution to the City of Kenedy for the prison immediately. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539. TRD-9207118.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, May 26, 1992, at 10 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9207084.

The Grayson Appraisal District Appraisal Review Board will meet at 205 North Travis Street, Sherman, June 5, 8-12, 15-19, 22-26, 29-30, 1992, at 9 a.m. Information may be obtained from Angie Keeton, 205 North Travis Street, Sherman, Texas 75090, (903) 893-9673. TRD-9207062.

The Gulf Bend Mental Health and Mental Retardation Center Board of Trustees met at 1404 Village Drive, Gulf Bend MHRM Center, Victoria, May 28, 1992, at noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9207136.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, May 26, 1992, at 6:30 p.m. Information may be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9207133.

The Lamb County Education District Board of Trustees met at 1500 East Delano, Littlefield, May 27, 1992, at 8 p.m. Information may be obtained from Jerry Blakely, 1500 East Delano, Littlefield, Texas 79339, (806) 385-3844. TRD-9207135.

The Lee County Appraisal District Board of Directors met at 218 East Richmond Street, Giddings, May 27, 1992, at 9 a.m. (Revised agenda). Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9207046.

The Liberty County Central Appraisal District Board of Directors met at 315 Main Street, Liberty, May 27, 1992, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9207048.

The Lower Rio Grande Valley Development Council Board of Directors and Annual Membership will meet at the Harlingen Chamber of Commerce, 311 East Tyler Street, Harlingen, May 28, 1992, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (512) 682-3481. TRD-9207059.

The Lower Rio Grande Valley Tech Prep/Associate Degree Consortium met at the Short Course Center, Texas State Technical College, Harlingen, May 28, 1992, at 9 a.m. Information may be obtained from Pat Bubb, Texas State Technical College, Harlingen, Texas 78550-3697, (512) 425-0797. TRD-9207045.

The Middle Rio Grande Development Council Texas Review and Comment System met at the Civic Center, Reading Room, 300 East Main, Uvalde, May 27, 1992, at 10 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9207126.

The North Central Texas Council of Governments Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, May 28, 1992, at 12:45 p.m. Information may be obtained from Edwina Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9207088.

The Panhandle Ground Water Conservation District Board of Directors met at the Water District Office, 300 South Omohundro Street, White Deer, May 27, 1992, at 8 p.m. Information may be obtained from C. E. Williams, P. O. Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9207102.

The Panhandle Regional Planning Commission Board of Directors met at 2736 West Tenth, PRPC Board Room, Amarillo, May 28, 1992, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9207100.

The Parmer County Appraisal District Board of Directors will meet at 305 Third Street, Bovina, June 11, 1992, at 7:30 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405. TRD-9207061.

The San Patricio County Appraisal District Appraisal Review Board will meet at 1146 East Market Street, Sinton, June 8, 1992, at 8:45 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402. TRD-9207060.

The Sharon Water Supply Corporation Board of Directors met at the Sharon Water Supply Corporation Office, Route 5, Box 25-C-10, Winnsboro, May 26, 1992, at 7 p.m. Information may be obtained from Gerald Brewer, Route 5, P.O. Box 25-C-10, Winnsboro, Texas 75494, (903) 342-3525. TRD-9207044.

The Texas Panhandle Mental Health Authority Children's Community Management Team met at 1501 South Polk, Amarillo, May 27, 1992, at 8 a.m. Information

may be obtained from Marilyn Cruce, P.O. Box 3250, Amarillo, Texas 79117, (806) 356-0874. TRD-920166.

The Texas Panhandle Mental Health Authority Executive Committee met at 7120 I-40 West, Suite 150, Amarillo, May 28, 1992, at 10:30 a.m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-3699. TRD-9207167.

The Upper Leon River Municipal Water District Board of Directors met at the General Office of the Filter Plant, Proctor Lake, Comanche, May 28, 1992, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9207064.

The Upper Rio Grande, Quality Work Force Planning-Region VIII will meet at the Ysleta Independent School District, Conference Room B, 9600 Sims, El Paso, June 5, 1992, at 1:30 p.m. Information may be obtained from Otis E. Burnett, 1155 Westmoreland, #235, El Paso, Texas 79925, (915) 779-6623. TRD-9207051.

◆ ◆ ◆ Meetings Filed May 26, 1992

The Ark-Tex Council of Governments Executive Committee held an emergency meeting at the Mt. Pleasant Chamber of Commerce, Mt. Pleasant, May 26, 1992, at 2 p.m. The emergency status was necessary as committee needed to discuss pending personnel matters. Information may be obtained from Laurie Dean, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9207180.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, May 29, 1992, at 11:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9207176.

