

# Texas Register

Volume 17, Number 51, July 7, 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- Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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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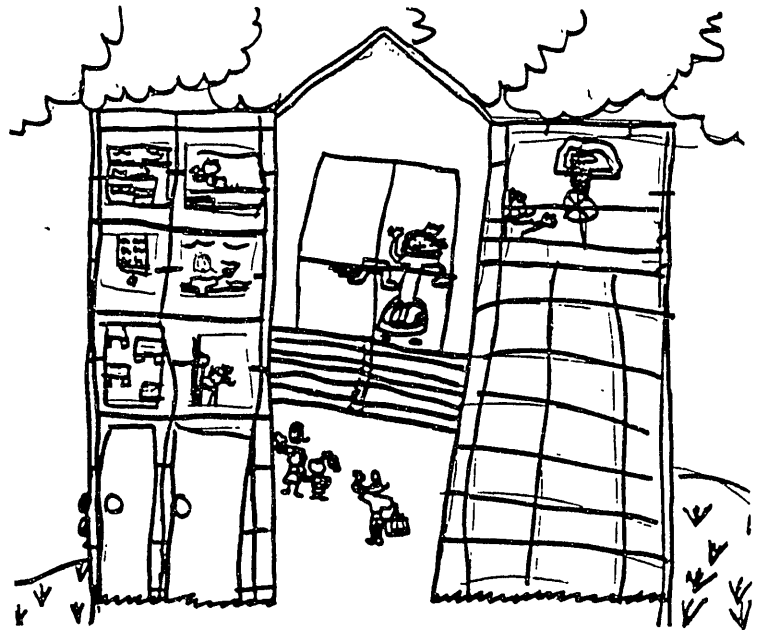
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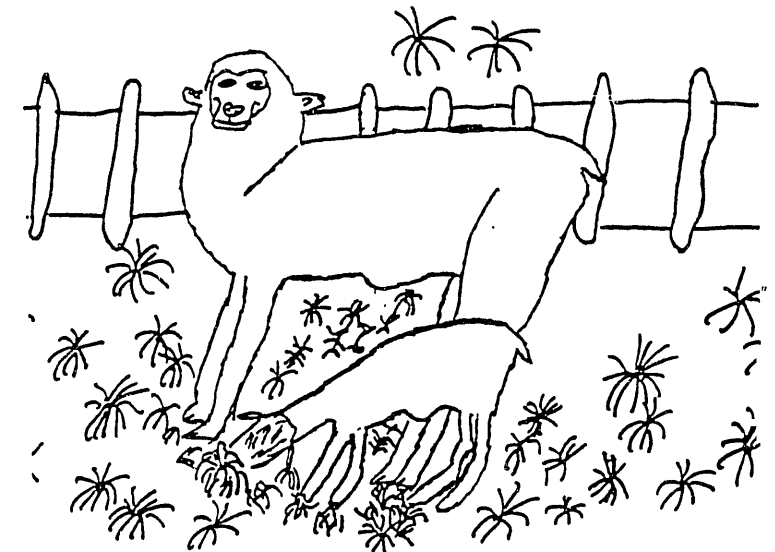
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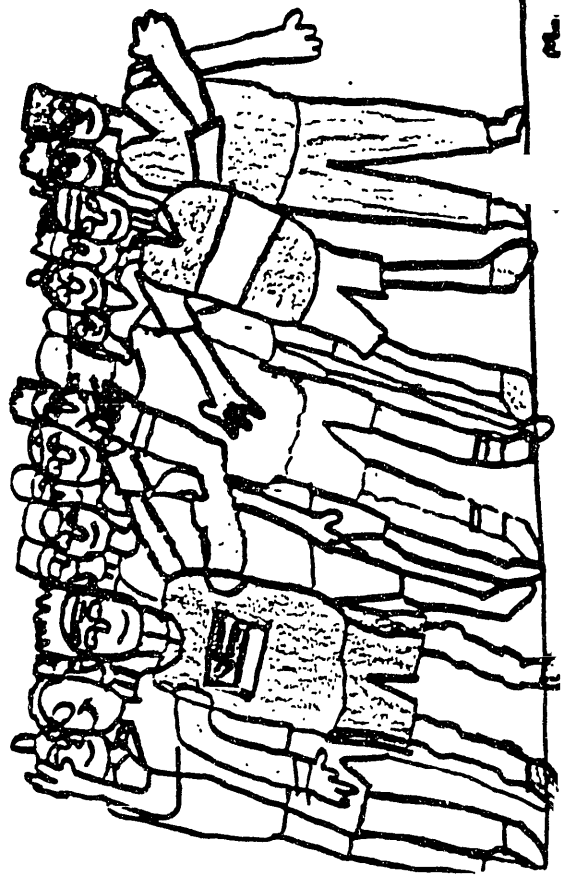
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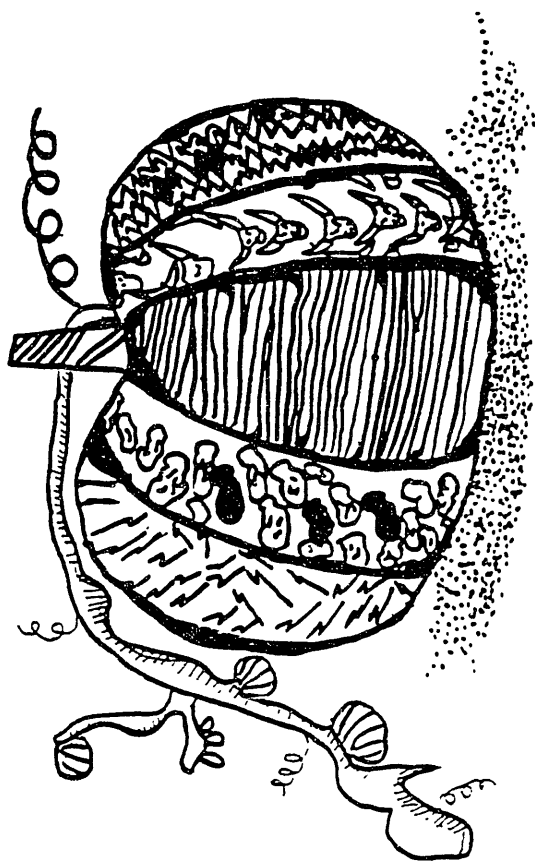
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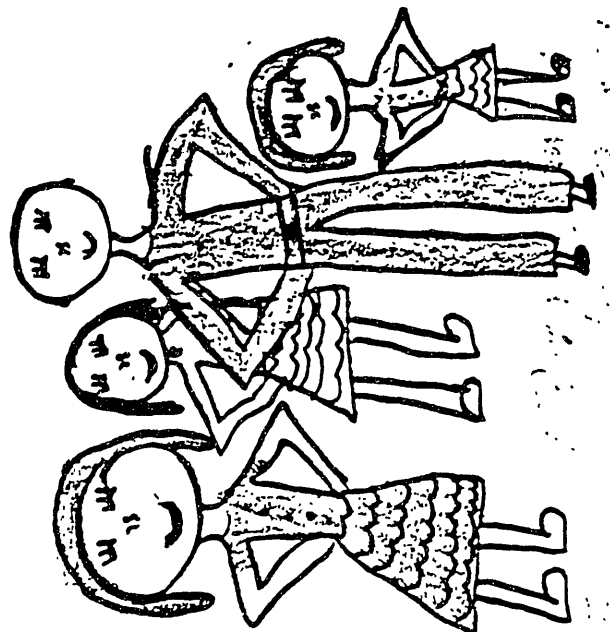
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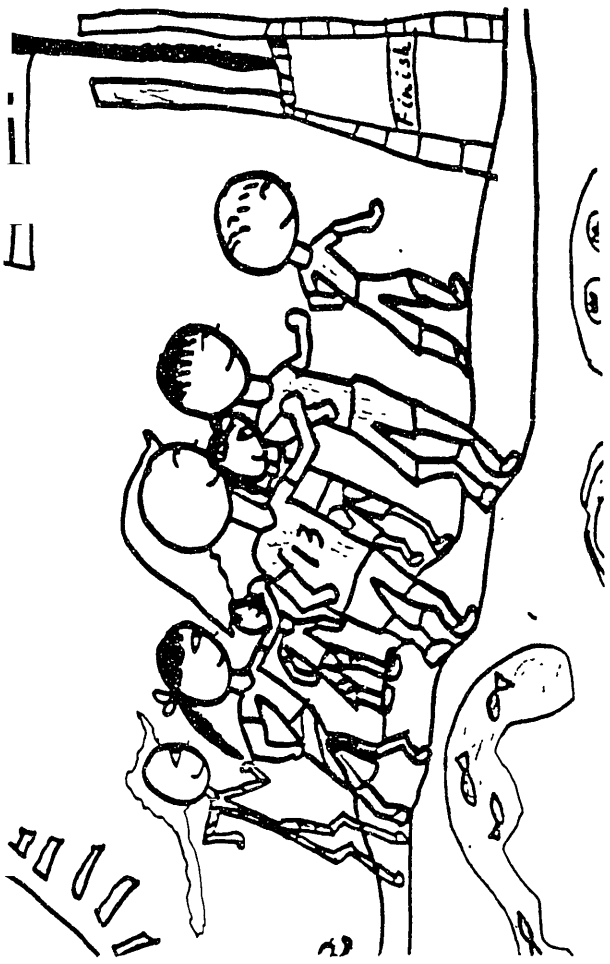
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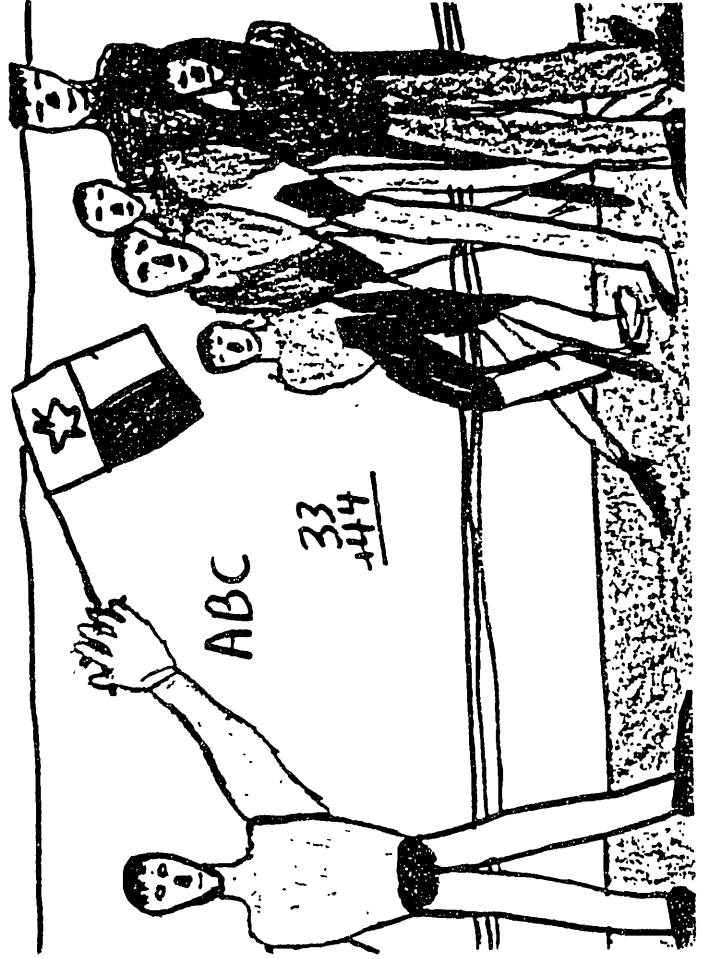
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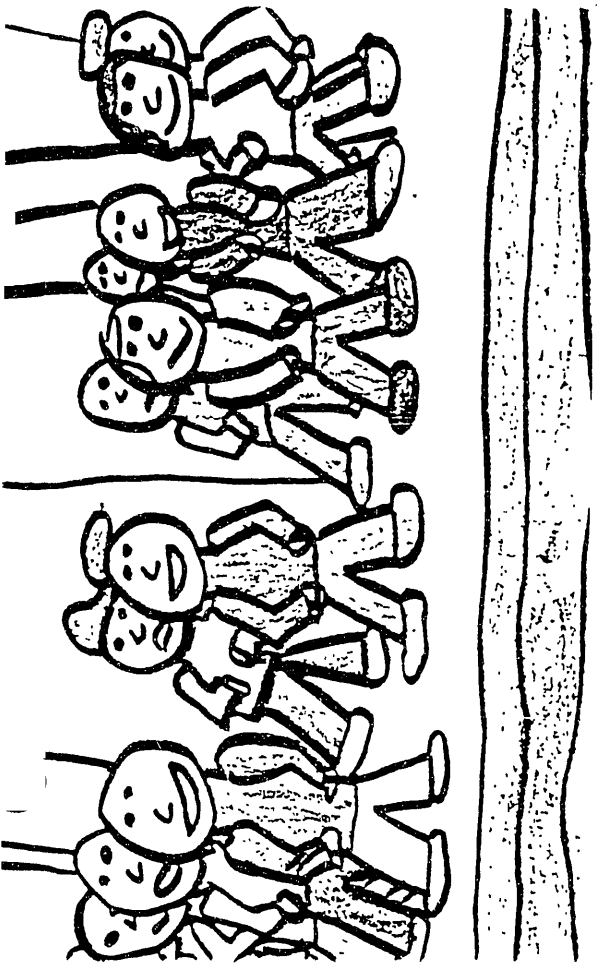
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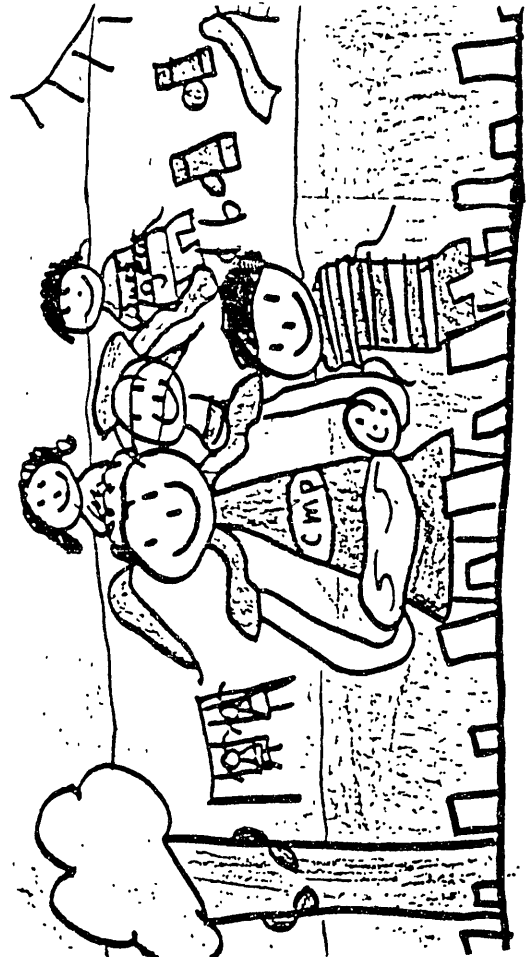


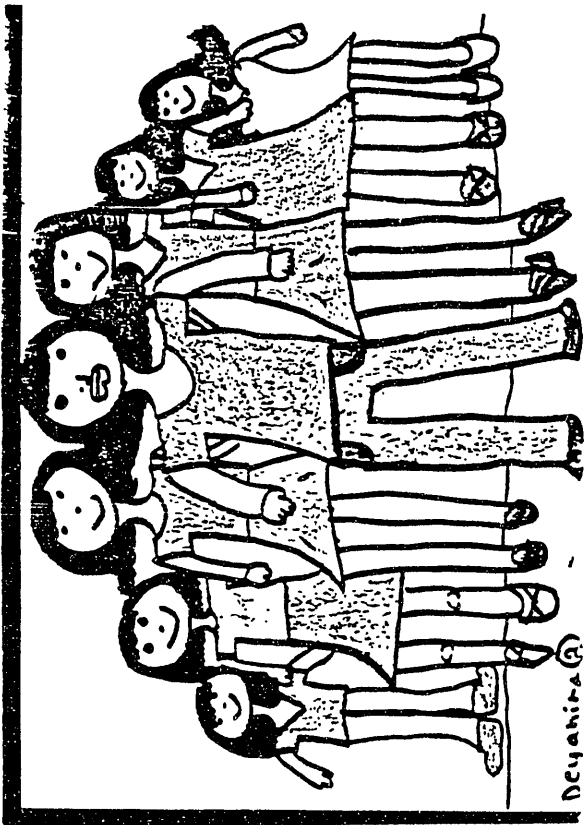
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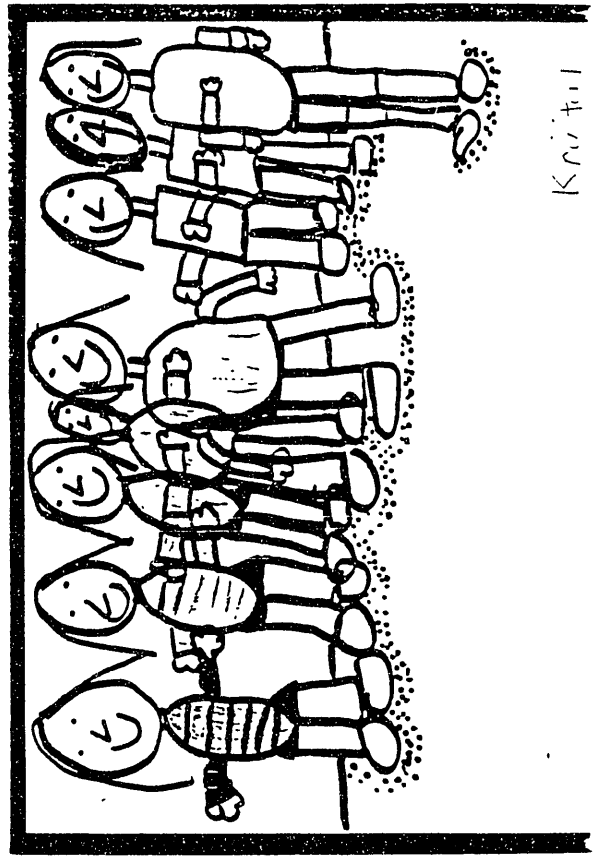