The Dawson County Central Appraisal District Board of Directors will meet at 902 North Dallas Avenue, Lamesa, June 3, 1992, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9207182.

The Kempner Water Supply Corporation Board of Directors held an emergency meeting at the Kempner Water Supply Corporation Office, Highway 190, Kempner, May 28, 1992, at 7 p.m. The emergency status was necessary as decisions needed to be made on continuing water supplies and to avoid shortages. Information may be obtained from Doug Lavender or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9207178.

The Lavaca County Central Appraisal District Appraisal Review Board met at the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, May 27, 1992, at 2:30 p.m. (Rescheduled from May 22, 1992, at 9 a.m.). Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9207181.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Office, One Block West of FM 765 and FM 2134,

Millersview, June 1, 1992, at 8 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9207177.

The Region 18 Education Service Center Board of Directors will meet at 2811 Laforce Boulevard, Midland, June 4, 1992, at 7 p.m. Information may be obtained from Vernon Stokes, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9207183.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, June 1-3, 8-11, 15-18, 22-25, 29-30, 1992, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884. TRD-9207179.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, June 4, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9207175.



In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05, Vernon's Texas Civil Statutes).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/25/92-05/31/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	06/01/92-06/30/92	10.00%	10.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

[graphic]

Issued in Austin, Texas, on July 8, 1991.

TRD-9207065 Al Endsley
Consumer Credit Commissioner

Filed: May 22, 1992

For further information, please call: (512) 479-1280

Request for Interpretation of Title 79

Under provisions of Revised Statutes, Title 79, Article 2.02A, (Texas Civil Statutes, Article 5069-2.02A) the consumer credit commissioner may issue interpretations of Revised Statutes, Title 79 (Texas Civil Statutes, Article 5069-1.01 et seq). The consumer credit commissioner has received the following request for interpretation.

Request Number 92-5. Request from Harvey R. Hardwick of Porter, Rogers, Dahlman, Gordon and Lee, One Shoreline Plaza, P.O. Box 2968, Corpus Christi, Texas 78403-2968 and Sam Kelley, 815 Brazos, Suite 702, Austin, Texas 78701, interpreting the provisions of Texas Civil Statutes, Article 5069-Chapter 6 and Texas Civil Statutes, Article 5069-1.09 as they relate to federal law concerning the preempting of the Texas usury ceiling that would otherwise be applicable to a transaction.

Issued in Austin, Texas on May 21, 1992.

TRD-9207083 Al Endsley
Consumer Credit Commissioner

Filed: May 22, 1992

For further information, please call: (512) 479-1280

Texas Department of Criminal Justice- Pardons and Paroles Division Request for Proposal

Pursuant to the Texas Code of Criminal Procedures, Article 42.18, §25 and §23, the Texas Department of Criminal Justice Pardons and Paroles Division is soliciting proposals from qualified vendors to provide residential and varying levels of program services to: conventional parole and mandatory supervision releasees; and/or multiple needs parole and mandatory supervision releasees. The multiple needs client is defined as those individuals who are more difficult to place in conventional residential settings due to their high risk disposition, assaultive behavior, seriousness of the instant offense, possible mental illness, mental retardation, and whose combined multiple needs exceed those services provided by non-specialized facilities.

The division is requesting proposals for 100-200 conventional parole and mandatory supervision beds and 50-100 multiple needs beds. The contract period is for one year beginning September 1, 1992, and ending August 31, 1993, with an option for renewal.

A technical assistance workshop will be held on Wednesday, June 24, 1992, at 10 a.m. at One Far West, 3410 Far West Boulevard, Second Floor Training Room, Austin, Texas 78731. The technical assistance workshop will be devoted to the discussion of request for proposal require-

ments. The intent is that all applicants receive the same information and assistance. The division requests that interested vendors submit questions in writing prior to the convening of the workshop to: Marsha McLane, Assistant Director, Community Services, P.O. Box 13401, 8610 Shoal Creek Boulevard, Austin, Texas 78711.

Contract selection will be based on demonstrated competence, experience knowledge, and qualifications in the areas of the services desired and on the reasonableness of the proposed costs for the services.

Qualification requirements may be obtained from the Austin Business Management Section of the Division. Contact Jerry Wall, Director of Austin Business Management at P.O. Box 13401, Austin, Texas 78711-3400, (512) 343-4800. The closing date for accepting proposals is 5 p.m., July 31, 1992.

Inquiries for information may be requested from Marsha McLane, Assistant Director, Community Services, Pardons and Paroles Division, (512) 406-5750.

Issued in Austin, Texas on May 20, 1992.

TRD-9207015 Jackee Cox
General Counsel
Texas Department of Criminal Justice

Filed: May 21, 1992

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

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General Land Office

Public Notice

The General Land Office published a proposal for the permanent adoption of 31 TAC Chapter 8 regarding implementation of Senate Bill 2 (71st Legislature, First Called Session) on April 10, 1992 (17 TexReg 2535). An emergency adoption of these rules was published simultaneously. The comment period on 31 TAC Chapter 8 has been extended to Friday, June 12, 1992. Comments may be submitted to the Texas General Land office, Attn: Michael Dunn-Energy Resources Program, 1700 North Congress Avenue, Suite 640, Austin, Texas 78701-1495.

Issued in Austin, Texas, on May 21, 1992.

TRD-90207037 Gary Mauro
Commissioner
General Land Office

Filed: May 21, 1992

For further information, please call: (512) 463-5394

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Governor's Energy Office

Request for Proposals

Notice of invitation. The Governor's Energy Office (GEO) invites proposals from qualified nonprofit organizations and social service agencies to implement programs to provide training and technical assistance in the efficient use of energy weatherization for nonprofit organizations and/or their low- to moderate-income clients. For the purposes of this program, "nonprofit organizations" means charitable organizations with 501 (c)(3) status from the United States Internal Revenue Service. The organization submitting the proposal must demonstrate proof of 501 (c)(3) status.

This program is funded with oil overcharge funds appropriated to the Public-Private Partnership Program (PPP) by the 71st Texas Legislature. A dollar-for-dollar match is required for projects funded through this program. (Match can be other funding sources or in-kind, except in cases of documented extreme hardship. Determination of cases of extreme hardship will be at the discretion of the Governor's Office.)

Projects and programs funded through the Public-Private Partnership Program must at a minimum achieve the following: promote the efficient use of energy by nonprofit organizations or their low- to moderate-income clients through technical assistance, training, and building or equipment modifications; and form a public-private partnership by matching funds in addition to oil overcharge funds from sources such as private and corporate foundations; direct grants, or in-kind professional services from local governments, utilities, private businesses, or individuals; the applicant's own resources; or a combination of sources.

Services to be Performed. One or more contractors will be selected to perform the following services: market the program to eligible non-profit organizations; recruit and train unemployed/low-income persons as energy auditors and energy counselors; assign teams to visit the non-profit organizations and supervise these teams in providing, at a minimum, the following services: conducting a walk-through energy audit of the non-profit organization; weather-stripping doors, caulking around windows, installing water flow restrictors, wrapping hot water heaters, and other low-cost weatherization measures as needed; counseling about energy behavior modifications, such as lowering thermostats, which can reduce utility bills; providing written literature (provided by the Energy Extension Service) with additional information about energy saving opportunities; and making referrals to other agencies and organizations that may offer assistance with more expensive energy efficiency measures; conduct follow-up visits or telephone interviews with a sample of program participants, and prepare a final report evaluating: the impact of the program on the participants' energy awareness; changes in the energy use patterns of program participants; and measurable energy savings attributable to the program; collect and report additional data as requested by GEO for evaluation purposes.

Restrictions on the Use of Funds. Oil overcharge funds are monetary settlements returned to the states as a result of litigation by the U.S. Department of Energy (DOE) against certain oil companies for violations of price controls in effect between 1973 and 1981. The courts returned these funds to the states for use in certain energy programs deemed to provide restitution to citizens aggrieved by the overcharges.

Funds are subject to program guidelines of the DOE State Energy Conservation Plan (SECP) and the *U.S. v. Exxon* court decision, and may not be used to pay indirect or administrative costs. The funds may be used to supplement existing programs, but may not supplant funds already allocated to the programs.

Projects selected will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's Office. No advance payments are allowable.

Contact Person. To obtain a copy of the proposal format, or for more information, contact Jan Gore, Governor's

Energy Office, P.O. Box 12428, Austin, Texas 78711, (512) 463-1993. Proposal formats will be sent via regular mail, not by express mail or by fax machine.

Closing Date. Six copies of the proposal should be sent to: Renee' Veasey, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711.

The Energy Office is located in Room 620 of the Sam Houston State Office Building, 201 East 14th Street, Austin, Texas 78701. In order to be considered, proposals must contain the original signature of a person authorized to sign for the organization and must be received or postmarked by July 1, 1992. No extensions will be granted. Proposals may not be submitted by fax machine.