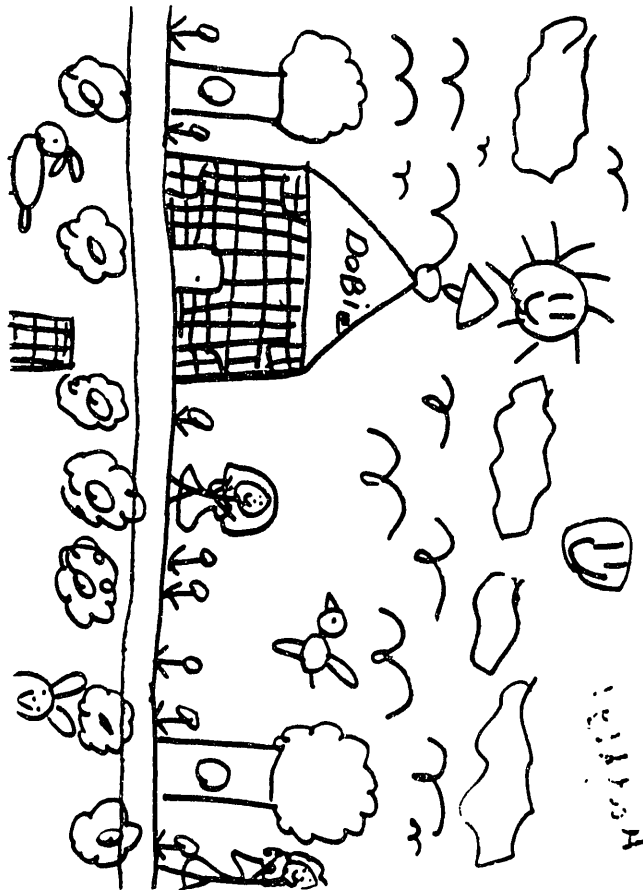
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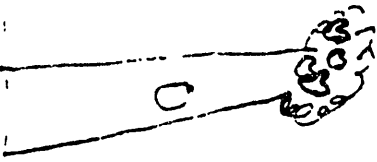
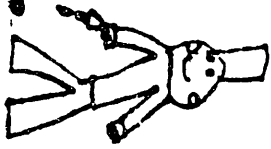
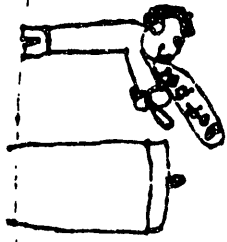
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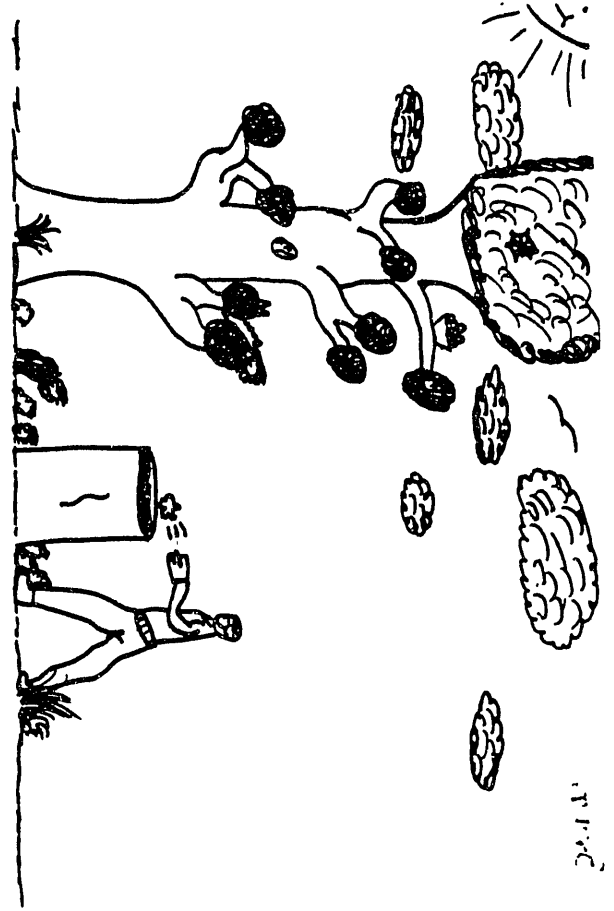
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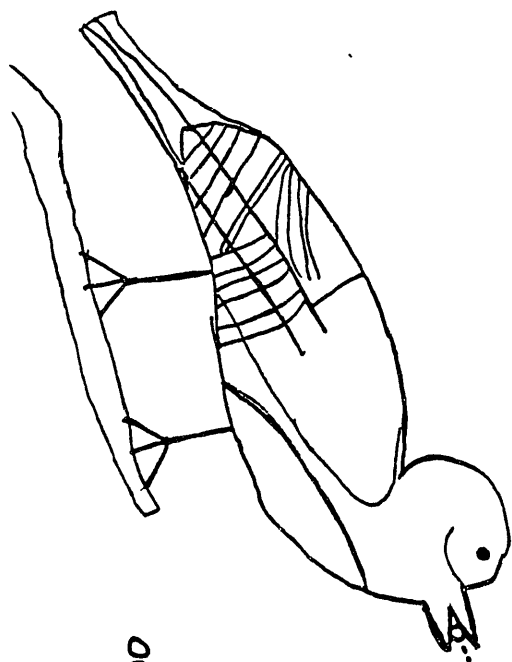
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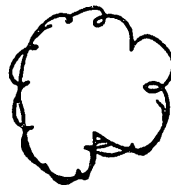


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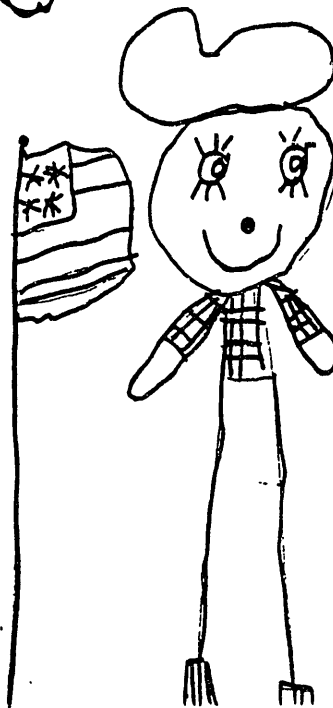


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# Texas Ethics Commission

- The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

## Opinion Requests

**AOR-69.** The Texas Ethics Commission has been asked to consider the effect of Ethics Advisory Opinion Number 13 (1992) to the lease of the car. The requestor states that, before Ethics Advisory Opinion Number 13 was issued, he leased a car with "the intent to prorate the cost of the lease and the operating costs between campaign and personal on a periodic basis." The requestor asks whether this transaction is "grandfathered" under State Ethics Advisory Commission Number 3 (1984). If so, the requestor asks whether he may continue to use political contributions to make lease payments and reimburse his political funds from personal funds.

**AOR-70.** The Texas Ethics Commission has been asked to consider the following questions:

1. If a lobbyist and a client have lunch with a member of the legislative or executive branch of state government in an attempt to influence pending legislation/administrative action affecting the client and the member pays for his or her own lunch, are the lobbyist's and/or client's expenditures for the lunch reportable under Chapter 305 of the Government Code on the lobbyist's activity report covering that period? Assuming the client is not a registered lobbyist and the client's paying for the meal does not require the client to register as a lobbyist, does it make any difference whether the client or the lobbyist pays for the meal?

2. If two or more lobbyists who are all working for the same client have lunch with a member of the legislative or executive branch of state government in an attempt to influence legislation/administrative action affecting the client and one of the lobbyists pays for everyone's lunches, including the member's how should that lobbyist report this expenditure under Chapter 305 of the Government Code? For example, are all of the lunches, including those attributable to the other lobbyists, included in the foods and beverage total on Schedule I of the lobbyist's activity report? Are the lunches attributable to the other lobbyists included anywhere on Schedule II of the lobbyist's activity report?

3. Do the reporting requirements change under the scenario described in Question 2 above if the lobbyists are representing different clients?

**AOR-71.** The Texas Ethics Commission has been asked to consider whether a state college or university is a "person" for purposes of the Penal Code, Chapter 36.

**AOR-72.** The Texas Ethics Commission has been asked about the application of the lobby statute of Texas Wing, the state division of the Civil Air Patrol. Texas Wing proposes to invite several statewide officials to attend its annual conference and to provide two nights of hotel accommodations and a banquet.

**AOR-73.** A state agency has asked whether state employees may use state credit cards for personal expenditures. The agency has also asked whether state employees may make personal use of "frequent flier" miles earned as a result of travel on state business.

**AOR-74.** The Texas Ethics Commission has been asked whether a lawyer must register as a lobbyist if he receives his regular hourly rate from a client to prepare and present comments on rules proposed by a state agency. The focus of the question is the meaning of the phrase "special or extra compensation" in 1 TAC §40.7(a)(4).

**AOR-75.** The Texas Ethics Commission has been asked the following question: May an organization that is not required to register present a free membership in the organization to a state or local government officeholder or employee in appreciation of a speech made before the organization?

**AOR-76.** The Texas Ethics Commission has been asked to consider whether a "director" of a state agency is an "officer" for purposes of Texas Civil Statutes, Article 6252-9b.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

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

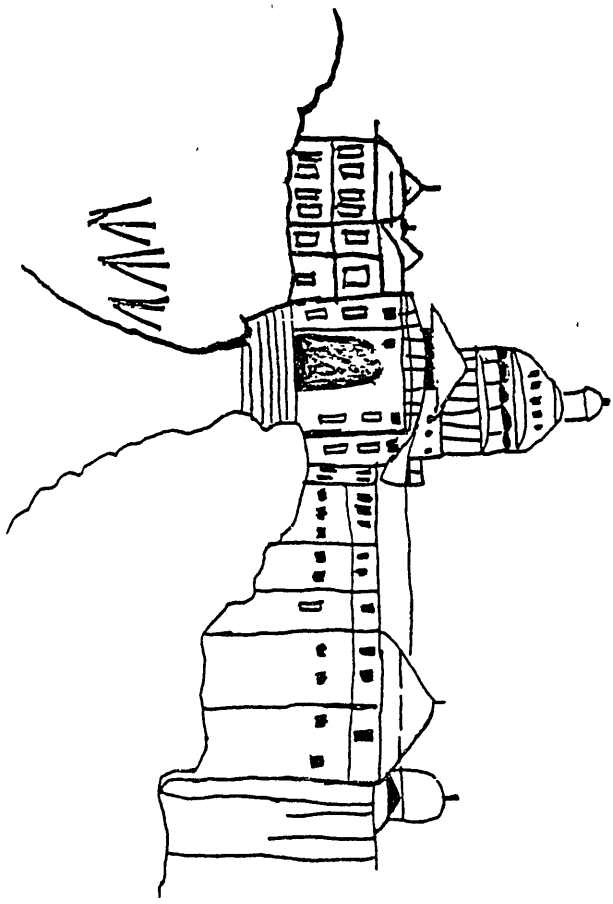
TRD-9209037

Sarah Woelk  
Director, Advisory Opinions  
Texas Ethics Commission

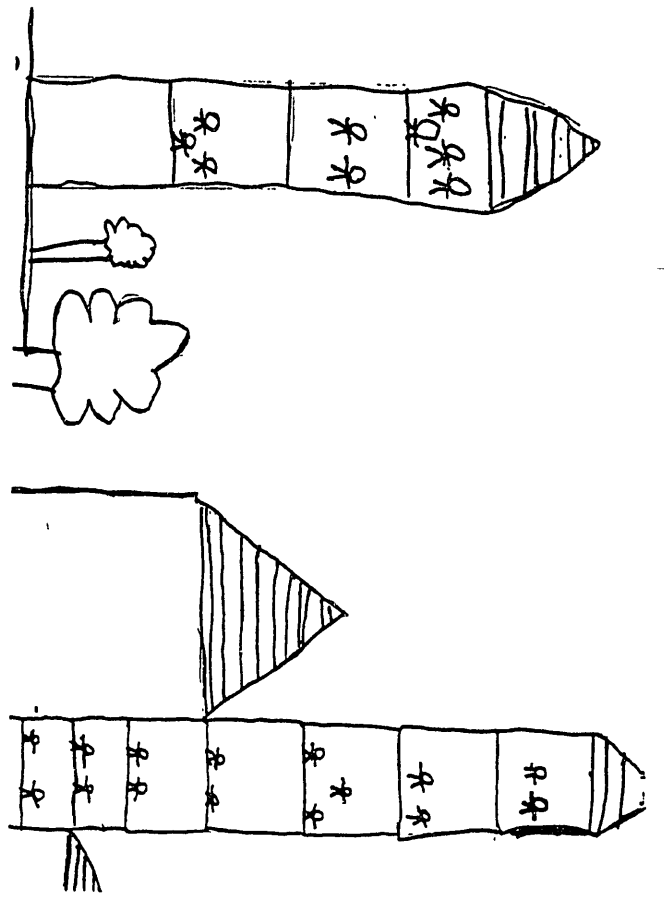
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For further information, please call: (512) 463-5800

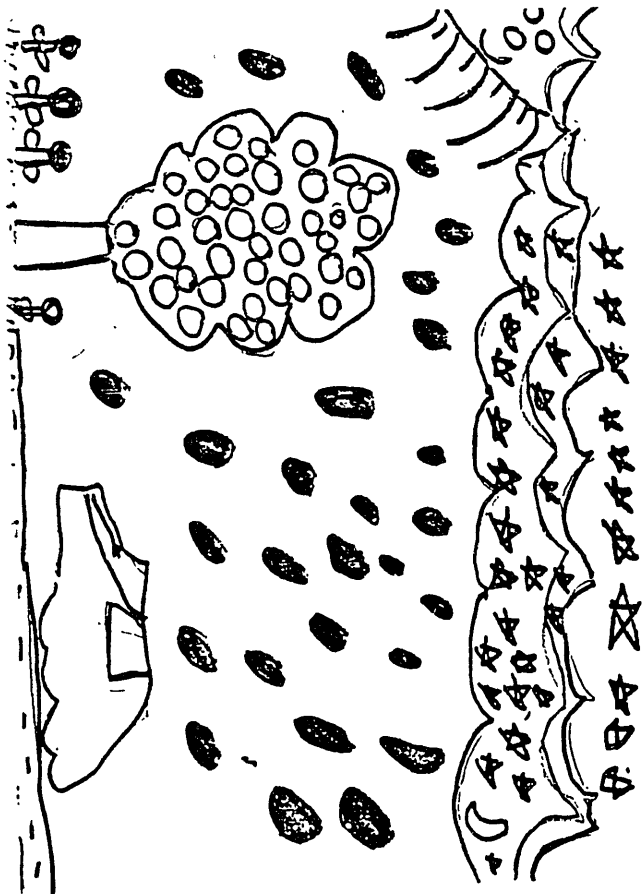




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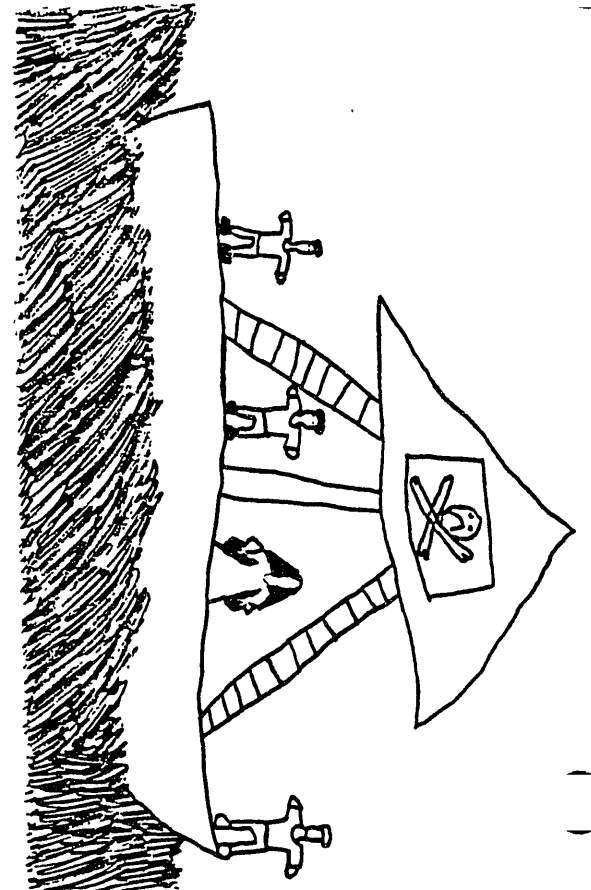


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# Emergency Sections

- 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 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

##### Subchapter C. Texas HIV Medication Program

###### General Provisions

###### • 25 TAC §98.104, §98.105

The Texas Department of Health (department) adopts on an emergency basis amendments to §98.104 and §98.105, concerning the Texas HIV Medication Program. The sections implement the provisions of the Communicable Disease Prevention and Control Act, Health and Safety Code, §§85.061-85.066, concerning the establishment of an HIV Medication Program in Texas. The program assists hospital districts, local health departments, public or non-profit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover eligibility for participation and medication coverage.

The amendments are adopted on an emergency basis in order to expeditiously provide medications to HIV infected individuals. It is imperative to address this serious and imminent threat to public health and safety by providing approved medications as soon as possible. The amendments also are being proposed for permanent adoption in this issue of the *Texas Register*.

The amendments are adopted on an emergency basis under the Communicable Disease Prevention and Control Act, 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; §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health; and Texas Civil Statutes, Article 6252-13a, §5, which provide the board with authority to adopt emergency rules.

###### §98.104. Medication Coverage.

(a)-(h) (No change.)

(i) Acyclovir capsules must be provided in increments of 100, not to exceed 200 per month. Acyclovir suspension must be provided in 473 ml. bottles of 200 mg./ml., not to exceed two bottles per month. Acyclovir powder for injection must be provided in 500 mg. vials, not to exceed 2-10 ml. vials per month.

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

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

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

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

(7) Acyclovir for the treatment of acute herpetic infections and chronic suppressive therapy for the treatment of recurrent disease.

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

TRD-9208994

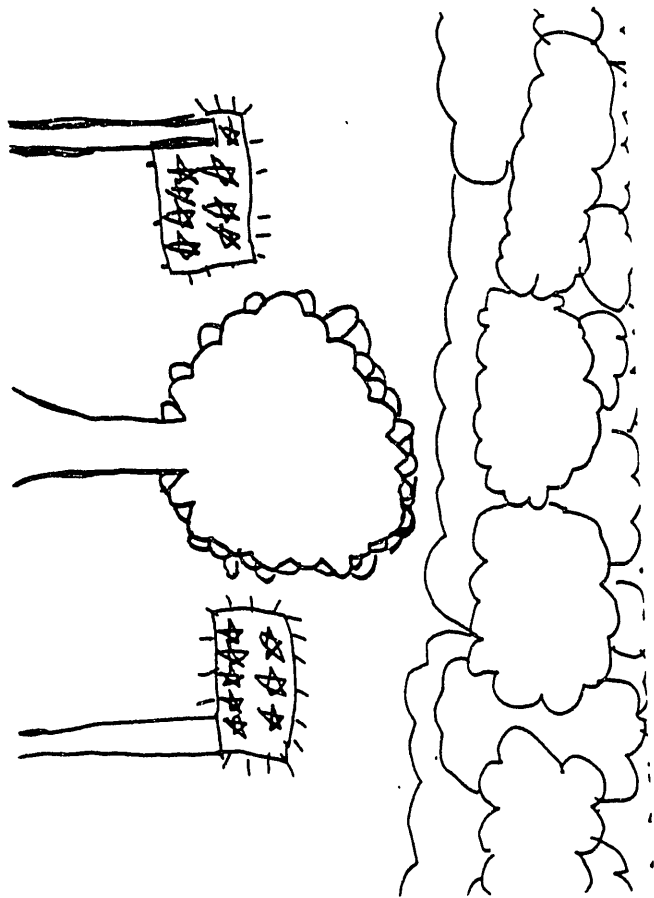
Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: June 29, 1992

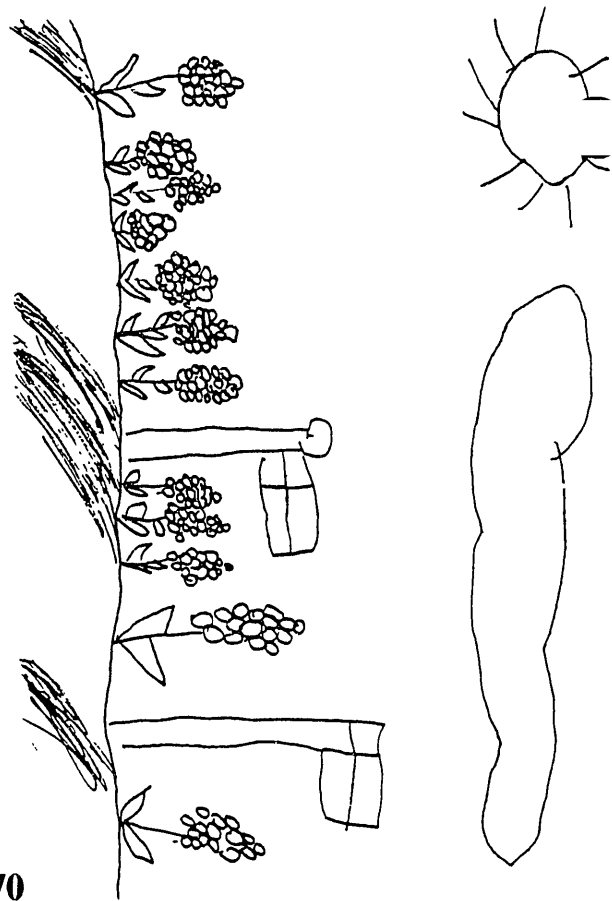
Expiration date: October 27, 1992

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

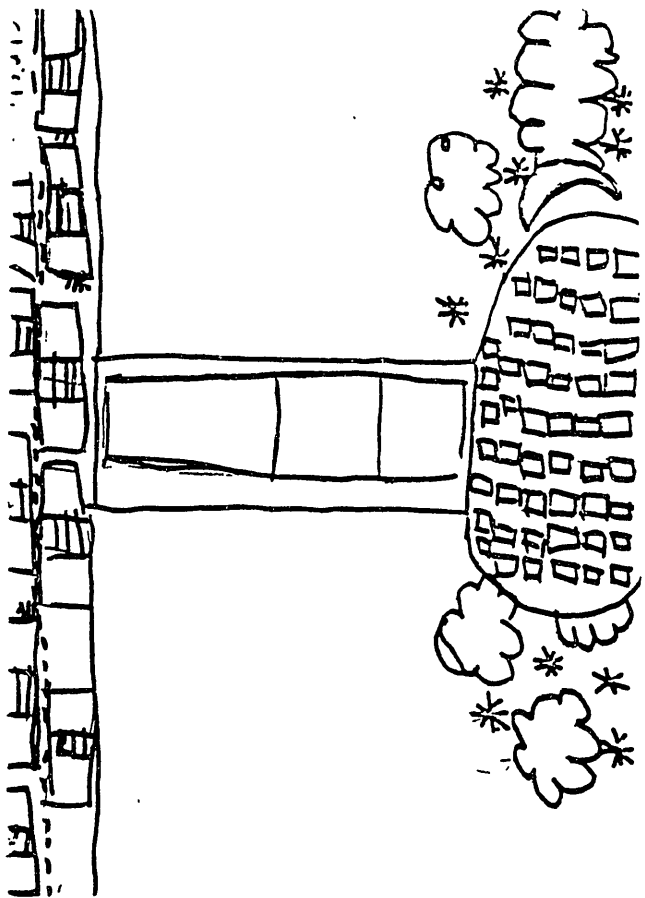




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# Proposed Sections

- 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 1. ADMINISTRATION

### Part I. Office of the Governor

#### Chapter 5. Budget and Planning Office

##### Subchapter B. State and Local Review of Federal and State Assistance Applications

###### Introduction and General Provision of Texas Review and Comment System

###### • 1 TAC §5.195

The Governor's Office proposes an amendment to §5.195, of the Texas Review and Comment System (TRACS) rules. The proposed changes delete programs no longer in existence or no longer deemed necessary to review; add new programs for review; and conform program numbers to current listings in the Catalog of Federal Domestic Assistance.

Applications for financial assistance under programs listed in Tables I and II must be submitted to the State Single Point of Contact or Regional Review Agencies, as appropriate, for review.

T.C. Adams, State Single Point of Contact, has determined that there will be no fiscal implications as a result of enforcing or administering the section.

Mr. Adams also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section will be more effective use of public financial resources, reduced paperwork associated with the review process, and streamlined review procedures. No changes in the potential economic costs to individuals who are required to comply with the rules as proposed are anticipated as a result of the proposed amendments.

Comments on the proposal may be submitted to T.C. Adams, State Single Point of Contact, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, for a period of 30 days following publication.

The amendment is proposed under Texas Civil Statutes, Article 4413(32a) and Article 1011m, which authorize the Governor's Office to provide for the review of state and local applications for grant and loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commissions and directs the governor to issue guidelines for carrying out such reviews.

###### §5.195. Program Coverage.

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

(c) Federal programs included for review under TRACS pursuant to these laws, plus selected other activities, including all direct federal development, are shown in Table I. Copies of Table I may be obtained from the State Single Point of Contact, Governor's Budget and Planning Office, P.O. Box 12428, Austin, Texas 78711. As required by state law (Texas Civil Statutes, Article 4413 (32a), all state agencies must notify the governor's office when applying for federal funds.

TABLE 1

## FEDERAL PROGRAMS REQUIRING TRACS REVIEW

AGENCY	PROGRAM NAME	CATALOGUE OF FEDERAL DOMESTIC ASSISTANCE NUMBER
ACTION	Foster Grandparent Program (FGP)	72.001
	Retired Senior Volunteer Program (RSVP)	72.002
	Volunteers in Service to America (VISTA)	72.003
	Senior Companion Program (SCP)	72.008
	[Mini-Grant Program	72.010]
	[Volunteer Demonstration Program	72.012]
	[Technical Assistance Program (TAP)	72.013]
DEPARTMENT OF AGRICULTURE Farmers Home Administration		
	Farm Labor Housing Grants*	10.405
	[Irrigation and Drainage Loans*	10.409]
	Site Development Loans*	10.411
	Self-Help Site Development Loans*	10.411
	[Recreation Facility Loans*	10.413]
	Resource Conservation and Development Loans*	10.414
	Soil and Water Loans*	10.416
	Water and Waste Disposal Loan and Grant Program	10.418
	Mutual and Self-Help Housing Grants*	10.420
	Self-Help Technical Assistance Grants*	10.420
	Business and Industrial Loans*	10.422



AGRICULTURE	Community Facilities Loans*	10.423
	Industrial Development Grants*	10.424
	Rural Assistance Payments*	10.427
	[Energy Impacted Area Development [Assistance ]	10.427]
	[Biomass Energy and Alcohol Fuel Loans*	10.432]
<b>Food &amp; Nutrition Service</b>		
	School Breakfast Program	10.553
	National School Lunch Program	10.555
	Special Milk Program for Children	10.556
	Special Supplemental Food Program for Women, Infants and Children	10.557
	Child Care Food Program	10.558
	Summer Food Service Program	10.559
	Nutrition Education and Training Program	10.564
	Commodity Supplemental Food Program	10.565
<b>Forest Service</b>		
	[Cooperative Forestry Assistance	10.664]
<b>Soil Conservation Service</b>		
	Watershed Planning and Operations	10.904
	Flood Plain Management	10.904
	River Basin Survey and Investigation	10.906
<b>DEPARTMENT OF THE ARMY</b>		
<b>Corps of Engineers</b>		
	Planning, Design and Construction of Civil Works Projects Specifically Authorized by Congress	none
	Recreation Facilities at Completed Projects]	

ARMY

Continuing Authorities Program:

Planning Design and Construction of Small  
Projects Not Specifically Authorized by  
Congress.

Beach Erosion Control (Section 103 Program)	12.101
<u>Watershed Planning and Operations</u>	<u>12.104</u>
Emergency Streambank and Shoreline Protection of Public Works (Section 14 Program)	12.105
Flood Control (Section 205 Program)	12.106
Navigation (Section 107 Program)	12.107
Snagging and Clearing for Flood Control (Section 208 Program)	12.108
Snagging and Clearing for Navigation (Section 3 Program)	12.109
Mitigation of Shore Damage Attributable to Navigation Projects (Section III Program)	none

DEPARTMENT OF COMMERCE

Economic Development -- Grants for Public and Development Facilities	11.300
Economic Development -- Business	11.301
Development Assistance Economic Development -- Support for Planning Organizations*	11.302
Economic Development -- Technical Assistance (when the application is by or for the benefit of a state or local government)*	11.303
Economic Development -- Public Works Impact Projects*	11.304

MERCE

Economic Development -- State and Local Economic Development Planning*	11.305
[Economic Development -- District [Operational Assistance*]	11.306]
Special Economic Development and Adjustment Assistance Program Long-Term Economic Deterioration*	11.307
Commercial Fisheries Research and Development	11.407
Coastal Zone Management Program Administration*	11.419
Coastal Zone Management Estaurine Sanctuaries	11.420
[Coastal Energy Impact Program -- [Formula Grants*]	11.421]
[Coastal Energy Impact Program -- [Planning Grants*]	11.422]
[Coastal Energy Impact Program -- [Loans and Guarantees*]	11.423]
[Coastal Energy Impact Program -- [Environmental Grants*]	11.424]
[Coastal Energy Impact Program -- [Outer Continental Shelf State] [Participation Grants]	11.425]
Financial Assistance for Marine Pollution Research (state and local government applicants)	11.426
Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program (state and local government applicants)	11.427
Public Telecommunications Facilities	11.550
Minority Business Development	11.800
Management and Technical Assistance (state and local government applicants)	

DEPARTMENT OF EDUCATION

Adult Education -- State Administered Program	84.002
Bilingual Education	84.003
Migrant Education Program -- State Formula Grant Program	84.011
[Follow Through	84.014]
Handicapped Preschool and School Programs	84.027
Public Library Services	84.034
Interlibrary Cooperation	84.035
School Assistance in Federally Affected Areas -- Construction	84.040
[Upward Bound Program	84.047]
Vocational Education -- Basic Grants to States	84.048
Vocational Education -- Consumer and Homemaking Education	84.049
[Vocational Education -- Program [Improvement and Supportive Services]	84.052]
[Vocational Education -- Special [Programs for the Disadvantaged]	84.052]
Vocational Education -- State Advisory Councils	84.053
Indian Education -- Special Programs and Projects to Improve Educational Opportunities for Indian Children	84.061
Indian Education -- Adult Indian Education	84.062
[Veterans Education Outreach Program	84.064]
[National Diffusion Network Program, [Law Related Education Program] [Inexpensive Books Distribution Program,]	84.073]
Arts in Education Program, Alcohol and Drug Abuse Program	

Bilingual Vocational Training and Evaluation Rehabilitation Services Basic Support	84.077
Rehabilitation Services Client Assistance Projects	84.128F
Rehabilitation Services -- Migratory Worker Vocational Rehabilitation Service Projects	84.128G
[Centers for Independent Living	84.132]
[High School Equivalency Program [(Migrant) ]	84.141]
Migrant Education -- Interstate and Intrastate Coordinational Program	84.144
[Transition Program for Refugee Children	84.146]
The following programs authorized by Subchapter D of Chapter 2 of the Education Consolidation and Improvement Act	84.151
[Neglected or Delinquent Transition [Services]	84.152]
Public Library Construction	84.154
[National Program for Math & Science	84.164]
[Library Literacy Program	84.167]
[Robert C. Byrd Honors Scholarship	84.185]
[Star Schools Program	84.103]
[Jacob K. Javits Gifted & Talented	84.206]
<u>Secondary Schools Basic Skills Program</u>	<u>84.227</u>
<u>Technology Education Demonstration</u>	<u>84.230</u>
[Mid-Career Teacher Training	84.232]
<u>Adult Education for the Homeless</u>	<u>84.192</u>
<u>Workplace Literacy Partnership</u>	<u>84.198</u>
<u>School Dropout Demonstration Assistance</u>	<u>84.203</u>

EDUCATION

<u>Secondary &amp; Transition Services for Youth with Disabilities</u>	<u>84.158</u>
<u>Emergency Immigrant Education</u>	<u>84.162</u>
<u>Training Program for Educators Alcohol Abuse</u>	<u>84.238</u>
<u>Improvement and Reform of Schools and Teachers</u>	<u>84.211</u>
<u>Program for Children with Severe Handicaps</u>	<u>84.086</u>
<u>Drug-Free Schools and Communities Activities Program</u>	<u>84.184</u>
<u>Drug-Free Schools and Communities Emergency Program</u>	<u>84.233</u>
<u>Drug-Free Schools and Communities Training Personnel</u>	<u>84.207</u>
<u>Special Projects/vocation Rehabilitation Severe Handicaps</u>	<u>84.235</u>
<u>Training Personnel/Education of the Handicapped</u>	<u>84.029</u>
<u>Parent Training &amp; Information Centers Program</u>	<u>84.029M</u>
<u>Comprehensive School Health Education</u>	
<u>Computer-Based Instruction Program</u>	
<u>Cooperative Education Program</u>	
<u>Developing Training Prototype/Gifted LEP Learners</u>	
<u>K-12 Bilingual Ed/ESL Curriculum-Based</u>	
[Advanced Instructor & Curriculum Design]	
School Health Education - HIV Education	
[Schools and Teachers Program School Level]	
[Self-Determination Curriculum Project]	

EDUCATION

[Classroom Management and Discipline Program]  
[Training of Teachers, Counselors and Personnel]  
Higher Education Leadership Training Program  
[Schools and Teachers/Pride Project]  
[Training of Teachers, Counselors & Personnel]

DEPARTMENT OF ENERGY

State Energy Conservation	81.041
Weatherization Assistance for Low-Income Persons	81.042
Energy Extension Service	81.050
Energy Conservation for Institutional Buildings	81.052
[Geothermal Loan Guarantees	81.074]
[Alcohol Fuels Loan Guarantees	81.074]
[Loan for Geothermal Reservoir [Confirmation Projects]	81.074]
[Loans for Small Hydroelectric Power [Project Feasibility Studies and] [Related Licensing]	81.074]
[Wind Energy Technology Application [Program]	81.074]
[Loan Guarantees for Alternative [Fuel Demonstration Facilities]	81.074]
[Strategic Petroleum Reserve Program]	

ENVIRONMENTAL PROTECTION AGENCY

State and Local Assistance Programs

<u>Emergency Community Water Assistance</u>	<u>10.440</u>
Air Pollution Program*	66.001
Construction Grants for Wastewater Treatment Works*	66.418

EPA	Water Pollution Control -- State and Interstate Program Grants*	66.419
	Water Quality Management Planning State Public Water System Supervision Program Grants	66.454
	State Underground Water Source Protection -- Program Grants*	66.433
	[Hazardous Waste Management Financial Assistance to States*]	66.451]
	<u>Wetlands Protection-State Development</u>	<u>66.461</u>
	[State Inventories of Uncontrolled Hazardous Waste Sites*]	none]
	Environmental Protection <u>66.500</u> Consolidated <u>Research</u> Grants [Program Support*]	[66.600]
	[Loan Guarantees for Construction of Treatment Works*]	66.603]
	Pesticides Enforcement Program Grants*	66.700
	<u>Toxic Release Inventory Data</u>	<u>66.705</u>
	Superfund Cooperative Agreements (Remedial Clean Ups)* Research, Development and Demonstration Projects	66.802
	<u>Solid Waste Management Assistance</u>	<u>66.080</u>
	<u>Climate Change State Grant Program</u>	<u>66.901</u>
	<u>State/EPA Data Management Financial Assistance</u>	<u>66.925</u>
	Environmental Protection -- Consolidated Research Grants	66.501
	Air Pollution Control Research Grants	66.501
	Pesticides Control Research Grants	66.502
	Solid Waste Disposal Research Grants	66.504
	Water Pollution Control -- Research, Development, and Demonstration Grants*	66.505
	Safe Drinking Water Research and Demonstration Grants	66.506





Toxic Substances Research Grants*	66.507
Real Property Acquisition or Disposition, Including Obtaining Major Leases or Easements*	none
Construction of New EPA Facilities*	none
EPA Issued Plans and Permits Which Do Not Impact Interstate Areas*	none

FEDERAL EMERGENCY MANAGEMENT AGENCY

Emergency Management Assistance	83.503
Population Protection Planning	83.514
State and Local Maintenance and Services	83.504
State and Local Warning and Communications	83.513
State and Local Emergency Operating Centers	83.512
[The state assistance program under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq]	83.501
[Disaster preparedness grants	83.505]
[Earthquake and hurricane preparedness planning grants]	83.506
Grants, loans, or other financial assistance under Sections 402 and 414 of the Disaster Relief Act of 1974, as amended 42 U.S.C. 5172, 5184	
[State fire incident reporting assistance under Federal Fire Prevention and Control Act]	83.407

GENERAL SERVICES ADMINISTRATION

[Lease Construction Projects 41 CFR 101-18.100(e)]	none
Intergovernmental Consultation on Federal Projects 41 CFR 101.10.100	none

GSA	Disposals to Public Agencies	39.002
DEPARTMENT OF HEALTH AND HUMAN SERVICES		
	<u>HIV-Related Tuberculosis Demonstration</u>	<u>93.118</u>
	<u>AIDS Education and Training Centers</u>	<u>93.145</u>
	Family Planning Projects	13.217
	Community Health Centers	13.224
	Migrant Health Centers Grants	13.246
	National Health Service Corps	13.258
	Family Planning Services	13.260
	[Occupational Safety and Health Research Grants]	13.262
	State Health Planning and Development Agencies	13.293
	Health Systems Agencies <u>93.294</u>	[13.294]
	<u>Abandoned Infants Assistance Program</u>	<u>93.551</u>
	Head Start <u>93.600</u>	[13.600]
	Runaway Youth <u>93.623</u>	[13.623]
	Child Abuse <u>93.623</u>	[13.623]
	Developmental Disabilities --	13.630
	Basic Support and Advocacy Grants	
	Developmental Disabilities --	13.631
	Special Projects	
	Aging -- Title III A & B --	13.633
	Grants for Supportive Services and Senior Centers	
	Aging, Title III C -- Nutrition	13.635
	Child Welfare Services State Grants	13.645
	WIN <u>93.646</u>	[13.646]
	Community Services <u>93.031</u>	[13.665]
	Block Grants	
	Social Services Block Grant <u>93.667</u>	[13.667]



Low-Income Home Energy Assistance	<u>93.818</u>	[93.818]
<u>Drug/Alcohol Prevention-Community Based</u>		<u>93.194</u>
<u>Drug/Alcohol Abuse Treatment Target Cities</u>		<u>93.196</u>
<u>Prevention-Illegal Drug Use/Alcohol</u>		<u>93.901</u>
<u>Drug Abuse Treatment for Critical Populations</u>		<u>93.902</u>
<u>Treatment Program/Criminal Justice Populations</u>		<u>93.903</u>
<u>AID/HIV Services/Community Health</u>		<u>93.904</u>
<u>Early Intervention Services to HIV Disease</u>		<u>93.918</u>
<u>Sexually Transmitted Disease Prevention</u>		<u>93.977</u>
[Venereal Disease		13.977]
Health Programs for Refugees	<u>93.987</u>	[13.987]
<u>Healthy Start</u>		<u>93.926</u>
National Health Promotion Training Network	<u>93.990</u>	[13.990]
Preventive Health and Health Services	<u>93.991</u>	[13.991] 13.991
Alcohol, Drug Abuse and Mental Health	<u>93.992</u>	[93.992]
Maternal and Child Health		13.994
Adolescent Family Life Demonstration Program		13.995
[Lifegift Organ donation Center]		
[Comprehensive Primary Care Program]		
[Title XIX Medical Assistance Plan Amendments]		
[Childhood Immunization]		

Cuban-Haitian Special	<u>16.201</u>	[none]
Refugee Assistance Targeted Assistance Grants to States		none
Entrant Assistance Targeted Assistance Grants to States		none

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Insured Housing

Mortgage Insurance -- Construction or Substantial Rehabilitation on Condominium Projects		14.112
[Mortgage Insurance -- Development of Sales Type Cooperative Projects]		14.115
[Mortgage Insurance -- Investor Sponsored Cooperative Housing]		14.124
[Mortgage Insurance -- Land Development and New Communities]		14.125
Mortgage Insurance -- Management Type Cooperative Projects		14.126
Mortgage Insurance -- Manufactured (Mobile) Home Parks		14.127
[Mortgage Insurance Rental Housing		14.134]
Mortgage Insurance Rental Housing for Moderate Income Families		14.135
[Mortgage Insurance -- Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate]		14.137
Mortgage Insurance -- Rental Housing for the Elderly		14.138
Mortgage Insurance -- Rental Urban Renewal		14.139
Supplemental Loan Insurance -- Multifamily Rental Housing		14.151
[Low Income Housing -- Assistance Program]		14.145

HUD

[Low Income Housing -- Homeownership Opportunities for Low Income Families]	14.147
Low Income Housing Assistance Program	14.156
Housing for the Elderly or Handicapped	14.157
[Public Housing -- Comprehensive Improvement Assistance Program]	14.158
Congregate Housing Services Program	14.170
Community Development Block Grants/Entitlement Grants*	14.218
[Urban Development Action Grants*	14.221]
<u>Community Development Block Grants States' Program</u>	<u>14.228</u>
Fair Housing Assistance Program	14.401
Housing Counseling Program	14.169
[Surplus Land for Low and Moderate Income Housing]	14.211
Community Development Block Grants/State's Program	14.219
<u>Public Housing Drug Elimination</u>	<u>14.854</u>

DEPARTMENT OF THE INTERIOR

Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining	15.250
Abandoned Mine Land Reclamation Program	15.252
Irrigation Distribution System Loans	15.501
Irrigation Systems Rehabilitation and Betterment	15.502
Small Reclamation Projects	15.503
Endangered Species Conservation	15.612
Historic Preservation -- Grants-in-Aid	15.904

DOI

Outdoor Recreation -- Acquisition, Development and Planning (Land and Water Conservation Fund Grants)	15.916
Urban Park and Recreation Recovery Program	15.919
Atmospheric Water Resources Management Program Research	none

DEPARTMENT OF JUSTICE

Bureau of Prisons -- Construction projects such as correctional institutions and detention centers	none
Immigration and Naturalization Services -- Construction projects such as border patrol stations	none
[Desegregation of Public Education	16.100]
Office of Juvenile Justice and Delinquency Prevention, -- Formula Grant Program	16.540
Office of Juvenile Justice and Delinquency Prevention -- Special Emphasis and Technical Assistance Grants, except grants to nongovernmental entities	16.541
[Marial-Cubans Reimbursement	16.572]
Office of Justice Assistance, Research, and Statistics -- Categorical Grants for Crime Prevention and Criminal Justice Improvement	none

DEPARTMENT OF LABOR

Employment Service, Stat: Section 501 of Public Law 97-300	17.207
Migrant and Seasonal Farmworkers Program, Stat: Section 402 (d) of Public Law 97-300	17.230
Senior Community Service Employment Program, Stat: P.L. 95-478 Sections 432 (d), e) and (f) of	17.235
Job Corps, Stat: Section 435, Public Law 97-300	none

LABOR	Job Training Partnership Act, Stat: Public Law 97-300	none
	Disabled Veteran's Outreach Program Stat: 38 U.S.C. 2003A	17.801
NATIONAL ENDOWMENT FOR THE ARTS		
	Promotion of the Arts State Programs/Office for Public Partnership (Basic State Grants	45.007
NATIONAL SCIENCE FOUNDATION		
	Intergovernmental Science and Technology Programs	47.036
SMALL BUSINESS ADMINISTRATION		
	Small Business Development Center Program	59.037
DEPARTMENT OF TRANSPORTATION		
	Federal Highway Administration (FHWA) Highway Planning and Construction*	20.205
Urban Mass Transportation Administration (UMTA)		
	Section 3 Discretionary Capital Grants	20.500
	[UMTA Grants for University Research and Training]	
	Section 4 (i) Innovative Techniques Program*	n/a
	Section 5 Formula Grant Program*	20.507
	[Section 6 Research, Development and Demonstration Grant Program	20.504 20.506 20.510]
	Section 8 Planning and Technical Studies*	20.505
	Section 9 Block Grant Program*	n/a
	Section 16 Grants to Meet Special Needs of Elderly and Handicapped Persons*	n/a

Section 18 Formula Grant Program for Non-Urbanized Areas*	20.509
Federal Aviation Administration (FAA)	
[Airport Development Aid Program*	20.102]
Airport Improvement Program*	20.106
Maritime Administration (MARAD)	
Development and Promotion of Ports and Intermodal Transportation	20.801
Research and Special Programs Administration	(RSPA)
Natural Gas Pipeline Safety Grants	20.700
ALL FEDERAL AGENCIES	
All direct federal development not specifically excluded by law from review.	n/a
* Programs covered by Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334)	

TABLE II  
STATE-ADMINISTERED PROGRAMS REQUIRING TRACS REVIEW

AGENCY	PROGRAM NAME	CATALOGUE OF FEDERAL DOMESTIC ASSISTANCE NUMBER
AVIATION DEPARTMENT		
TEXAS DEPT. OF TRANSPORTATION		
	Airport Improvements	State
AGING	Aging, Title III A and B (Area Plans)	13.633
	Aging, Title III C - Nutrition	13.635
	Aging, Title IV - Training and Education	13.668
	Retired Senior Volunteer Program	72.002
COMMISSION ON ALCOHOL AND DRUG ABUSE		
	Alcohol & Drug Abuse Treatment and Rehabilitation Alcohol,	13.141



TCADA

Drug Abuse and Mental Health Block Grant (Only alcohol and drug abuse funding is administered by TCADA) 13.992

State Funds for Community-based Services State

Drug Free Schools and Communities 84.186

COMMISSION ON THE ARTS

Financial Assistance State

COMMISSION FOR THE BLIND

Vocational Rehabilitation Services 84.126

TEXAS DEPARTMENT OF COMMERCE

Minority Business Development 11.800

Workforce Development Incentive Program none]

Job Training Partnership Act (Local Service Delivery Area Plans Only) none

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Community Services Block Grant 13.665

Texas Community Development Program (Except Emergency/Discretionary Funding) 14.228

Texas Capital Fund none

Special Impact Fund none

Planning/Capacity Building Fund none

Texas Rental Rehabilitation Program none

TEXAS EDUCATION AGENCY

Apprenticeship Training State

Vocational Education -- Program 84.050

TEA Improvement and Support Services

GOVERNOR'S ENERGY MANAGEMENT CENTER

State Energy Conservation 81.041

Energy Extension Service 81.050

Energy Conservation for Institutional Buildings 81.052

Oil Overcharge Program (excluding consultant contracts and programs for which a regional review agency is a competing applicant.)