Selection Criteria. Proposals must adhere to the format provided by the Governor's Energy Office. Proposals will be evaluated using the following criteria. Energy Savings (10%). The proposal must have the potential to improve energy efficiency or to reduce energy costs for non-profit organizations or their low- to moderate-income clients; Training (20%). Proposers' plan for training unemployed/low income persons as energy auditors/counselors; Reasonableness of Budget (15%). The proposal must document how additional resources, which may be monetary or in-kind goods and services, will be leveraged from private sector services. (Except in cases of documented extreme hardship, a dollar-for-dollar match is required.) Leveraging more than the minimum amount is strongly encouraged; Restitution to Consumers (15%). The proposal must indicate how the program will benefit the non-profit organization's clients. It must show how the energy dollars saved will be used to increase or improve services to clients. Additional weight under this criterion will be given to non-profit organizations whose clients are low- to moderate income persons; Community Support (10%). The proposal should be supported by leaders of the business community, religious organizations, utilities, local governments, and/or civil organizations; Innovation (5.0%). This proposal should attempt new solutions for old problems or use proven energy saving methods that have not been adopted in the community; Qualifications of the Proposer (15%). The proposing organizations should have the proven ability to administer program dollars efficiently and to deliver services expediently and efficiently; and Ongoing Benefits (10%). The program should have the potential to be completed within a short time frame (one to two years) with lasting benefits to the organizations and/or their clients. Proposers should attend a pre-proposal workshop to be held Monday, June 15, 1992, beginning at 10 a.m. at GEO.

Final selection of contractors will be based on the recommendations of a proposal review panel. The GEO reserves the right to reject any or all proposals and is under no legal requirement to execute a contract on the basis of this request for proposals. The review panel may request finalists to provide additional information or to meet with GEO staff in Austin prior to final selection. No respondent, however, will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas, on May 21, 1992.

TRD-9207047 Harris E. Worcester
Director
Governor's Energy Office

Filed: May 22, 1992

For further information, please call: (512) 463-1931

Texas Department of Health Extension of Comment Period Concerning Proposed Rules

The April 3, 1992 issue of the *Texas Register*, beginning on page 2371, contained proposed Texas Department of Health (department) rules as follows: 25 TAC Chapter 277 concerning occupational safety; 25 TAC Chapter 289 concerning occupational health and radiation control; and 25 TAC Chapter 295 concerning occupational health. The comment period for each set of rules is 30 days following publication in the *Texas Register*. The department extended the comment period for an additional 30 days in the May 1, 1992, issue of the *Texas Register* (17 TexReg 3180). The department is again extending the comment period and will accept comments postmarked no later than July 3, 1992.

Issued in Austin, Texas, on May 20, 1992.

TRD-9206978 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 20, 1992

For further information, please call: (512) 834-6600

Notice of Intent to Revoke Certificates of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following registrants: Omni Hospital and Medical Center, Houston, R03964; F. M. Jones D.D.S. Incorporated, DeSoto, R05752; Occupational Medical Clinic, San Antonio, R06423; Centers for Health Control, Inc., San Antonio, R08547; Ray Hatch, D.C., San Antonio, R09036; Pasadena Dental Center, Pasadena, R10435; W. Timothy Beckett, II, D.D.S., Dallas, R12655; E. T. Cantrell, Ph.D., D.O., Farmersville, R13853; Lyle E. Hutto, M.D., Dumas, R15598; Dental Associates of Waller Village, Inc., Waller, R15604; P. G. Dunlap, D.O., San Diego, R16035; Cecil Stehr, D.C., Abilene, R16645; Gerald R. Pierce, El Paso, R16926; Lloyd Cole, D.D.S., Ennis, R16714; National SEM Service, Houston, R16927; James R. Taylor, D.V.M., Palestine, R16763; Celeste M. Hill, D. V.M., Lubbock, R17950; Wayne Mask, D.C., Crockett, R18227; Leroy R. Freeman, Sr., D.D.S., Denton, R09755; Dallas Surgery Center, Dallas, Z00617.

The department intends to revoke the certificates of registration; order the registrants to cease and desist use of radiation machine(s); order the registrants to divest themselves of such equipment; and order the registrants to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the registrants for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau

of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificates of registration will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on May 21, 1992.

TRD-9207007 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 21, 1992

For further information, please: (512) 834-6688

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**Notice of Intent to Revoke Radioactive
Material Licenses**

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 TAC §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed complaints against the following licensees: PERF-LOG, Corpus Christi, L04194; Consolidated Precious and Strategic, El Paso, L04205; Phillip Johnson, Friona, L03658; J.R. Testing Lab, Inc., Abilene, L03836; Interpro Fabricators, Inc., Houston, L04185; Western America Feed Fat, Douglasville, L04017.