GOVERNOR'S BUDGET & PLANNING OFFICE

[State Assistance to Regional Councils] State

GOVERNOR'S CRIMINAL JUSTICE DIVISION

Planning Fund State

[Regional Coordination of Criminal Justice Programs] State]

[Regional Criminal Justice Planning] State]

[Regional Law Enforcement Training] State]

[Regional Purchase of Juvenile Services] State

[Regional Rural Crime Prevention] State]

[Runaway Hotline] State]

[Child Support Enforcement Revision] State]

[Texas Crime Victim Clearinghouse] State]

[Prison Prosecution Unit Visiting Judges Supplement] State

DEPARTMENT OF HEALTH

AIDS Prevention & Surveillance 13.118

Preventive Health and Health Services (Emergency Medical Services Only) 13.991

Maternal and Infant Health (MIHIA) State

TEXAS DEPARTMENT OF TRANSPORTATION

Highway Construction, Research and Planning	20.205
Highway Beautification	20.214
Urban Mass Transportation Capital Improvement	20.500
Urban Mass Transportation Technical Studies Grants	20.505
Urban Mass Transportation Capital & Operating Assistance Formula Grants	20.507
Mass Transit Account Formula Distribution	-----
Public Transportation for Nonurbanized Areas	-----
Section 9 Block Grant Program	-----

HISTORICAL COMMISSION

Historic Preservation Grants-in-Aid	15.904
Texas Historic Preservation Grants	none

DEPARTMENT OF HUMAN SERVICES

School Breakfast Program	10.553
Nutrition Education and Training Program	10.555
Child Care Food Program	10.558
Summer Food Service Program	10.559
Commodity Supplemental Food Program	10.565
Child Abuse	13.628
Work Incentive Program	13.646

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

Public Library Service	84.034
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	Interlibrary Cooperation	84.035
LIBRARY	Public Library Construction	84.154
	Library Systems Act	none
MENTAL HEALTH/MENTAL RETARDATION		
	Demonstration Project for Persons who are Autistic	state
REHABILITATION COMMISSION		
	Developmental Disabilities -- Basic Support & Advocacy Grants	13.630
	Developmental Disabilities -- Special Projects	13.631
	Rehabilitation Services -- Basic Support	84.126
	Client Assistance Projects	84.128f
	Migratory Worker Vocational	84.128g
	Rehabilitation Service Projects Centers for Independent Living	84.132
TEXAS PARKS AND WILDLIFE DEPARTMENT		
	Hunter Education Shooting Range Program	15.611
	Land and Water Conservation Fund Program	15.916
	Texas Local Parks, Recreation and Open Space Fund Program	none
	Urban Parks and Recreation Recovery Program (UPARR)	15.919
TEXAS WATER COMMISSION		
	Wastewater Treatment Construction Grants	66.418

AGENCIES: All direct state development that meets TRACS threshold criteria and is not specifically excluded by law from review.

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 June 25, 1992.

TRD-9208807 David A. Talbot, Jr.  
General Counsel  
Office of the Governor

Earliest possible date of adoption: August 7, 1992

For further information, please call: (512) 463-1778

## TITLE 22. EXAMINING BOARDS

### Part VIII. Texas Appraiser Licensing and Certification Board

#### Chapter 153. Provisions of the Texas Appraiser Licensing and Certification Act

##### • 22 TAC §153.17

The Texas Appraiser Licensing and Certification Board proposes an amendment to §153.17, concerning renewal of certification, license, or trainee approval; continuing education. Proposed subsection (e) adds specificity to the appraiser continuing education (ACE) requirements, including the implementation date of two years after implementation of the federal Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), the purpose of appraiser continuing education, types of acceptable educational offerings and courses, acceptable appraisal related topics, and allowing credit for the teaching of appraisal courses and other appropriate activities. It would also require a minimum of seven hours of coverage of the uniform standards of professional appraisal practice (USPAP) every other renewal. Proposed subsection (f) concerns the requirements for renewing an appraiser trainee authorization and specifies that a trainee must complete 15 classroom hours of the USPAP in order to renew the authorization the first year, and must complete 30 classroom hours of acceptable appraisal courses every other annual renewal thereafter. An additional 15 classroom hours of the USPAP is required for the sixth annual renewal.

Renil C Liner, 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. Liner 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 insured that certified and licensed appraisers and appraiser trainees maintain and increase their knowledge, skills and competency in real es-

tate appraising. There will be no effect on small businesses. Implementation of this amendment will result in an anticipated economic cost of approximately \$200-\$250 every two years for certified or licensed real estate appraisers to renew their certification or license or for appraiser trainees to renew their authorization.

Comments may be submitted to Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under the Texas Appraiser Licensing and Certification Act, Texas Civil Statutes, Article 6573a.2, which provides the Texas Appraiser Licensing and Certification Board with authority to adopt rules and regulations necessary for the performance of its duties.

*§153.17. Renewal of Certification, License, or Trainee Approval; Appraiser Continuing Education.*

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

(e) As a condition for renewing a certification or license after December 31, 1994, or two years after the federal implementation of Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), whichever is later, an appraiser must successfully complete the equivalent of at least 20 classroom hours of appraiser continuing education (ACE) courses approved by the board, during the two-year period preceding the expiration of the certification or license. The board shall base its review and approval of appraiser continuing education courses upon the then current appraiser qualification criteria of the Appraiser Qualifications Board.

(1) The purpose of ACE is to ensure that certified and licensed appraisers participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(2) The following types of educational offerings may be accepted for meeting the ACE requirements:

(A) a course that meets the requirements for certification or licensing also may be accepted for meeting ACE provided:

(i) the course is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of the Appraiser Qualifications Board (AQB) for continuing education; and

(ii) the course was not repeated within a three-year period;

(B) a course that has been accepted by an appraiser professional trade association as meeting the association's continuing education requirements if the board has previously approved one or more courses from the association as meeting licensure or certification requirements, provided that the course must have been at least two hours in duration and covered one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education;

(C) a course specifically approved by the board for meeting ACE offered by a provider as specified in §153.13(b)(2) of this title (relating to Educational Requirements), provided the course covers one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education and the course is at least two hours in duration;

(D) a course that meets the Texas Real Estate Commission mandatory continuing education (MCE) requirements. Provided it is devoted to one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education;

(E) a seminar or other educational offering that deals with appraisal issues, offered by an appraiser trade association, a related association, or by a federal or state governmental agency, provided the offering was at least two hours in duration, and covered one or more of the appraisal related topics of the then current appraiser qualifications criteria of AQB for continuing education.

(3) As part of the 20 classroom hour ACE requirement, an appraiser must successfully complete a minimum of seven classroom hours of instruction covering the Uniform Standards of Professional Appraisal Practice (USPAP) before the appraiser's second renewal after December 31, 1992 of certification or licensure, and before every even numbered renewal thereafter (fourth, sixth, eighth, etc.)

(4) Copies of transcripts or course completion certificates from the course provider must accompany the application for renewal form.

(5) Appraiser continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, educational program development, author-

ship of appraisal textbooks, or similar activities that are determined by the board to be equivalent to obtaining appraiser continuing education. Appraisal experience may not be substituted for ACE.

(f) As a condition for renewing an appraiser trainee authorization, a trainee must successfully complete the following educational courses which meet requirements for application for licensing and certification:

(1) for the first annual renewal, 15 classroom hours devoted to the USPSP;

(2) for the third annual renewal, 30 classroom hours of actual appraisal courses;

(3) for the fifth annual renewal, 30 classroom hours of actual appraisal or appraisal related courses;

(4) for the sixth annual renewal, 15 classroom hours devoted to the USPAP; and

(5) for each second annual renewal thereafter, 30 classroom hours of actual appraisal or appraisal related courses.

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 June 30, 1992.

TRD-9209058

Renil C. Liner  
Commissioner  
Texas Appraiser Licensing  
and Certification Board

Earliest possible date of adoption: August 7, 1992

For further information, please call: (512) 465-3950

## Part IX. Texas State Board of Medical Examiners

### Chapter 163. Licensure

#### • 22 TAC §163.3

The Texas State Board of Medical Examiners proposes an amendment to §163.3, concerning examinations required by the board for licensure as an M. D. or D.O. The board recently voted to accept National Boards as a means for licensure by reciprocity in Texas. The amendment is proposed to implement that decision.

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

There will be no local employment impact.

Pat Wood, secretary to the executive director, 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 enable physicians requesting licensure by reciprocity to be licensed on the basis of National Board Examination. 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 Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134. A public hearing will be held at a later date.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

#### §163.3. Examinations Required by the Board for Licensure.

(a) Applicants for licensure by examination must have passed [met] one of the following examinations and the Texas medical jurisprudence examination [examination requirements].

(1) [Initially, an applicant must sit for Component I of the FLEX or Component I and II of the FLEX.] An applicant must have passed FLEX with a score of 75 or better on each component within seven years [and must have passed the Texas medical jurisprudence examination]; or

(2) an applicant must have passed FLEX in one sitting with a 75% weighted average prior to June 1985 [and must have passed the Texas medical jurisprudence examination]; or

(3) (No change.)

(b) Applicants for licensure by reciprocal endorsement must have met one of the following examination requirements.

(1) An applicant must have passed the Texas medical jurisprudence examination, if the applicant for licensure is a licentiate of a state, territory, or province based on passage of one of the following examinations:

(A) National Board of Medical Examiners examination [prior to January 1, 1978; or National Board of Medical Examiners examination after January, 1, 1978, and passage of Day III of the FLEX prior to June 1985, Component II of the FLEX prior to June 1988, or SPEX];

(B) National Board of Osteo-

pathic Medical Examiners examination [prior to January 1, 1978; or National Board of Osteopathic Medical Examiners examination after January 1, 1978, and passage of Day III of the FLEX prior to June 1985, or Component II of the FLEX prior to June 1988, or SPEX];

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

(E) with exception being that applicants in subparagraphs (C) and [(A)-(D)] of this paragraph who are required to pass Day III of the FLEX prior to June 1985, Component II of the FLEX prior to June 1988, or SPEX, are exempt from these examinations if they have obtained specialty certification or recertification by a board that is a member of the American Board of Medical Specialties or the Advisory Board of Osteopathic Specialists

(2)-(3) (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 June 26, 1992.

TRD-9209006

Homer R. Goehrs, M.D.  
Executive Director  
Texas State Board of  
Medical Examiners

Earliest possible date of adoption: August 7, 1992

For further information, please call: (512) 834-4502

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 98. HIV and STD Control

#### Subchapter C. Texas HIV Medication Program

#### General Provisions

#### • 25 TAC §98.104, §98. 105

*(Editor's Note: The Texas Department of Health proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is in the Emergency Rules section of this issue.)*

The Texas Department of Health (department) proposes amendments to §98. 104 and §98.105, concerning the Texas HIV Medication Program. The sections implement the provisions of the Communicable Disease Prevention and Control Act, Health and Safety Code, §§85.061-85.066, concerning the establishment of an HIV Medication Program in Texas. The program assists hospital

districts, local health departments, public or non-profit hospitals and clinics, nonprofit community organizations, and HIV infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV related conditions. Generally, the sections cover eligibility for participation and medication coverage.

Bryan Shirley, director, budget division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Shirley 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 to expand coverage of the program to include acyclovir to treat HIV program participants. There will be no effect small or large businesses. There is no anticipated economic cost for persons who may be required to comply with the sections as proposed. There will be no effect on local employment.

Comments on the proposal may be submitted to Jim Allen, R.Ph., Director, Texas Department of Health, Division of Pharmacy, Texas HIV Medication Program, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7357. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The amendments are proposed under the Communicable Disease Prevention and Control Act, 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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

TRD-9208993 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Proposed date of adoption: September 26, 1992

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

◆ ◆ ◆  
**TITLE 28. INSURANCE**  
**Part I. Texas Department**  
**of Insurance**  
**Chapter 1. General**  
**Administration**

**Subchapter E. Notice of Toll-Free Telephone Numbers and Procedures for Obtaining Information and Filing Complaints**

• **28 TAC §1.601**

The State Board of Insurance of the Texas Department of Insurance proposes an amendment to §1.601, concerning the notice of policyholder and complaint procedures and toll-free telephone number information and complaint procedures. This amendment requires insurers claiming an exception to the provisions under the Insurance Code, Article 21.71, requiring insurers to install and maintain a toll-free telephone number to maintain certain records for the purpose of verifying entitlement to such exception

Craig Gardner, associate commissioner for the financial program, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections, and that there will be no effect on local employment or the local economy.

Mr. Gardner, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the assurance that any exception claimed under the Insurance Code, Article 21.71(b), to the installation and maintenance of the insurer's toll-free telephone number and provision of such toll-free telephone number to covered persons, is properly claimed. There will be no effect on small businesses. Mr. Gardner also has determined that there will be no cost to the insurers as a result of compliance with this section, since no provision of this section requires an insurer to seek an exception to the statute. Costs associated with records maintenance requirements arise as a result of pursuing the exception set out in Article 21.71(b), and are therefore statutory in nature.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed rule in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, P.O. Box 149104, MC#113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Craig Gardner, Associate Commissioner, Financial Program, Mail Code 305-2A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk's Office.

The amendment is proposed under the Insurance Code, Articles 21.71 and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.71(b), provides that the installation and maintenance of a toll-free information and complaint number is not required of insurers whose gross initial premiums collected in this state are less than \$2 million. Article 1.04(b) authorizes the board to determine rules in accordance with the laws of this state. Texas Civil

Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency.

*§1.601. Notice of Toll-Free Telephone Numbers and Information and Complaint Procedures.*

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

(c) Exceptions to notice requirements for insurer's toll-free number

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

(5) **Records maintenance.** Beginning with calendar year 1992, any insurer or health maintenance organization claiming an exception must maintain a system by which information pertaining to receipt of initial premiums is tracked on a calendar year basis. This information shall include for each new policy written during a calendar year the following: the policy number; the effective date of the policy; and the amount of initial premium, including fees, received. Such information and other supporting data shall be made available to the department upon request and is subject to examination by the department. Failure to maintain this information or to provide this information to the department upon request constitutes grounds for disciplinary action which may result in the cancellation, revocation, or suspension of such insurer's or HMO's certificate of authority.

(d)-(g) (No change.)

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

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

TRD-9209081 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Earliest possible date of adoption: August 7, 1992

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

◆ ◆ ◆  
**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department**  
**of Human Services**  
**Chapter 69. Contracted**  
**Services**

## Subchapter L. Contract Administration

The Texas Department of Human Services (DHS) proposes the repeal of §§69.275-69.277 and new §§69.275-69.279, concerning abeyance and removal of current or potential contractual rights, causes and conditions for removal of contractual rights and for abeyance, and notice requirements for removal of contractual rights and for abeyance and debarment and suspension of current and potential contractor's rights, causes and conditions for debarment, causes for and conditions of suspension, proof required for debarment and suspension, and notice requirements for debarment and for suspension. The purpose of the repeals and new sections is to revise and expand DHS's existing rules concerning suspension or debarment of contractors and potential contractors who have a history of poor performance or who have been convicted of or have pled guilty to criminal offenses.

Burton F. Raiford, commissioner, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local governments 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 proposal will be improved control by DHS of contracts involving expenditures of public funds to benefit needy individuals. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Questions about the content of the proposal may be directed to Glenn Scott at (512) 450-3119 in DHS's Office of the General Counsel. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-063, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

### • 40 TAC §§69.275-69.277

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§69.275. *Abeyance and Removal of Current or Potential Contractual Rights.*

§69.276. *Causes and Conditions for Removal of Contractual Rights and for Abeyance.*

§69.277. *Notice Requirements for Removal of Contractual Rights and for Abeyance.*

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 June 29, 1992.

TRD-9209004

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

Proposed date of adoption: October 1, 1992

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

### • 40 TAC §§69.275-69.279

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§69.275. *Debarment and Suspension of Current and Potential Contractor's Rights.*

(a) Applicability. Requirements in this section are applicable to all types of contracts with the Texas Department of Human Services (DHS). These requirements are in addition to, and do not supersede, rules in Chapter 79, Subchapter V of this title (relating to Fraud or Abuse Involving Medical Providers), and §19.2012 of this title (relating to Remedies for Violations of Title XIX Nursing Facility Provider Agreements), unless so specified in this subchapter.

(b) Definitions. The following words and terms, when used in §§69.275-69.279 of this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Contractor and subcontractor—Individuals or legal entities who have existing DHS contracts or are otherwise participating providers, including managers of contractors' operations, such as managers and administrators of nursing facilities.

(2) Debarment—Termination of rights to continue an existing contract, to receive a new contract, to participate as a provider or manager, or to make a bid, offer, application, or proposal for a DHS contract. The debarment is for a specified time commensurate with the seriousness of the violation, the extent of the violation, prior impositions of sanctions or penalties, willingness to comply with program rules and directives, and other pertinent informa-

tion.

(3) Potential contractor—Individuals or legal entities who wish to submit a bid, offer, application, or proposal for a DHS contract or subcontract, or otherwise request participation as a provider, including managers of contractors' operations, such as managers and administrators of nursing facilities.

(4) Suspension of contractual rights—Temporary suspension of a contractor's or potential contractor's right to conduct business with DHS. A suspension is in effect until an investigation, hearing, or trial is concluded and DHS can make a determination about:

(A) the contractor's future right to contract or subcontract; or

(B) a potential contractor's future right to have DHS consider its offer, bid, proposal, or application.

(c) Scope. For purposes of both suspension of contractual rights and debarment, DHS may impute the conduct of an individual, corporation, partnership, or other association to the contractor, potential contractor, or the responsible component or entity of the contractor or potential contractor with whom the individual, corporation, partnership, or other association is employed or otherwise associated. Even though the underlying conduct may have occurred while an individual, corporation, partnership, or other association was not associated with the contractor or potential contractor, suspension of contractual rights or debarment may be imposed. Remedial actions taken by the responsible officials of the contractor or potential contractor will be considered in determining whether either suspension of contractual rights or debarment is warranted.

(d) Choice of sanction. Severe violations of the type specified in §69.276 of this title (relating to Causes and Conditions for Debarment) may be the basis for suspension of contract rights or debarment even if there is only a single occurrence. However, isolated and less severe violations of DHS contract provisions do not necessarily lead to suspension and/or debarment. Sanctions for isolated and less severe violations may be found in DHS's rules governing the specific program area in which the violations occurred.

§69.276. *Causes for and Conditions of Debarment.*

(a) Causes for debarment. The Texas Department of Human Services (DHS) may remove contractual rights from an individual or legal entity for causes including, but not limited to, the following:



(1) being found guilty, pleading guilty, pleading nolo contendere, or receiving a deferred adjudication in a criminal court, relating to:

(A) obtaining, attempting to obtain, or performing a public or private contract or subcontract;

(B) embezzlement, theft, forgery, bribery, falsification or destruction of records, any form of fraud, receipt of stolen property, or any other offense indicating moral turpitude or a lack of business integrity or honesty;

(C) dangerous drugs, controlled substances, or other drug-related offense;

(D) federal antitrust statutes arising from the submission of bids or proposals; or

(E) any physical or sexual abuse or neglect offense.

(2) being debarred from contracting by any unit of the federal government or any unit of a state government;

(3) violating DHS contract provisions including failing to perform according to the terms, conditions, and specifications or within the time limit(s) specified in the DHS contract, including, but not limited to, the following:

(A) failing to abide by applicable federal and state statutes, such as those regarding disabled persons and civil rights;

(B) having a record of failure to perform or of unsatisfactory performance according to the terms of one or more contracts or subcontracts, if that failure or unsatisfactory performance has occurred within five years preceding the determination to debar. Failure to perform and unsatisfactory performance includes, but is not limited to, the following:

(i) failing to correct contract performance deficiencies after receiving written notice about them from DHS or its authorized agents;

(ii) failing to repay or make and follow through with arrangements satisfactory to DHS to repay identified overpayments or other erroneous payments, or assessed liquidated damages or penalties;

(iii) failing to meet standards that are required for licensure or certification, or that are required by state or federal law, DHS rule, or DHS policy con-

cerning DHS contractors;

(iv) failing to execute amendments required by DHS;

(v) billing for services or merchandise not provided to the client or DHS;

(vi) submitting cost reports containing costs not associated with and/or not covered by the contract or DHS rules and instructions;

(vii) submitting a false statement or misrepresentation which, if used, may increase individual or statewide rates or fees;

(viii) charging client or patient fees contrary to DHS rules or policy;

(ix) failing to notify and reimburse DHS or its agents for services DHS paid for when the contractor received reimbursement from a liable third party;

(x) failing to disclose or make available, upon demand, to DHS or its representatives (including appropriate federal and state agencies) any records the contractor is required to maintain;

(xi) failing to provide and maintain services within standards required by statute, regulation, or contract; or

(xii) violating the Human Resources Code provisions applicable to the contract or any rule or regulation issued under the Code.

(4) submitting an offer, bid, proposal, or application that contains a false statement or misrepresentation or omits pertinent facts or documents that are material to the procurement;

(5) engaging in any abusive or neglectful practice that results in or could result in death or injury to the clients served by the contractor; or

(6) violating any of the provisions outlined in §79.2105 of this title (relating to Grounds for Fraud Referral and Administrative Sanction). For purposes of this subsection, any reference in §79.2105 of this title to a violation of the Medicaid (Title XIX), Medicare (Title XVIII), or Title XX programs is expanded to include an identical violation within any programs of federal or state governments.

(7) knowingly and willingly using a debarred person or entity as an employee, independent contractor, or agent to perform a contract with DHS.

(b) Conditions of debarment. Individuals, parts of entities, and entities that have been debarred may not:

(1) receive a contract;

(2) be allowed to retain a contract which has been awarded before debar-

ment;

(3) bid or otherwise make offers to receive a contract or subcontract,

(4) participate in DHS programs which do not require the provider to sign a contract or agreement; or

(5) either personally or through a clinic, group, corporation or other association bill to or receive payment from DHS for any services or supplies provided by the debarred entity on or after the effective date of the debarment. Additionally, DHS will not pay for any services ordered, prescribed, or delivered by the debarred entity for DHS recipients after the date of debarment. No costs associated with a debarred entity, including the salary, fringe, overhead, payments to, or any other costs associated with an employee, owner, officer, director, board member, independent contractor, manager, or agent who was debarred may be included in a DHS cost report or any other document which will be used to determine an individual payment rate, a statewide payment rate, or a fee.

(c) Entities that may be debarred. Debarment may be applied against an individual, an entire legal entity, or a specified part of a legal entity.

#### §69.277. Causes for and Conditions of Suspension.

(a) Causes for suspension. The Texas Department of Human Services (DHS) may place a contractor's or potential contractor's contractual rights in suspension whenever DHS finds that there is a reasonable basis to believe that grounds for debarment (as specified in §69.276 of this title (relating to Conditions for and Conditions of Debarment)) exists. Suspension may be imposed immediately following DHS's notification to a contractor or potential contractor. In addition, suspension may be imposed on a potential contractor or subcontractor if he has an outstanding indictment or DHS has information about an offense that is grounds for debarment.

(b) Conditions of suspension

(1) DHS may withhold payments, in whole or in part, to the affected contractor during the period of suspension.

(2) DHS may refuse to accept a bid, offer, application, or proposal from, or to award a contract to, the affected potential contractor during the period of suspension.

(3) DHS may cease referrals of additional clients to the suspended entity.

(4) If DHS determines that the underlying reasons for the suspension have been resolved in favor of the contractor, DHS must, if applicable:

(A) pay the withheld payments for any services that may have been provided during the suspension and which meet the terms of an existing contract; and

(B) resume contract payments.

(5) If DHS determines that underlying reasons for the suspension have not been resolved in favor of the contractor, DHS will institute debarment proceedings.

(6) Individuals and entities whose contractual rights have been placed in suspension may not:

(A) receive a contract; or

(B) submit an offer, bid, application, or proposal for a contract.

(c) Entities that may be suspended. A suspension may be applied against an individual, an entire legal entity, or a specified part of a legal entity.

*§69.278. Proof Required for Debarment and Suspension.*

(a) Causes identified in §69.276(a)(1) of this title (relating to Causes for and Conditions of Debarment) are established by proof of pleading guilty or nolo contendere, or of the issuance of a deferred adjudication of guilt. If an appeal results in a reversal, contractual rights must be restored upon written request, unless another cause for their removal exists.

(b) Causes identified in §69.276(a)(2) of this title are based entirely upon the other state or federal agency's official notice that the contractor's or potential contractor's rights have been removed.

(c) The existence of all other causes for debarment or suspension must be established by a preponderance of the evidence.

*§69.279. Notice Requirements for Debarment and for Suspension.*

(a) Contractors' right of notice and appeal. Contractors who have been placed in suspension or who have been debarred or who have been notified of proposed debarment have the appeal rights provided in Chapter 79, Subchapter Q of this title (relating to Contract Appeals), governing provider appeal processes for adverse actions.

(b) Potential contractors' rights of notice and appeal. Potential contractors who are placed in suspension or who have been debarred have all the notice and appeal rights provided in Chapter 79, Subchapter Q of this title, governing provider appeal processes for adverse actions.

(c) Required content for notices of suspension and debarment. In addition to information required in the notice of adverse actions specified in Chapter 79, Subchapter Q of this title, notices must include the following, when applicable:

(1) the grounds for the action (if an indictment or information is pending or has been returned, the nature of the irregularities is described in general terms without disclosing evidence);

(2) the length of the suspension or debarment;

(3) a statement explaining the effect of the suspension or debarment; and

(4) a statement of whether the suspension or debarment is in effect throughout DHS.

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 June 29, 1992.

TRD-9209005

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

Proposed date of adoption: October 1, 1992

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



# Withdrawn Sections

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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*.

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## TITLE 22. EXAMINING BOARDS

### Part VI. Texas State Board of Registration for Professional Engineers

#### Chapter 131. Practice and Procedure

##### Education

##### • 22 TAC §131.91

The Texas State Board of Registration for Professional Engineers has withdrawn from consideration for permanent adoption a proposed amendment §131.91 which appeared in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3892). The effective date of this is June 30, 1992

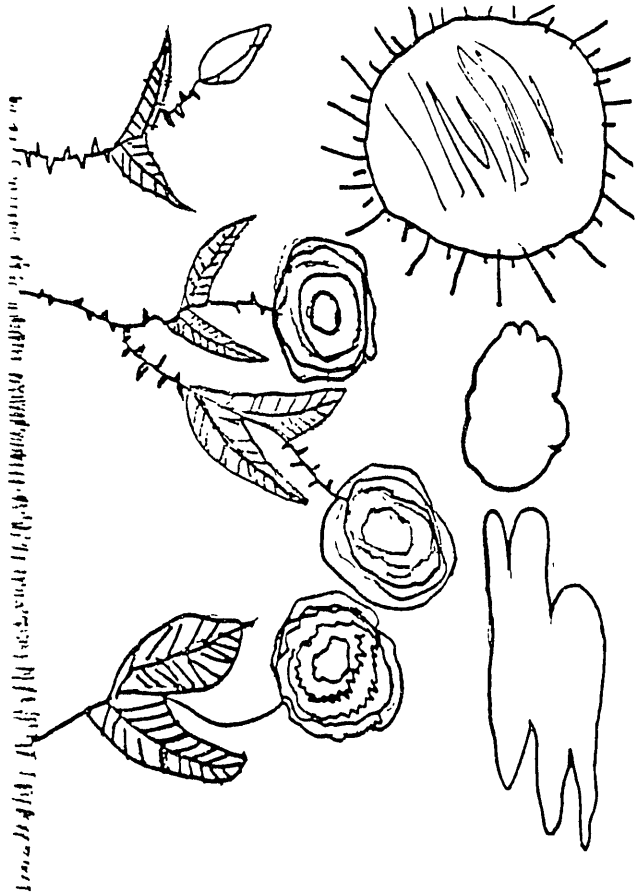
Issued in Austin, Texas, on June 30, 1992

TRD-9209061      Randi Warrington  
Program Administrator  
Texas State Board of  
Registration for  
Professional Engineers

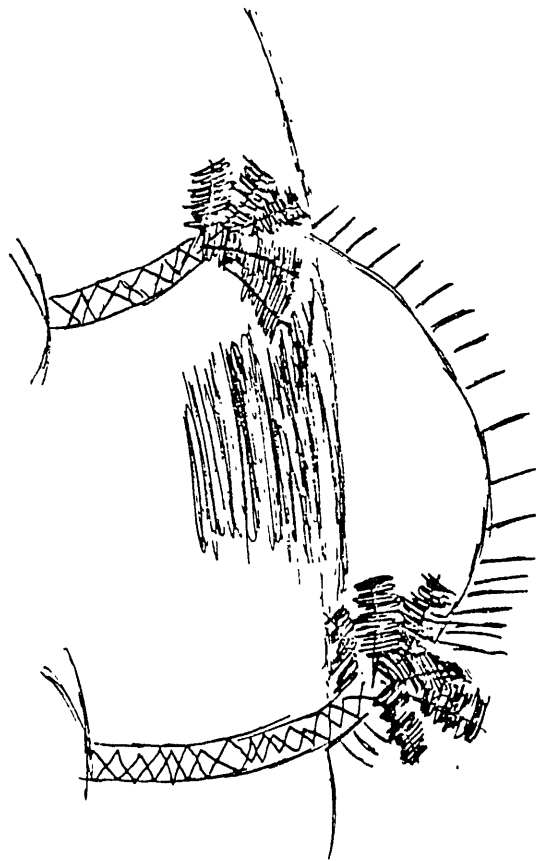
Effective date: June 30, 1992

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

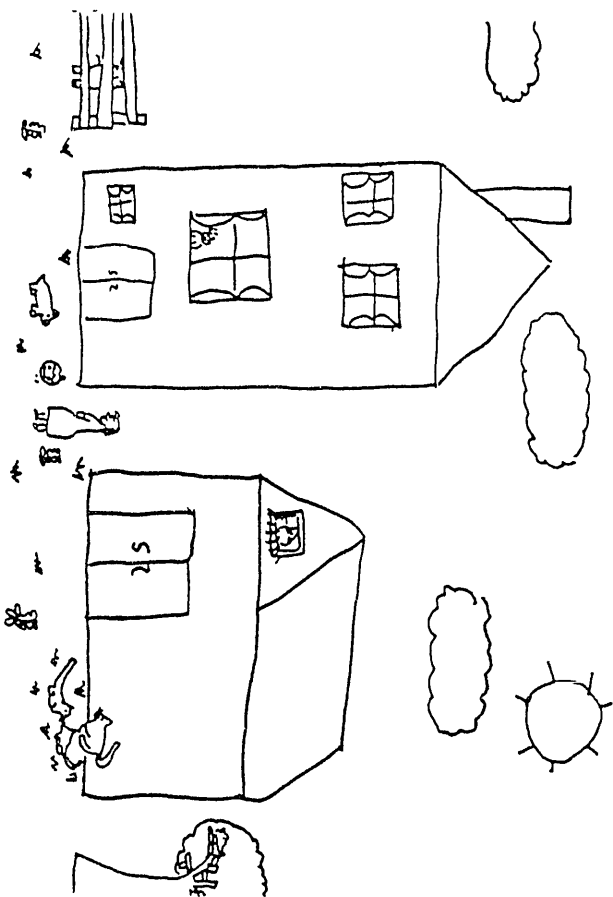
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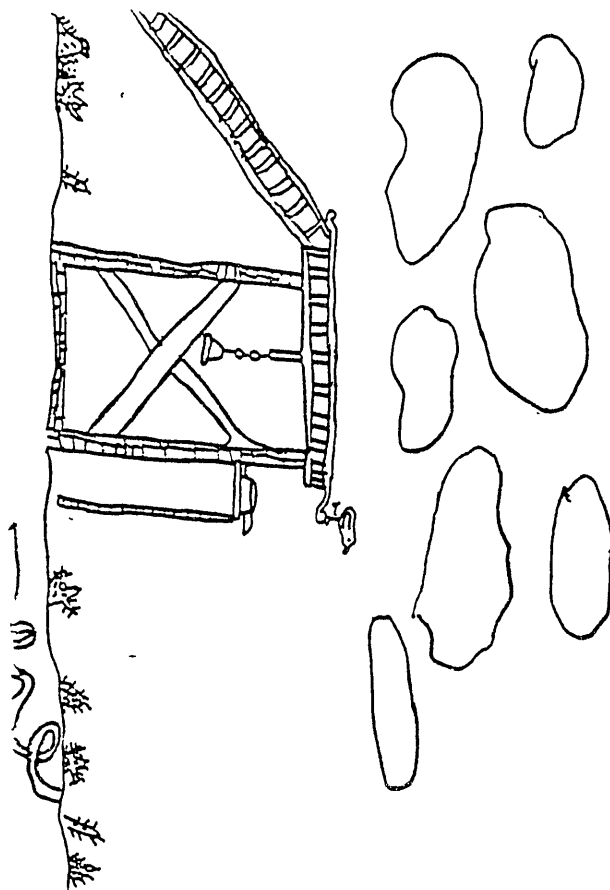
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# Adopted Sections

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 1. ADMINISTRATION

### Part IX. State Aircraft Pooling Board

#### Chapter 181. General Provisions

##### • 1 TAC §181.9

The State Aircraft Pooling Board adopts new §181.9, concerning public access and testimony, without changes to the proposed text as published in the May 19, 1992, issue of the *Texas Register* (17 TexReg 3679).

The new section sets forth provisions that allow the public to appear before the board and to speak on any issue under the jurisdiction of the board.

The new rule will establish procedure for allowing the public to address the board.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413(34b), §5(b), which provide the State Aircraft Pooling Board with the authority to adopt rules to govern the calling and holding of meetings and the conduct of business.

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 June 29, 1992.

TRD-9209036      Jerald A. Daniels  
Fiscal Officer  
State Aircraft Pooling Board

Effective date: July 21, 1992

Proposal publication date: May 19, 1992

For further information, please call: (512) 477-8900

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

##### Conservation Rules and Regulations

##### • 16 TAC §3.99

The Railroad Commission of Texas (commission) adopts new §3.99, concerning completion procedures for cathodic protection wells (Statewide Rule 99), with changes to the proposed text as published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1582).

Adoption of the section is necessary to prevent pollution of ground water through improperly completed cathodic protection wells. The section defines terms used in the rule and requires operators to complete all cathodic protection wells drilled below 30 feet as specified in the section.

In subsection (a)(3), the phrases "or depths" and "or isolated" were inserted to indicate that the Texas Water Commission may recommend that more than one depth may require protection or isolation from other depths. References throughout the section to "the protection depth" were changed to "any protection depth."

The exemption depth was changed in subsection (b) to 30 feet from 20 feet. The term "or bentonite" was added following "cement" in subsection (e)(2)(A) and (3)(A). Because bentonite is specifically referenced throughout the section, subsection (f), which describes the quality of bentonite that may be used, is added.

The Railroad Commission of Texas received numerous comments suggesting that subsection (b) should be changed so that cathodic protection wells drilled to a depth of 30 feet are exempted from the section. One commenter noted that a 10-foot cement plug in a shallow excavation well would be difficult and would make replacement of expended anodes a complex procedure. The Railroad Commission agrees that cathodic protection wells drilled to a depth of 30 feet would not create hazards to fresh water. The exemption depth is changed to 30 feet rather than 20 feet.

One commenter requested the definition of "cathodic protection deep grounded" used by the National Association of Corrosion Engineers be adopted rather than "cathodic protection well." The Railroad Commission rejects the proposed change in definitions because "cathodic protection well" more accurately describes the type of hole drilled, and the National Association of Corrosion Engineers definition applies only to those anodes installed at a depth of 50 feet or more.

Regarding ~~protecting~~ materials, many commenters asserted that alternative materials such as bentonite, barite, or grouts could

provide a permanent impervious watertight bond that would protect against pollution of ground water. The commission believes that subsection (e)(2)(B) and (3)(B) does permit the use of alternative materials or procedures. However, the commission has changed the language of subsection (e)(2)(A) and (3)(A) to include bentonite as an alternative to cement for surface plugs.

The following commenters expressed general support for the proposed rule, although they suggested some changes: Maxus Exploration Company, Oryx Energy Company, and the Texas Water Commission. Other commenters who expressed concern about certain aspects of the proposed section are: Texas Mid-Continent Oil & Gas Association, Bass Engineering Company, Inc., TU Services, Marathon Oil Company, and Transcontinental Gas Pipe Line Corporation.

The new section is adopted under the Texas Natural Resources Code, Title 3, §91.101 and §141.102, which authorizes the commission to adopt rules to prevent pollution of surface or subsurface water in the state.

##### §3.99. Cathodic Protection Wells

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

(1) Cathodic protection well—Any well drilled for the purpose of installing one or more anodes to prevent corrosion of a facility associated with the production of oil, gas, or geothermal resources, such as a well casing, storage, and separation facility, or pipeline.

(2) Project area—The geographic area in which a related group of cathodic protection wells is drilled

(3) Protection depth—Depth or depths at which usable quality water must be protected or isolated, as determined by the Texas Water Commission.

(4) Commission—The Railroad Commission of Texas or its authorized representative.

(b) Exemption. Any cathodic protection well that is drilled to a depth of 30 feet or less is not subject to the requirements of this section.

(c) Determination of protection depth. Before drilling any cathodic protection well, an operator shall obtain a letter

from the Texas Water Commission stating the protection depth or depths.

(d) Drilling permits.

(1) Wells that do not penetrate any protection depth. A cathodic protection well that does not penetrate any protection depth does not require a drilling permit.

(2) Wells that penetrate any protection depth. A cathodic protection well that penetrates any protection depth must be drilled in accordance with the requirements of §3.5(g) of this title (relating to Application to Drill, Deepen, Reenter, or Plug Back) (Statewide Rule 5).

(e) Completion.

(1) Timing. A cathodic protection well must be completed as soon as possible after it is drilled.

(2) Wells that do not penetrate any protection depth. A cathodic protection well that does not penetrate any protection depth must be completed in accordance with subparagraph (A) or (B) of this paragraph.

(A) The operator must place at least a 10-foot cement or bentonite plug at the top of the well. The top of the plug shall be no less than three feet below the surface, and the remainder of the hole between the top of the plug and the surface shall be filled with drill cuttings or native soil.

(B) Alternative completion procedures and materials may be utilized when the operator has demonstrated to the commission's satisfaction that the alternatives will protect usable quality water.

(3) Wells that penetrate any protection depth. A cathodic protection well that penetrates any protection depth must be completed in accordance with subparagraph (A) or (B) of this paragraph.

(A) The operator must either set and cement casing to the deepest protection depth penetrated or center a 100-foot cement plug across each protection depth penetrated and must place at least a 10-foot cement or bentonite plug at the top of the well. The top of the plug shall be no less than three feet below the surface, and the remainder of the hole between the top of the plug and the surface shall be filled with drill cuttings or native soil.