The department intends to revoke the radioactive material licenses; order the licensees to cease and desist use of such radioactive materials; order the licensees to divest themselves of the radioactive material; and order the licensees to present evidence satisfactory to the bureau that they have complied with the orders and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the date of each complaint, the department will not issue an order.

This notice affords the opportunity to the licensees for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice. A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on May 21, 1992.

TRD-9207008 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: May 21, 1992

For further information, please call: (512) 834-6688

**Northeast Texas Community College
Request for Proposals**

Northeast Texas Community College (Northeast) is requesting proposals for the following items to be used for the Compute-A-Match assessment system: carrying cases. These cases should house the SAGE Evaluation System. They should be constructed of heavy gauge plastic with foam padding inside. Each should have a handle, a lock, and heavily constructed wheels. Specific dimensions: Case Number 1 specs-25" by 11" by 22"; Case Number 2 specs-23" by 11" by 18"; Case Number 3 specs-23" by 10" by 18"; Case Number specs-25" by 11" by 22".

The TABE scoring component for the Compute-A-Match assessment system. TABE Scoring Program should score all TABE tests and generate a report utilizing score cards for these tests. The program combines a unique software program with specially designed answer cards which are processed through an optical scanner. Program and scoring cards should be included.

A listing of employers to be entered on the existing hard drive at Northeast for the Compute-A-Match assessment system. Employers should be entered according to zip codes or individual areas. Counties or zip codes covered on list include: Titus, Morris, and Franklin, Counties of Texas and the Cities of Paris, Texarkana, and Longview.

All proposals must be received by Thursday, June 18, 1992, at 2 p.m. Any proposals received after this date and time will be returned unopened and will not be considered. Northeast is requesting all vendors to submit in writing a proposal or "no bid".

Proposals are to be submitted in a sealed envelope with the name of firm bidding. Envelopes must be clearly marked: ATTN: Proposal Enclosed, with time due date. All proposals submitted to: Jack Matkin, Northeast Texas Community College, P.O. Box 1307, Mount Pleasant, Texas 75455, (903) 572-1911.

Any questions concerning this request for proposals should be directed to Sharla Trimm at Northeast Texas Community College, (903) 572-1911, extension 505. Northeast Texas Community College Board of Trustees reserves the right to accept and/or reject any or all proposals, or parts thereof, and to waive all formalities if it be in the best interest of Northeast.

Northeast Texas Community College is an Affirmative Action/Equal Opportunity Institution.

Issued in Mount Pleasant, Texas, on May 21, 1992.

TRD-9027039 Sharla Trimm
Assessment Specialist
Northeast Texas Community College

Filed: May 21, 1992

For further information, please call: (903) 572-1911 ext. 505

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**Senate Interim Committee on Health
and Human Services**

Notice of Public Meeting

The Senate Interim Committee on Health and Human Services will hold it's fourth work session in Austin on June 2, 1992, to further discuss and adopt committee recommendations pertaining to private psychiatric and

substance abuse services. The committee also will receive staff briefings on other interim activities.

The work session will begin at 1:30 p.m. in Room 101 of the John H. Reagan Building at 105 West 15th Street. Visitor parking is available at 15th Street and Congress Avenue. Although the committee does not plan to take any testimony, the work session is an open meeting, and the public is encouraged and welcome to attend.

If you have any questions or need additional information, please feel free to call the committee office at (512) 463-0360.

Issued in Austin, Texas, on May 22, 1992.

TRD-90207050 Sandra Bernal-Malone
 Committee Clerk
 Senate Interim Committee on Health and
 Human Services

Filed: May 22, 1992

For further information, please call: (512) 463-0360

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Texas Water Commission Meeting Notice

A meeting of the Scientific/Technical Advisory Committee (TSTAC) of the Galveston Bay National Estuary Program is scheduled for: Thursday, June 4, 1992, 9 a.m., Forest Room-Bayou Building, University of Houston-Clear Lake, 2700 Bay Area Boulevard, Houston.

The STAC will review the following proposal work plans for scientific and technical projects to be performed during fiscal year 1993: Galveston Bay Characterization Report; Monitoring and Data Management; Bay Debris and Citizen's Monitoring. STAC will forward recommendations to the Management Committee for selection.

Issued in Houston, Texas on May 19, 1992.

TRD-9207066 Frank S. Shipley, Ph.D.
 Program Manager
 Galveston Bay National Estuary Program

Filed: May 22, 1992

For further information, please call: (713) 332-9937

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1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

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