(B) Alternative completion procedures and materials may be utilized when the operator has demonstrated to the commission's satisfaction that the alternatives will protect usable quality water.

(f) Physical requirements for ben-

tonite plugging materials. Bentonite materials used to plug cathodic protection wells shall be derived from naturally occurring, untreated, high swelling sodium bentonite that is composed of at least 85% montmorillonite clay and that meets the International Association of Geophysical Contractors (IAGC) recommended geophysical industry standard dated January 24, 1992, for the physical characteristics of bentonite used in seismic shot hole plugging.

(g) Reporting. Within 30 days of completion of the last well in a project area, the operator shall submit a letter to the commission stating that each cathodic protection well in the project area has been completed in accordance with subsection (e) of this section. The letter must include the completion date for each well, the name and address of the operator, and the drilling permit and API numbers of the well, if applicable. A plat of the project area identifying cathodic protection well locations, counties, survey lines, scale, and northerly direction must be attached. In addition, a letter from the Texas Water Commission stating the protection depth or depths must be attached.

(h) Abandonment. Upon abandonment of a cathodic protection well, any wires or vent pipe must be cut off at the top of the 10-foot surface plug, and the vent pipe must be securely capped or plugged.

(i) Superconducting super collider. No provision of this section exempts any operator from compliance with §3.78 of this title (relating to Drilling Operations in the Vicinity of the Superconducting Supler Collider, Ellis County) (Statewide Rule 82).

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 June 29, 1992.

TRD-9209079 Nolan Ward  
Hearings Examiner, Legal  
Division-General Law  
Railroad Commission of  
Texas

Effective date: July 21, 1992

Proposal publication date: March 3, 1992

For further information, please call: (512) 463-6857

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**Part VI. Texas Motor  
Vehicle Commission**  
**Chapter 105. Advertising**

• **16 TAC §§105.10, 105.14,  
105.26-105.31**

The Texas Motor Vehicle Commission adopts new §§105.10, 105.26-105.31, and an amendment to §105.14 concerning the commission's rules pertaining to the advertising of

motor vehicle by new motor vehicle dealers, manufactures and distributors. Section 105.28 is adopted with changes to the proposed text as published in the May 19, 1992, issue of the *Texas Register* (17 TexReg 3680). Sections 105.10, 105.26, 105.27, and 105.29-105.31 are adopted without changes and will not be republished.

New §105.10(d) and (e) Dealer Price Advertising, covers new types of promotions that have been developed since the rule was originally adopted. Section 105.10(d) also contains a disclosure suggested for manufacturer offered option discount packages. Section 105.10(e) contains a disclosure suggested for advertising rebates that are not available to the public as a whole (i.e., first time buyer rebates).

In amended §105.14, language is added to require all used cars to be identified as "used" or "pre-owned" cars.

New §105.26, Payment Disclosures-Lease will, make the commission's rules consistent with the Federal Trade Commission requirements for disclosures of lease payments.

New §105.27, Bait Advertisement, corrects an oversight in the rules the commission previously adopted in which bait advertisement was defined but not prohibited, and in which the original §105.4 which did prohibit bait advertisement, was repealed by adoption of the new §105.4, Definitions.

New §105.28, Lowest Price Claims, are prohibited because they are impossible to substantiate given the nature of the automobile business in which each sale is individually negotiated.

New §105.29, Fleet Prices, are prohibited because the commission found this is an illusory claim in that fleet prices are arrived at between fleet purchasers and dealers through negotiation in much the same fashion as regular retail purchases and as such there are no set fleet prices. However, the officer of fleet prices is alluring to the consuming public.

New §105.30, bankruptcy/liquidation sale, prohibits the use of false distress sales, and specifically those in which bankruptcy and liquidation are claimed as the distress, unless such is, in fact, the case.

Finally, new §105.31, Finding of a Violation, is what had originally been §105.25 which was repealed by the adoption of the new §105.25 in the commission's earlier adoption.

The commission declined to adopt §105.28(a) and adopted what was published as §105.28(b) as §105.28. The new section §105.30 is adopted in response to a petition requesting the adoption of the new rules filed by the Texas Automobile Dealers Association pursuant to the Administrative Procedure and Texas Register Act, §11. The remaining amendment and new sections are adopted in response to a request for the adoption by the enforcement staff of the commission pursuant to the Administrative Procedure and Texas Register Act, §11. The amendment and new sections are intended to cover new types of advertising which have been identified as false, misleading, or deceptive by the staff,

the Texas Automobile Dealers Association, and the commission.

The commission received comments on the proposed rules published May 19, 1992, from the following: Texas Automobile Dealers Association (TADA); and the Better Business Bureau of Metropolitan Houston (BBB).

The comments from TADA opposed adoption of §105.28(a) and expressed the view that §105.28(a) did not address a practice (meet or beat claims) that was false, misleading, or deceptive and was in fact beneficial to the segment of the consumer public which does shop more than one dealership before purchasing a vehicle. Therefore, they urged the subsection not be adopted.

The comments from BBB supplied the commission with articles and comments urging the adoption of subsection (b) because they are impossible to substantiate.

The commission agreed with the comments of TADA and BBB and adopted only §105.28(b) and did not adopt §105.28(a).

The new sections and amendment are adopted under the Texas Motor Vehicle Commission Code, §3.06, which provides the commission with authority to adopt rules necessary and convenient to effectuate the provisions of the Act.

**§105.28. Lowest Price Claims.** Representing a lowest price claim or other similar superlative claim shall not be used in advertising.

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 June 18, 1992.

TRD-9209031      Russell Harding  
Executive Director  
Texas Motor Vehicle  
Commission

Effective date: July 21, 1992

Proposal publication date: May 19, 1992

For further information, please call: (512) 476-3587

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

**Chapter 5. Program**  
**Development**

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

• **19 TAC §5.157**

The Texas Higher Education Coordinating Board adopts the repeal of §5. 157, concern-

ing approval of out-of-state classes, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1864).

The repeal will enable Texas professional work forces to be potentially more competitive with foreign nations.

The new rules encourage institutions and students to develop and participate in educational opportunities that will increase skills in foreign languages, cultures, and business practices. The overall goal is to increase international competence and competitiveness of Texas citizens.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §61.051(j), which provides the Coordinating Board with the authority to adopt rules regarding Criteria and Procedures for Considering Lower-Division Courses Proposed Off-Campus by Senior Institutions and Out-of-District by Community Junior Colleges and Technical Institutes.

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 June 26, 1992.

TRD-9209041      James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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The Texas Higher Education Coordinating Board adopts new §5.157, concerning approval of out-of-state classes, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1864).

The new section will enable Texas professional work forces to be potentially more competitive with foreign nations.

The new section encourages institutions and students to develop and participate in educational opportunities that will increase skills in foreign languages, cultures, and business practices. The overall goal is to increase international competence and competitiveness of Texas citizens.

No comments were received regarding adoption of the new section

The new section is adopted under the Texas Education Code, §61.051(j), which provides the Coordinating Board with the authority to adopt rules regarding Criteria and Procedures for Considering Lower-Division Courses Proposed Off-Campus by Senior Institutions and Out-of-District by Community Junior Colleges and Technical Institutes.

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 June 26, 1992.

TRD-9209040      James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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**Chapter 9. Public Junior**  
**Colleges**

**Subchapter I. Contractual**  
**Agreements**

• **19 TAC §9.194**

The Texas Higher Education Coordinating Board adopts an amendment to §9. 194, concerning contract instruction, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1867).

The amendment is necessary to clarify the existing rule as to what courses turned in for state funding are subject to the provisions of Chapter 9. The proposed change includes courses which are both turned in for state funding and delivered through contact with business and industry

The change will provide a clearer trail of auditable courses for the State Auditor's Office. A possible effect may be a change in the number of hours allowed for state funding under the current provisions of Chapter 9, Subchapter I. The rule will be modified from a requirement to a recommendation for training new trustees.

No comments were received regarding adoption of the amendment

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

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 June 26, 1992

TRD-9209038      James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

## Chapter 21. Student Services

### Subchapter B. Determining Residence Status

#### • 19 TAC §21.34, §21.38

The Texas Higher Education Coordinating Board adopts amendments to §21.34 and §21.38, concerning determining residence status, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1867).

Students at institutions should find more consistency in the way they are classified for tuition purposes. Texas residents should face fewer hassles in proving their eligibility for resident tuition.

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

No comments were received regarding adoption of the amendments

The amendments are adopted under the Texas Education Code, §54.053, which provides the Coordinating Board with the authority to adopt rules regarding Determining Residence Status.

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 June 26, 1992.

TRD-9209042 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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

#### • 19 TAC §21.55

The Texas Higher Education Coordinating Board adopts an amendment to §21.55, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1868).

There will be better targeting of Hinson-Hazlewood college student loans to students who receive the promised, good quality schooling.

The intent of this rule is to curtail further abuses of the Federal Guaranteed Student Loan Program by unscrupulous school administrators. The rule will protect students who may borrow Hinson-Hazlewood college student loans from unscrupulous school administrators whose schools receive the proceeds from the student loans but fail to provide the promised schooling to the students.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on June 26, 1992.

TRD-9209044 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

#### • 19 TAC §21.56

The Texas Higher Education Coordinating Board adopts an amendment to §21.56, concerning qualifications for loans, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1868).

The amendment will strengthen the program.

This rule change is necessary because federal law regulating the Stafford Loans and Supplemental Loans for students, both of which are guaranteed student loans now require a favorable evaluation of credit reports. The effect of the change will cause the Hinson-Hazlewood Stafford and Supplemental Loan programs to be in compliance with federal law. Another effect will be to strengthen the program.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on June 26, 1992.

TRD-9209043 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

### Subchapter L. Paul Douglas Teacher Scholarship Program

#### • 19 TAC §21.316

The Texas Higher Education Coordinating Board adopts an amendment to §21.316, concerning scholarship conditions, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1869).

A few of the recipients of the Paul Douglas Teacher Scholarship may choose to teach in a state other than Texas. The United States benefits regardless of where the teacher teaches; Texas may lose a small number of the recipients who chose to teach in a sister state to fulfill the service obligation of the program.

The effect of the changes will make the service obligation of the Paul Douglas Teacher Scholarship portable. A recipient of the federal funds through the Texas program may move to any state in the union to fulfill the service obligation required by the program.

No comments were received regarding adoption of the amendment.

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

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 June 26, 1992.

TRD-9209045 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

### Subchapter S. Vocational Nursing Student Scholarship Programs



• 19 TAC §21.596, §21.600

The Texas Higher Education Coordinating Board adopts amendments to §21 596 and §21.600, concerning vocational nursing student scholarship programs, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1869).

The new program will allow good vocational nursing students who are not eligible for previously existing scholarship programs because they are neither from rural communities nor from ethnic minorities, to receive financial assistance to meet college costs.

The changes will create an additional scholarship program for which rural and minority students could qualify, but which would also be open to qualified students who are not from rural backgrounds and/or from a minority ethnic group.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §61.656, which provides the Coordinating Board with the authority to adopt rules regarding Vocational Nursing Student Scholarship 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 June 26, 1992.

TRD-9209046 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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

• 19 TAC §§21.901-21.909

The Texas Higher Education Coordinating Board adopts amendments §§21 901-21.909, concerning student services, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1870)

The amendments will bring the operations of the Exchange Student program more into alignment with the expectations of the bill's sponsor and participating institutions. The amendments will provide for the participation of faculty and staff as well as students in the exchange program between institutions of higher education in Texas and in Mexico.

The changes should encourage exchanges between Texas public institutions of higher education and colleges in Mexico. It is anticipated that the exchange candidates from

Mexico will often be staff or faculty members, while the participants from Texas are more likely to be undergraduate or graduate students.

No comments were received regarding adoption of the amendments.

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

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

Issued in Austin, Texas, on June 26, 1992.

TRD-9209047 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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Chapter 25. Retirement  
Annuity Programs

Subchapter A. Retirement An-  
nuity Programs

• 19 TAC §25.11

The Texas Higher Education Coordinating Board adopts new §25.11, concerning employee notification requirements, without changes to the proposed text as published in the March 13, 1992, issue of the *Texas Register* (17 TexReg 1871).

Institutional employees who become eligible to elect ORP in lieu of TRS will be provided sufficient basic information on the two programs to make an inform decision.

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

The Teacher Retirement System of Austin was generally supportive of the proposed rule as a means of better informing employees about the nature of ORP. The agency felt that the rule can be strengthened by adding the requirement that the institution also provide TRS information to the employees on or before the beginning of the decision-making period.

The Coordinating Board agreed with comments concerning dissemination of TRS' information; however, their suggested revision to the rule is unnecessary because the information provided by the Coordinating Board includes information on TRS.

The new section is adopted under the Texas Government Code, §830.002(c) and §830.101, which provides the Coordinating Board with the authority to adopt rules regarding Retirement Annuity 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 June 26, 1992.

TRD-9209039 James McWhorter  
Assistant Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Effective date: July 21, 1992

Proposal publication date: March 13, 1992

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

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TITLE 22. EXAMINING  
BOARDS

Part XXX. Texas State  
Board of Examiners of  
Professional Counselors

Chapter 681. Professional  
Counselors

The Texas State Board of Examiners of Professional Counselors (board), with approval of the Texas Board of Health, adopts amendments to existing §681.21, §681.33, §681.36, §681.40, §681.52, §681.53, §681.64, §681.65, §681.82, §681.83, §681.93, §681.122, §681.127, §681.174, §681.178, §681.192, §681.196, §681.212, §681.213, §681.215, §681.216, and §681.220; and adopts new §681.42, §681.128, and §681.197, concerning professional counselors. Sections 681.83 and 681.174 are adopted with changes to the proposed text as published in the March 22, 1992, issue of the *Texas Register* (17 TexReg 1877). The remaining sections are adopted without changes and will not be republished.

The amendments and new sections establish renewal card replacement and application material fees, bring rules prohibiting remuneration for referrals into line with new state laws; clarify advertising and announcements of services as it applies to degrees from foreign universities; provide for revocation or suspension based on information received concerning an applicant after issuance of the license; change suspense dates concerning applications from "received by" to "post-marked"; further define allowable categories for required references; provide that applicants (interns) comply with the code of ethics while obtaining supervised experience; extend the date by which supervisors must have

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

No comments were received from the public; however, board staff recommended minor editorial changes to §681.83 and §681.174.

### Subchapter A. The Board

#### • 22 TAC §681.21

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

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 June 29, 1992.

TRD-9208983 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: July 20, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 834-6628

### Subchapter B. The Practice of Counseling

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

The amendments and new section are adopted under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise

rules that are necessary to administer the Licensed Professional Counselor Act.

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 June 29, 1992.

TRD-9208984 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: July 20, 1992

Proposal publication date: March 13, 1992

For further information, please call: (512) 834-6628

### Subchapter C. Application Procedures

#### • 22 TAC §681.52, §681.53

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

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 June 29, 1992.

TRD-9208985 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

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For further information, please call: (512) 834-6628

### Subchapter D. Academic Requirements for Examination and Licensure

#### • 22 TAC §681.64, §681.65

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

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

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For further information, please call: (512) 834-6628

### Subchapter E. Experience Requirements for Examination and Licensure

#### • 22 TAC §681.82, §681.83

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

#### §681.83. Supervisor Requirements.

(a) (No change.)

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

(1) (No change.)

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

(3) Evidence of a supervisor meeting the requirements of this section may be submitted with a supervision contract or with the board's approved supervised experience documentation form. After July 1, 1996, applicants for license must apply for supervisory approval at the time of application. Approved supervisors shall be listed on the roster of supervisors prepared by the board. Credentials must be submitted with the roster application form.

(c) (No change.)

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

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For further information, please call: (512) 834-6628

## Subchapter F. Licensure Examinations

### • 22 TAC §681. 93

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

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

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For further information, please call: (512) 834-6628

## Subchapter H. License and Specialty Renewal and Inactive Status

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

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

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

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For further information, please call: (512) 834-6628

## Subchapter K. Continuing Education Requirements

### • 22 TAC §681.174, §681.178

The amendments are adopted under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of

Professional Counselors, subject to approval of the Texas Board of Health, with authority to adopt and revise rules that are necessary to administer the Licensed Professional Counselor Act.

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

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

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

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

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

(6) participation or teaching in programs (e.g., institutes, seminars, workshops, or conferences) which are approved or offered by an accredited college or university or by a nationally recognized professional organization in the mental health field or its state or local equivalent organization.

(A) The board shall maintain and make available on request a listing of acceptable professional organizations.

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

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

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Texas Department of  
Health

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For further information, please call: (512) 834-6628

## Subchapter L. Complaints and Violations

### • 22 TAC §§681.192, 681.196, 681.197

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

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

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Texas Department of  
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For further information, please call: (512) 834-6628

## Subchapter M. Formal Hearings

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

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

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

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For further information, please call: (512) 834-6628

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 38. Chronically Ill and Disabled Children's Services

##### • 25 TAC §§38.3, 38.4, 38.7, 38.10-38.12

The Texas Department of Health (department) adopts amendments to §§38.3, 38.4, 38.7, 38.10-38.12, concerning chronically ill and disabled children's (CIDC). Section 38.3 is adopted with changes to the proposed text as published in the May 1, 1992, issue of the *Texas Register* (17 TexReg 3122). Sections 38.4, 38.7, and 38.10-38.12 are adopted without changes and will not be republished.

The sections cover eligibility for client services, covered services, ambulatory surgical care facilities, cardiac outreach clinic guidelines, guidelines for a cardiac center to be approved through the Chronically Ill and Disabled Children's (CIDC) Services Program, and bone marrow transplant center guidelines.

The amendments modify determination of the applicant's income who is over the age of 18; extend the period of temporary eligibility for medicaid eligible clients from 45 days to 60 days. The 45-day period for temporary eligibility was considered inadequate and had the potential to create a gap in services for CIDC eligible clients.

The amendments also clarify that the requirement for the orthotists and prosthetists to be certified by the American Board for Certification in Orthotics and Prosthetics will be for those providers enrolled after November 1, 1991. Providers enrolled before November 1, 1991, will not be required to be certified.

In addition the amendments clarify the provisions regarding ambulatory surgical centers, cardiac outreach clinic guidelines, cardiac center guidelines, and bone marrow transplant center by eliminating the references to the CIDC advisory committees. The CIDC advisory committees' structure and functions have been changed by the Board of Health and the advisory committees will no longer be a part of the monitoring of CIDC specialty centers. The department's CIDC Program will be responsible for monitoring the qualifications of the CIDC specialty centers.

There was only one comment concerning the proposed sections.

**Comment:** Concerning §38.3(3)(A)(v), a commenter noted that the word "through" was deleted unintentionally from the last sentence.

**Response:** The department agrees and has added the word "through" to the last sentence.

The comment was received from a CIDC staff person. The commenter was for the sections with the exception of the deleted word.

The amendments are adopted under the Health and Safety Code, Chapter 35, which provides the Texas Board of Health with the authority to adopt rules concerning the Chronically Ill and Disabled Children's (CIDC) Services 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.

**§38.3. Eligibility for Client Services.** In order for an individual to be eligible for the Chronically Ill and Disabled Children's Services (CIDC) Program, the individual must meet the medical, financial, and other criteria in this section.

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

(3) Financial criteria. Financial need is established on the basis of household income and assets which are legally available to the family.

(A) Household income.

(i) (No change.)

(ii) Income includes earned wages, pensions or allotments, child support payments, alimony, or any monies received on a regular basis for support purposes. Supplementary Security Income (SSI) for the disabled child is not included as income. Verification of income will be required as set out in paragraph (8) of this section. If the applicant is over the age of 18, is not in school, and has been gainfully employed and/or is living independently, eligibility will be determined by the applicant's income.

(iii)-(iv) (No change.)

(v) Applicants who appear to be financially eligible for Medicaid and meet all other CIDC Program requirements will be given temporary eligibility for 60 days. During that time the applicant must apply for Medicaid and notify the CIDC Program of Medicaid's determination. If the applicant fails to follow through with the Medicaid application, eligibility will automatically expire at the end of 60 days.

(B) (No change.)

(4)-(9) (No change.)

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

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

TRD-9208995

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

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Proposal publication date: May 1, 1992

For further information, please call: (512) 458-7355

## Chapter 139. Abortion Facilities

### Subchapter A. Abortion Facility Reporting and Licensing

#### • 25 TAC §§139.4, 139.8, 139.9

The Texas Department of Health (department) adopts amendments to §§139.4, 139.8, and 139.9, concerning abortion facility reporting and licensing. Section 139.4 and §139.9 are adopted with changes to the proposed text as published in the April 24, 1992, issue of the *Texas Register* (17 TexReg 2921). Section 139.8 is adopted without changes and will not be republished.

The amendments do the following: delete the requirement about a facility or a facility employee soliciting referrals by the promise of or the actual division of fees; require a facility to provide written discharge instructions to the patient to include a list of complications, a statement of the facility's plan to respond to the patient who experiences complications, and information concerning the necessity for a post-abortion examination; require a facility to develop and implement policies and procedures for examination and referral of patients who report complications and a system for keeping records for the purpose of resolving problems; expand and clarify the requirement that a facility make provision for a post-abortion examination or referral; add a provision requiring a facility to have written policies concerning the prevention of the human immunodeficiency virus and the hepatitis B virus by health care workers in the facility; add time frames concerning the department notifying a facility that a plan of correction is not acceptable and the facility's resubmission of an acceptable plan of correction; and add a provision concerning the renewal of an annual license by a licensee on active duty with the United States armed forces outside the State of Texas.

The following comments were received concerning the proposed amendments.

**Comment:** Concerning §139.4(16)(B)(ii), one commenter stated that the rule does not allow for extenuating circumstances when a facility is unable to contact the patient, i.e. the patient's telephone line is busy; patient leaves an incorrect phone number; facility staff person caught in traffic and unable to get to a phone.

**Response:** The department agrees and has added language to require the facility to make every reasonable effort to respond and to require the facility at the time of discharge to inform the patient, that in the event of a complication, to contact the facility, emergency medical service or present themselves for care at the emergency room of a hospital.

**Comment:** Concerning §139.4(16)(B)(iii), one

commenter strongly recommended that an individual responding to a patient who experiences any complications listed in the discharge instructions be a physician, registered nurse, or a licensed vocational nurse.

Response: The department agrees with the commenter and has added the language. The remainder of the sentence "qualified to render medical and psychosocial advice to the patient" was considered redundant and was deleted.

The department made a minor editorial change to §139.9(f)(6).

A licensed abortion facility and the Texas Board of Health provided the only comments.

The amendments are adopted under the authority of the Health and Safety Code, §245.009 and §245.010, which provides the Texas Board of Health with the authority to adopt rules concerning the issuance, renewal, denial, suspension, and revocation of a license to operate an abortion facility and certain minimum standards concerning abortion facilities; and §12.001, which provides the Texas Board of Health with authority to adopt rules for the performance of every duty imposed by law upon the Texas Board of Health, the Texas Department of Health and the commissioner of health.

*§139.4. Standards for All Licensed Abortion Facilities.* In addition to complying with all applicable federal, state, and local laws and regulations, all licensed abortion facilities and their staffs shall meet the following standards.

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

(5) The facility shall maintain a daily patient roster of all patients receiving abortion services. This daily patient roster shall be retained for a period of five years.

(6) The facility shall maintain a clinical record for each patient which is maintained according to professional standards. Identifying information required for the annual abortion report should be readily retrievable from the clinical record.

(7) The clinical record shall contain: patient identifying information; name of physician; diagnosis; history and physical; laboratory reports; tissue reports; allergies/drug reactions; physician's orders; clinical notes; counseling notes; signed patient consent form; medication administration records; and discharge summary. If the results of medical examination or written referral are obtained, the document(s) will be incorporated in the clinical record. Notations of all pharmaceutical agents shall include the time and date administered, the name of the individual administering the agent, and the signature of the person making the notation if different than the individual administering the agent.

(8) Clinical records for adults shall be retained for five years from the time of discharge and clinical records for

minors shall be retained five years past the age the patient reaches majority. All clinical records shall be safeguarded against loss and unofficial use.

(9) An abortion shall be performed only by a physician as defined by the provisions of the Texas Medical Practice Act, Texas Civil Statutes, Article 4495b.

(A) The patient care service of the facility must be provided under the direction of a physician or registered nurse who assumes responsibility for the employees' performance in the facility. A registered nurse or licensed vocational nurse must be in the facility whenever there is a patient in the operating room or recovery room.

(B) Professional and nonprofessional personnel providing patient care in the facility should be given the training and orientation period appropriate to the needs and level of preparation as required by the individual job description.

(10) The attending physician shall be responsible for obtaining and documenting an adequate preoperative history, physical exam, and appropriate laboratory studies, including verification of pregnancy.

(11) Counselors must be qualified by education and/or training to provide counseling services. Appropriate counseling shall be provided to each patient to:

(A) establish that the patient understands the nature and consequences of the procedure and recognizes alternatives to abortions. If the patient consents to the procedure, a consent form shall be signed by the patient;

(B) prepare the patient for surgery in a manner that facilitates her safety and comfort; and

(C) assist the patient in reaching a decision about the method of post-procedure birth control she will use, if any, and respect her choices.

(12) Operative care shall be provided according to acceptable surgical standards. A patient shall be attended at all times while in the treatment and recovery room.

(13) The recovery room(s) at the facility must be supervised by a physician or registered nurse.

(14) A physician must be immediately available for the facility while any patient is in the recovery room.

(15) A patient must be fully re-active and her vital signs must be stable before she can be discharged from the facility by written order of the attending physician.

(16) Written discharge instructions shall be given to each patient, a copy of which shall be signed by the patient and included in the patient's record. Each facility shall follow its instructions which shall include:

(A) a list of complications (developed by the facility in conjunction with a physician who practices in the facility) that warrant the patient contacting the facility, which shall include but not be limited to:

- (i) pain;
- (ii) temperature; and
- (iii) bleeding;

(B) a statement of the facility's plan to respond to the patient in the event the patient experiences any of the complications listed in the discharge instructions to include:

(i) the mechanism by which the patient may contact the facility on a 24-hour basis by telephone answering machine or service or by direct contact with an individual;

(ii) the facility's requirement that every reasonable effort be made and documented to respond to the patient within 30 minutes of the patient's call;

(iii) assurance that the responding individual shall be a physician, registered nurse, or licensed vocational nurse; and

(iv) information that the patient may also contact the emergency medical service or present for care at the emergency room of a hospital in addition to contacting the facility; and

(C) information concerning the need for a post-abortion examination.

(17) The facility shall develop and implement written policies and procedures for:

(A) examination or referral of all patients who report complications, as identified in the list required by paragraph (16)(A) of this subsection, to the facility after an abortion procedure. The written policy and procedure shall require:

(i) the facility to maintain a written system of documentation of patients who report post-abortion complications within 14 days of the procedure date;

(ii) documentation of the facility's action following a patient's reporting of post-abortion complications to be placed in the patient's record; and

(iii) the patients' records to be maintained for five years; and

(B) periodic review of the record keeping system for post-abortion complications to identify problems and potential problems and to make changes in order to resolve the problems.

(18) All fetal tissue must be examined grossly at the time of the procedure by the attending physician or a trained assistant under the supervision of a physician. The results of the tissue examination shall be recorded in the patient's chart.

(19) In the absence of visible fetal parts or placenta, the tissue may be examined under a low power microscope for the detection of villi. If this examination is inconclusive, the tissue shall be sent to a pathology lab.

(20) A facility shall meet the requirements set forth by the department in §§1.131-1.137 of this title (relating to Definition, Treatment and Disposition of Special Waste from Health Care Related Facilities).

(21) The facility must have a readily accessible written protocol for managing medical emergencies and the transfer of patients requiring further emergency care to a licensed hospital. The facility shall ensure that the physicians who practice at the facility have admitting privileges or have a working arrangement with a physician(s) who has admitting privileges at a local hospital in order to ensure the necessary back-up for medical complications.

(22) The facility must be in compliance with all state and federal laws pertaining to handling of drugs.

(23) The facility must have the necessary equipment and personnel for cardio and pulmonary resuscitation as described in §139.13 of this title (relating to Clinical and Equipment Standards for Licensed Facilities Administering Local Anesthesia).

(24) Surgical instruments must be sufficient in number to permit individual sterilization of the instruments used for each procedure and adequate to perform conventional cervical dilatation and curettage. Written procedures shall be maintained for current acceptable practices regarding processing, sterilization, storing, and distribution of clean and sterile supplies and equipment.

(25) Equipment for vacuum aspiration must be electrically safe and designed to prevent reverse pump action.

(26) The physical plant must be clean and in good repair at all times. To promote a functional and sanitary environment, the facility must:

(A) equip each treatment room so that procedures can be performed in a manner that assures the physical safety of all individuals in the area;

(B) have a separate recovery room;

(C) have a written protocol for emergency evacuation for fire and other disasters; and

(D) store hazardous cleaning solutions and compounds in a secure manner; substances shall be labeled.

(27) Projects involving alterations of and additions to existing buildings shall be programmed and phased so that on-site construction will minimize disruptions of existing functions. Access, exitways, and fire protection shall be maintained so that the safety of the occupants will not be jeopardized during construction.

(28) Complications that result in the death of a patient must be reported immediately by phone to the director, but not later than two business days after the incident.

(29) Each facility shall prominently and conspicuously post the license issued under the Act for display in a public area of the facility that is readily accessible to patients, employees, and visitors.

(30) All licensed abortion facilities shall provide the patient and/or her guardian at time of admission a written statement identifying the department as the responsible agency for facility complaint investigations. The statement shall inform persons to register complaints with the Director, Health Facility Licensure and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Complaints must be registered with the department in writing. A complainant must provide his/her name. All complaints shall be confidential.

(31) A facility shall adopt, implement and enforce a written policy to ensure compliance of the facility and all of the health care workers within the facility with the Health and Safety Code, Chapter 85, Subchapter I relating to the prevention of the transmission of human immunodeficiency virus and Hepatitis B virus by infected health care workers. A health care worker is any person who furnishes health care services in a direct patient care situation under a license, certifi-

cate, or registration issued by the State of Texas or a person providing direct patient care in the course of a training or educational program. The facility's policy shall establish procedures for monitoring compliance with universal precautions.

(32) A facility shall require its employees to complete an educational course about HIV infection based on the model education program developed by the department.

(33) A facility shall adopt, implement and enforce a written policy to ensure compliance of the facility and all its employees and contractors in the facility with the Health and Safety Code, §161.091, relating to the prohibition of illegal remuneration for securing or soliciting patients or patronage.

#### §139.9. *Renewal of Annual License.*

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

(f) If a licensee fails to timely renew his or her license on or after August 1, 1990 because the licensee is or was on active duty with the armed forces of the United States of America serving outside the State of Texas, the licensee may renew the license pursuant to this subsection.

(1) Renewal of the license may be requested by the licensee, the licensee's spouse, or an individual having power of attorney from the licensee. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) Renewal may be requested before or after the expiration of the license.

(3) A copy of the official orders or other official military documentation showing that the licensee is or was on active military duty serving outside the State of Texas should be filed with the department along with the renewal form.

(4) A copy of the power of attorney from the licensee shall be filed with the department along with the renewal form if the individual having the power of attorney executes any of the documents required in this section.

(5) A licensee renewing under this subsection shall pay the applicable renewal fee.

(6) A licensee is not authorized to operate the facility for which the license was obtained after the expiration date of the license unless and until the licensee actually renews the license.

(7) This section applies to a licensee who is a sole practitioner or a partnership with only individuals as partners where all of the partners were on active duty with the armed forces of the United

States serving outside the State of Texas.

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

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TRD-9208982 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

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

## Chapter 145. Long-Term Care

### Subchapter H. Long-Term Care Services For the Elderly.

#### • 25 TAC §145.121

The Texas Department of Health (department) adopts new §145.121, concerning long-term care services for the elderly; without changes to the proposed text as published in the March 27, 1992, issue of the *Texas Register* (17 TexReg 2246). The new section concerns the coordination of long-term care services for the elderly. Section 145.121 adopts by reference a Texas Department on Aging rule in 40 TAC, §251.13, concerning the Memorandum of Understanding (MOU) between the Department, the Texas Department of Human Services (TDHS), the Texas Department on Aging (TDoA), and the Texas Mental Health and Mental Retardation (TMHMR). The section implements Senate Bill 377, 72nd Legislature, 1991, which requires that the four agencies develop and adopt by rule an MOU which clearly outlines each agency's responsibilities in the development, coordination, and implementation of long-term care services for the elderly and the revision of the Texas Long-Term Care State Plan for Elderly.

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

The new section is adopted under the Human Resources Code, §101.031 (Senate Bill 377, §1, 72nd Legislative, 1991), which provides the Texas Department on Aging, the Texas Department of Human Services, the Texas Department of Health, and the Texas Mental Health and Mental Retardation with the authority to develop and adopt a Memorandum of Understanding concerning each agency's responsibilities biennially revising and updating the Texas Long-Term Care State Plan for the Elderly; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health and the Commissioner of Health.

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

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Deputy Commissioner  
Texas Department of  
Health

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For further information, please call: (512) 458-7709

## Chapter 289. Occupational Health and Radiation Control

### Texas Regulations for Control of Radiation

#### • 25 TAC §289.120

The Texas Department of Health (department) adopts an amendment to §289.120, concerning Texas regulations for the control of radiation, with changes to the proposed text as published in the March 10, 1992, issue of the *Texas Register* (17 TexReg 1808). Section 289.120 adopts by reference Part 36 of the Texas Regulations for Control of Radiation (TRCR) titled, "Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies." Part 36 is also adopted with changes.

The amendment to Part 36 concerns additions to the rule and clarifications of existing portions of the rule, as follows.

The word "wireline" was changed in the title and throughout the rule to include other technologies used in well logging operations, such as measurement-while-drilling. The word "subsurface" was deleted from the title and throughout the rule because the rule applies to all aspects of tracer studies, not just those that are subsurface. In addition, references to tracer studies were added and expanded throughout the rule to more adequately address the use, storage, handling, and disposition of tracer materials. Several definitions were added or modified to address additions to the rule and to clarify existing portions of the rule.

The section of the rule concerning radiation survey instrumentation was expanded to specify appropriate instrumentation, calibration, and who is qualified to perform calibrations. Also, the measurement range required for instrumentation was increased. This requirement is designated an item of compatibility by the Nuclear Regulatory Commission (NRC) and, in accordance with the agreement between the State of Texas and NRC, the department must adopt a similar rule. The rule was expanded to address requirements for uranium sinker bars and radioactive markers to comply with NRC compatibility requirements.

Previously, the rule required each sealed source used in downhole operations to individually meet the criteria of ANSI N542. To comply with NRC compatibility requirements, the rule was amended to specifically list applicable ANSI N542 criteria and require the pro-

TOTYPE of each sealed source to meet the criteria.

The training requirements for logging supervisors and logging assistants were expanded to specify the number of hours of formal training required, to require successful completion of a written examination administered by the licensee/registrant, and to require annual radiation safety review of all logging personnel.

Other sections of the rule were changed or deleted to clarify and more adequately specify the requirements for well logging and/or tracer study operations.

The following comments were received concerning the proposed section.

One commenter suggested changing all references from milliroentgen or mR to millirem. TRCR Part 11 makes reference to both definitions. They are used simultaneously throughout the rules. Therefore, the department made no change to the rule as a result of the comment.

One commenter felt the definition of "personal supervision" was too restrictive. The department agreed and changed the rule accordingly.

One commenter questioned whether the definition of "residential location" includes an offshore rig or a remote land rig. An offshore rig is considered a temporary job site and not a permanent site. Therefore, the department made no change to the rule as a result of the comment.

One commenter felt the definition of "transport container" needed clarification. DOT does not approve each specific Type A package. The department agreed and changed the rule accordingly.

One commenter suggested the word "pull" in the definition of "uranium sinker bar" be changed to "aid in the descent." The word "pull" does not seem appropriate. The department agreed and changed the rule accordingly.

One commenter suggested the definition of "wireline" be changed to "... electrical conductors and used to lower..." The addition of the word "and" may create more confusion than clarification. Therefore, the department made no change to the rule as a result of the comment.

Two commenters requested clarification of the rule to specify that contamination control procedures are the responsibility of the licensee and the well operator, well owner, drilling contractor, or land owner. The department agreed and made the necessary corrections.

One commenter questioned the absence of the equivalent to 10 Code of Federal Regulations 39.51 regarding the use of a sealed source in a water well without a surface casing. The department agreed. However, such an addition would constitute a substantive change to the proposed rule and would require re-proposal. Therefore, the department will address the addition in the future. The department made no change to the rule as a result of the comment.



One commenter felt the need for having additional calibrated and operable radiation survey instrumentation at each field station and temporary job site where tracer material is used would have a significant economic impact on the industry. Based upon department experience, operations using tracer materials have a significant potential for causing contamination. Therefore, the department made no change to the rule as a result of the comment.

One commenter requested clarification of the requirement for each radiation survey instrument to be calibrated for the types of radiation used and at energies appropriate for use. The rule allows for calculations, rather than radiation surveys to be made for neutron sources. Therefore, the neutron meters are not required. The department made no change to the rule as a result of the comment.

One commenter suggested rearranging the order of the tests required to maintain the integrity for the sealed source(s) prototype used in downhole operations. This is an item of compatibility with NRC. Therefore, it should remain in the order established. The department made no change to the rule as a result of the comment.

One commenter felt the change in performance criteria for the pressure testing of the sealed source(s) prototype is going a step backwards as far as a safety requirement. Requiring pressure testing of each sealed source to be used downhole presents a greater potential for contamination than testing just the prototype. Also, this requirement is an item of compatibility with NRC. Therefore, the department made no change to the rule as a result of the comment.

One commenter recommended the training of individuals using tracers be a part of §36.20 instead of Appendix 36-A. TRCR 36.20 requires training in the subjects outlined in Appendix 36-A. Appendix 36-A, VIII specifically states that individuals performing tracer studies must receive the additional training. Therefore, the department made no change to the rule as a result of the comment.

One commenter felt the wording "annual retraining" may suggest duplication of the training requirements of §36.20. The department did not intend to require annual duplication of the training. Therefore, the department agreed and changed the wording to "annual radiation safety review."

One commenter felt the requirement for film badges and/or TLD's to be returned for processing within 14 days from the exchange date is too restrictive because individuals that go out of the country cannot meet the deadline. The department agreed and expanded the rule to add a provision for those licensees/registrants which cannot meet the 14 calendar day requirement.

One commenter felt the provisions of §36.34 should be more restrictive. Department experience shows no indication of problems with damaged or irretrievable radioactive markers. The department made no change to the rule as a result of the comment.

One commenter questioned the requirement

of carrying copies of leak test reports to temporary job sites. The department feels that there will be no additional burden in carrying a copy of the leak test reports with the other reports required to be available at temporary job sites. The department made no change to the rule as a result of the comment.

One commenter suggested allowing a logging tool to be used for monitoring whenever a sealed source or device containing radioactive material is lost downhole. The department agreed and made changes to the rule accordingly.

Three commenters objected to the additional 16 hours of training required for individuals performing tracer studies. Based upon department experience, operations using tracer materials have a significant potential for causing contamination. Therefore, the department made no changes to the rule as a result of the comments.

In addition, the department has made several editorial changes to the final rules for purposes of clarification.

The majority of commenters supported most of the changes, however they raised questions and concerns and offered suggestions regarding changes.

Comments were received from Ludlum Measurements, Inc., Mid Continent Nuclear Consultants, Texas Soil and Water Conservation Board, Frank Malek and Associates, Schlumberger Well Services, U. S. Nuclear Regulatory Commission, Associated Wire Line Services, Inc., Atlas Wireline Services, and Halliburton Energy Services Group. Two commenters appeared at the public hearing.

The amendment is adopted 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 §12.001, which authorizes the board to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health.

#### *§289.120. Adoption by Reference.*

(a) The Texas Department of Health adopts by reference Part 36, "Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies" of the department's document titled Texas Regulations for Control of Radiation, as amended in August 1992.

(b) The document adopted by reference in this section is indexed and filed in the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas 78754 and is available for public inspection during regular working hours.

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 June 29, 1992.

TRD-920897

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

Effective date: August 1, 1992

Proposal publication date: March 10, 1992

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

## 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 Visually Impaired

###### • 40 TAC §31.106

The Texas Department of Human Services (DHS) adopts an amendment to §31.106 concerning case management reimbursement methodology, with changes to the proposed text as published in the May 29, 1992, issue of the *Texas Register* (17 TexReg 3897).

The justification 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), the 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. The 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.

The amendment will function by providing a more accurate reflection in agency rules of the manner in which reimbursement rates are determined for the program.

No comments were received regarding adoption of the amendment; however, DHS is adopting the section with a change in subsection (f)(5) to delete unnecessary language concerning maintenance of records.

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.



**§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 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 (relating to General Specifications). 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. Unal-

lowable 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;

(24) (No change.)

(f) Cost reporting. The Texas Commission for the Blind will submit financial and statistical information in a format designated by DHS which 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 must be based on the accrual method of accounting, unless the governmental entity operates on a cash basis. The provider must report the financial and statistical information according to the prescribed statement of allowable and unallowable costs. 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 to reflect activities during the provider's fiscal year. The financial and statistical information is due after the end of each fiscal year, although an extension may be granted for good cause. DHS may require other information for other time periods. Failure to file an acceptable report or complete required additional information will result in a hold on provider payments until the reported information or additional information is provided. The provider must certify the accuracy of the report or additional information.

(3) Review of financial and statistical information. As specified in §24.201 of this title (relating to Basic Objectives and Criteria for Desk Reviews of Cost Reports), DHS reviews reported information to ensure that all submitted financial and statistical information conforms to all applicable rules and instructions. 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. 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 according to the requirements stated in §69.202 of this title (relating to Contractor's Records). The provider must ensure that the records are accurate and sufficiently detailed to support the financial and statistical information reported. If the provider does not maintain records which support the financial and statistical information submitted, 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.

(7) Reviews of disallowances. A provider who disagrees with audit disallowances 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. DHS or TCB excludes from the rate base any unallowable expenses included in the reported financial and statistical information 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 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 June 30, 1992.

TRD-9209049

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

Effective date: August 1, 1992

Proposal publication date: May 29, 1992

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

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## TITLE 43. TRANSPORTATION

### Texas Department of Transportation

#### Chapter 25. Division of Maintenance and Operations

##### Oversize and/or Overweight Permits

###### • 43 TAC §25.62

The Texas Department of Transportation adopts an amendment to §25.62, concerning permit issuance requirements and procedures, without changes to the proposed text as published in the May 15, 1992, issue of the *Texas Register* (17 TexReg 3629).

This section prescribes the procedure for securing a permit pursuant to Texas Civil Statutes, Article 6701a to operate overweight or oversize vehicles on the state highway system. Statutory limits on the width, length, height, and weight of such vehicles are established in Texas Civil Statutes, Article 6701a authorize the department to issue special permits when those statutory limits are exceeded, but only on condition that the commodities to be transported cannot be reasonably dismantled and that the department determines that operation will be without material damage to the highway. The statute contains other provisions for permit application, fees, form, content, special conditions, and penalties.

In administering the statutory permit authority, the department has heretofore limited its determination of whether commodities can be reasonably dismantled to the relative physical ease or difficulty in doing so. Section 25.62 currently proscribes issuance of an oversize permit to transport more than one commodity in a single load if the additional commodity or commodities either create or make greater an illegal dimension of width, length, or height. The Texas Department of Commerce, the Railroad Commission of Texas, the Office of the Governor, and representatives of private industry have brought to the department's attention the urgent necessity and the appropriateness of giving consideration to economic factors in determining whether a proposed load of commodities can be reasonably dismantled. The department is advised that application of the current rule to oversize loads may in certain instances harm or impede the economic recovery, development, and welfare of Texas, and that consideration should be given to the economic impacts on employment and any affect local economy when determining whether multiple commodities hauled as a single oversize load should be permitted.

In consultation with the Texas Department of Commerce and the Office of the Governor, it has been determined that such consideration would be justified when those two agencies respectively certify and approve that issuance of an oversize permit to transport multiple commodities in a single load will have a significant positive impact on the economy of

Texas. As recommended by the Texas Department of Commerce, criteria for the certification are: creation of not less than 100 new full time jobs, the preservation of not less than 100 existing full time jobs that would otherwise be eliminated if the permit is not issued, or creates or retains not less than one percent of the employment base in the affected economic sector identified in the certification. These permits may only be issued by the department after receipt of the certification and on approval by written order of the commission. In addition, the multiple commodity loads thus permitted must not exceed legal axle and gross load limits. Moreover, the shipper and the permittee must indemnify and hold harmless the department, its commissioners, officers, and employees from damages or claims resulting from the use of the permit and must provide comprehensive general liability insurance and auto liability coverage in the amounts of \$5 million per occurrence or accident. Section 25.62 is thus amended to reflect these provisions by providing a procedure for securing an oversize and/or overweight permit, pursuant to Texas Civil Statutes, Article 6701a, to transport multiple commodities in a single load when the combined load size exceeds the statutory limits on the width, length, and height as established in Texas Civil Statutes, Article, 6701d-11.

On May 29, 1992, the department conducted a public hearing to seek comments concerning the adoption of an amendment to §25.62(f), which provides for securing an oversize and/or overweight permit to transport multiple commodities in a single load when the combined load size exceeds the statutory limits on the width, length, and height as established in Texas Civil Statutes, Article 6701d-11. One commenter gave oral testimony at this hearing. The department did not receive any written responses.

The commenter indicated that he favored the amendment to §25.62(f), except for the provision stating that the amendment will expire on June 1, 1993. He contended that the expiration date should be extended at least through February 1995.

The rule was promulgated as an exception to standard permit procedure in order to respond to special needs and conditions of the State's economic recovery and development. If it appears at a future date, that those needs and conditions will continue beyond the expiration date of June 1, 1993, the commission will give due consideration to appropriate extensions on or before that time.

The amendment is adopted under Texas Civil Statutes, Articles 6666, and 6701a, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the conduct of the work of the Texas Department of Transportation, and specifically to issue permits for the movement of oversize and/or overweight loads over the state highway system.

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 June 29, 1992.

TRD-9209022 Diane L. Northam  
Legal Administrative  
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Texas Department of  
Transportation

Effective date: July 20, 1992

Proposal publication date: May 15, 1992

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

## Chapter 31. Division of Public Transportation

### General

#### • 43 TAC §31.3

The Texas Department of Transportation adopts an amendment to §31.3, concerning definitions, without changes to the proposed text as published in the May 3, 1992, issue of the *Texas Register* (17 TexReg 1607).

The adoption of this amended section is necessary due to the recent passage of the Intermodal Surface Transportation Efficiency Act of 1991, effective December 18, 1991, which necessitates the promulgation of amendments to rules describing the administration of federal public transportation programs.

The definitions of designated recipient and federally funded project are being amended to note the new name of the federal grantor agency and enabling legislation. Similarly, the definition of UMTA (Urban Mass Transportation Administration) is being replaced by one for FTA (Federal Transit Administration).

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rule for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state and federal public transportation 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 June 26, 1992.

TRD-9209020 Diane L. Northam  
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Effective date: July 20, 1992

Proposal publication date: March 3, 1992

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## Federal Programs

- 43 TAC §§31.16, 31.21, 31.26, 31.31, 31.36

The Texas Department of Transportation adopts amendments to §§31.16, 31.21, 31.26, 31.31, and 31.36, concerning federal programs. Section 31.36 is adopted with changes to the proposed text as published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1608). Sections 31.16, 31.21, 31.26, and 31.31 are adopted without changes and will not be republished.

The adoption of these amended sections is necessary due to the recent passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, effective December 18, 1991. Each program description in the rules is being amended to note the new name of the federal enabling legislation. In §31.31, references to handicapped are being replaced by disabled to conform to recent federal statutes. To comply with provisions of the ISTEA, §31.31 is also being amended to address the eligibility of public bodies for funding under the §16(b)(2) grant program.

The ISTEA similarly requires the establishment of a funding set-aside for intercity bus transportation in §31.36, with 5.0% of the fiscal year 1992 federal apportionment to be reserved for that purpose unless the governor certifies that other resources are adequate. This set-aside increases in succeeding years to a maximum of 15% in fiscal year 1994 and beyond.

On March 19, 1992, the department held a public hearing to receive data, comments, views, and/or testimony concerning the proposed amendments. The following groups and associations commented in opposition to proposed changes: City of Del Rio; Rolling Plains Management Corporation; The Transit System, Inc.; Texoma Area Paratransit System, Inc.; San Marcos City Council; San Marcos Public Transportation Advisory Committee; Association for Coordinated Transportation in Texas; Brazos Transit System; three state representatives; and one state senator. The department's responses to the comments are presented in the order in which they appear in the proposed rules.

It was suggested that the proposed rules be withdrawn in their entirety due to various objections. One commenter also noted that Federal Transit Administration officials had advised that the rule changes were not necessary. Although the department recognizes that federal statutory changes take precedence even if the state rules are not amended to reflect those changes, TxDOT believes confusion will be minimized if consistency is maintained between the two processes whenever possible. Some parties may not have access to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 and would be misled if they relied exclusively on outdated references in the Texas Administrative Code. Further, most commenters did not object to the majority of the changes proposed and it seems reasonable to proceed with final adoption of that text.

Several commenters challenged statements

in the proposed preambles that referred to no significant impacts on local economies, overall employment, or small businesses. They also took issue with the anticipated public benefit of consistent application in the administration of public transportation programs. These comments were linked to others specific to §31.36(c)(2)-(4) of the proposed amendments, which were not recommended for final adoption. The department implicitly recognizes that these points may have merit, and, the possible impacts, not apparent to the department until those comments were received, will be fully considered in any relevant future rulemaking.

It was suggested that the proposed changes to §31.31(b) were premature as there is currently disagreement at the federal level as to how the new provisions of the §16(b)(2) grant program are to be administered. The commenter recommended that TxDOT wait for clarification from the Federal Transit Administration before adopting the new language. The additions to this subsection are taken verbatim from the amendments contained in the ISTEA of 1991. Until that law is changed, this text is correct. Any clarification necessary in this subsection due to the issuance of federal guidelines will be addressed when such guidelines are issued.

Similarly, exception was taken to proposed new subsection (c)(1) of §31.36 as premature in the absence of federal guidelines on the intercity bus program set-aside under §18. As noted on the previous response, the text of this paragraph is taken verbatim from the ISTEA of 1991. Again, any changes warranted by the issuance of federal guidelines will be addressed when such guidelines are issued.

The following comments all relate to portions of the proposed amendments to §31.36 that are not included in the final adoption and which will be addressed by a single response. A number of commenters stated that the department should have obtained industry input before issuing the proposed rules to ensure that the provisions were consistent with the current needs of that industry. A number of commenters strongly disagreed with the proposed new subsection (c)(3) of §31.36 which outlined the apportionment of monies for the expansion of services by current §18 recipients. Several referred to Rider Number 9 of the TxDOT appropriations for fiscal year 1992-1993, suggesting that gives a clear indication of legislative intent regarding rural transit expansion priorities. The same parties suggested that this matter be deferred until the next regular session of the Texas Legislature when it could be considered by the appropriate elected officials.

Various parties objected on the basis that the proposed text in §31.36(c)(3) would apply stricter standards to existing "proven" transit systems that were expanding services than to new "unproven" systems that were initiating service as outlined in §31.36(c)(2). A number of commenters felt that the 2.5% or \$500,000 set-aside outlined in §31.36(c)(3) was not adequate and that no limits should be established. The recommendation was that the department make an annual determination in much the same way as it does currently for

new starts under §31.36(c)(2). Several also suggested that §31.36(c)(3) was, in fact, unnecessary as sufficient flexibility currently exists within the preceding paragraph to accomplish the same end.

One commenter stated that the proposed methodology for distributing expansion funds, as described in §31.36(c)(3)(A) was cumbersome and would not yield the desired results. Numerous commenters took exception to the 10% limit on expansion funds, contained in §31.36(c)(3)(B), advising that it would unduly restrict a system's ability to provide quality service in a new geographic area.

It was suggested that the expansion performance standards in §31.36(c)(3)(C) were confusing and inappropriate for service expansions where gradual ridership increases are more likely to occur. One commenter recommended an 80% service level requirement in the first expansion year, 90% in the second year, and 100% in the third year. Others objected to the imposition of stricter performance standards in this subparagraph than are applied to new starts in §31.36(c)(2).

One commenter pointed out that the exceptions to the adjustment process, outlined in §31.36(c)(4)(B)(i)-(iii), were not consistent with the methodology described for the formula allocation process in §31.36(c)(4)(A) where five factors are considered rather than population alone.

The department agrees that the proposed amendments to §31.36(c)(2)-(4) should not be adopted. Instead, the current language will be retained and the department will appoint an industry advisory committee for appropriate rulemaking as provided for under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(f). Further, if all members of the Public Transportation Advisory Committee established under Texas Civil Statutes, Article 6663b, §2A, have been appointed prior to the initiation of future rulemaking, that body will also be consulted on this matter.

The withdrawal of these proposed revisions results in the following changes to the text of §31.36 as originally published in the March 3, 1992, issue of the *Texas Register* (17 TexReg 1608). The final sentence in §31.36(b), which was proposed for deletion, will be retained. The final sentence in §31.36(c)(1) is revised to refer to paragraph (3) rather than (4). This change is due to the deletion of material originally proposed and provides the correct cross-reference. Proposed revisions to the first, third, and fifth sentences of paragraph §31.36(c)(2) are withdrawn. The fourth and sixth sentences in this paragraph are revised to refer to paragraph (3) rather than (4). These changes are due to the deletion of material originally proposed and provide the correct cross-reference.

The entire paragraph (3) of §31.36(c) as originally proposed is withdrawn. The following paragraph has been renumbered from (4) to (3) due to the deletion of material. The proposed changes in §31.36(c)(3)(B), which was originally published as §31.36(c)(4)(B), are withdrawn. The eighth sentence has been revised to refer to paragraphs (1) and (2),

rather than (1)-(3), due to the deletion of material. The proposed changes in §31.36(c)(3)(C), which was originally published as §31.36(c)(4)(C), are withdrawn.

The amendments are adopted under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state and federal public transportation programs.

*§31.36. Section 18 Grant Program.*

(a) Purpose. The Federal Transit Act, §18, as amended (49 United States Code, §1614), authorizes the secretary of the United States Department of Transportation to make grants for public transportation projects in nonurbanized areas. The department has been designated by the governor to administer the §18 program.

(b) Eligible recipients. State agencies, local public bodies, private nonprofit organizations, Indian tribes and groups, and operators of public transportation services are eligible to receive §18 funds through the department. Private for-profit operators of public transportation services may participate in the program through contracts with eligible recipients.

(c) Formula allocation. As part of its administration of the §18 program, the department is charged with ensuring that there is a fair and equitable distribution of program funds within the state (FTA Circular 9040.1B, Chapter 1, §4). Effective September 1, 1989, the department will allocate §18 funds to local contractors in the following manner.

(1) Unless the governor certifies to the secretary of the United States Department of Transportation that the intercity bus service needs of the state are being adequately met, the department will reserve not less than 5.0% of the fiscal year 1992 §18 federal apportionment for the development and support of intercity bus transportation. The percentage to be reserved for intercity bus transportation will rise to 10% in fiscal year 1993 and 15% in fiscal year 1994 and beyond unless the governor certifies that such expenditures are not necessary. If it is determined that all or a portion of the set-aside monies are not required for intercity bus service, those funds shall be applied to the formula apportionment process described in paragraph (3) of this subsection.

(2) A portion of the annual §18 federal apportionment will be reserved for the establishment of nonurbanized public transportation systems in areas currently not served by a §18 system. The amount to be reserved will be determined by the department no later than June 1 of each year and shall be based on current planning estimates

by the department. The department will establish a maximum amount to be allocated to each project authorized under this paragraph. The balance available under this paragraph will be reviewed by the department at periodic intervals during the fiscal year and amounts released to contractors described in paragraph (3) of this subsection as deemed appropriate. Projects to be funded under this paragraph may be approved by the department at any time during the fiscal year. Once a new system has been in operation for at least six months, it will become subject, for the next full fiscal year, to the funding allocation process described in paragraph (3) of this subsection.

(3) The balance of the annual §18 federal apportionment will be allocated to existing §18 contractors on a formula basis as described in subparagraphs (A)-(C) of this paragraph. Upon the contractor's completion of and compliance with all application requirements, rules, and regulations applicable to the §18 program, the department and the contractor will negotiate a contract. All such contracts shall have an effective date of September 1 and shall be for a 12-month period unless otherwise authorized by the department. Formula allocations for the next fiscal year will be announced by the department no later than June 1. The formula contains two demographic factors and three performance factors, with the allocations computed as follows.

(A) Unadjusted totals will be calculated for each contractor, taking the sum of the factors described in clauses (i)-(v) of this subparagraph for the contractor and dividing the total by five. The resulting aggregate factor will then be multiplied by the total §18 funds determined by the department to be available for projects to be funded under this paragraph. The product of the latter calculation is the unadjusted formula total for each contractor.

(i) Nonurbanized population. Using the latest census figures available from the state data center, the nonurbanized population for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the nonurbanized population factor for each contractor.

(ii) Square mileage. Using the department's database, the square mileage (by county) for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the square mileage factor for each contractor.

(iii) Vehicle miles per cost. Using the most recent four quarterly

reports submitted by each contractor, the contractor's average vehicle miles travelled per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the vehicle miles per cost factor for each contractor. For contractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(iv) Revenues per expenses (revenue recovery ratio). Using the most recent four quarterly reports submitted by each contractor, the contractor's average revenue collected per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the revenues per expenses factor for each contractor. For contractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(v) Passenger trips per nonurbanized population. Using the most recent four quarterly reports submitted by each contractor and the population data described in clause (i) of this subparagraph, the contractor's average one-way passenger trips per service area population will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the passenger trips per nonurbanized population factor for each contractor. For systems that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(B) Based on the relative size of the federal apportionment and the relative number of §18 formula contractors in comparison to the preceding fiscal year, the department will adjust the formula totals derived in subparagraph (A) of this paragraph. The adjustments will be based on a comparison of the preliminary formula totals to the §18 grant funds available to each contractor during the preceding 12 months. As contractors enter their second and following years of formula funding, this will be a comparison to the previous year's allocation. The commission will determine an appropriate allocation base and cap and all preliminary formula amounts derived in subparagraph (A) of this paragraph will be adjusted to fall within that range. (For example, if contractor X's unadjusted total represented 87% of the previous year's expenditures and the annual funding base was established at 90%, contractor X's allocation would be increased to 90%. Similarly, if contractor Y's unadjusted total represented 125% of the previous year's expenditures and the annual funding cap was established at 110%, contractor Y's alloca-

tion would be reduced to 110%.) If the federal apportionment remains substantially unchanged from fiscal year 1990, the base will be no less than 95% and the cap will be as high as feasible given the available funding. Any reserve funds described in paragraphs (1) and (2) of this subsection that are released for allocation under this paragraph will be awarded on a percentage basis to the existing contractors at the lowest funding levels relative to the base. Similarly, any funds allocated under this paragraph that are not obligated by December 1 of the fiscal year of allocation will be awarded on a percentage basis to the other existing contractors at the lowest funding levels relative to the base.

(C) For the purposes of the calculations in subparagraph (B) of this paragraph, the department will assume that 10% of each contractor's formula allocation will be dedicated for capital items. However, each contractor will indicate in its annual application budget the actual amount to be allotted to the capital category. Under no circumstances shall administrative expenses exceed 30% of the total (federal \$18 dollars plus match) sum of administrative and net operating funding.

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 June 26, 1992.

TRD-9209021 Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: July 20, 1992

Proposal publication date: March 3, 1992

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

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### Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.)*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin.)*

The State Board of Insurance in Docket Number 1871, held on May 21, 1992, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, adopted amendments to the Texas Automobile Insurance Plan of Operation. The Office of Public Insurance Counsel proposed amendment to the plan of operation in a petition filed on February 7, 1992. Amendments to the proposal were made at the hearing on April 23, 1992. On May 21, 1992, Docket Number 1871 reconvened and the TAIP requested approval of amendments to the Texas Automobile Insurance Plan of Operation as outlined in "Exhibit A" which was entered at the hearing.

The board approved the following amendments for adoption.

2.6. An applicant who has been denied insurance under the plan, or an insured or insurer who is aggrieved by a violation of a plan rule may appeal such action to the Appeals Committee. An appeal may be filed in the form of a letter addressed to the Appeals Committee at the office of the plan.

3.2. The application for insurance under the plan must be submitted to the Plan on a prescribed form in duplicate accompanied by the annual premium or a per vehicle deposit as indicated following.

A. Option 1—Full Annual Premium—no deposit.

B. Option 2—Advance Premium Payment—where the total annual premium is to be paid within 30 days of the date of the premium notice, a deposit of 25% of the annual premium or a minimum of \$40 per vehicle, whichever is greater is required.

C. Option 3—Installment Premium Payment—Available only to Private Passenger—Non-Fleet.

1. Deposit. A deposit of 25% of the annual premium or a minimum of \$40 per vehicle, whichever is greater, is required. This deposit is to accompany the application on new assignments and be the initial payment on renewal policies (no installment charge shall be made on the deposit premium or initial payment on renewal policies).

2. Installment Payment Plan. One-eighth of the remainder of the premium plus an installment charge of \$3.00 on each installment shall be due in eight equal monthly installments calculated the effective date of the policy. The installment charge may be increased by \$.50 for each \$250 or fraction thereof by which the annual premium exceeds \$500.

D. The application form shall contain a statement by the applicant certifying that the installment payment option has been offered and explained by the servicing agent.

3.3. Additional premium resulting from changes to the policy may be spread over the remaining installments, if any, or may be billed immediately as a separate transaction any commission amount on the additional premium is payable by the company as provided in Section 5.8.

3.5. The first installment bill shall reflect the current annual premium minus the deposit to arrive at an outstanding balance. One-eighth of the balance shall be identified as the installment. The installment charge shall be displayed and added to the installment to arrive at the minimum amount payable. The due date for the first installment will be 30 days

after the inception of the policy and monthly thereafter.

An installment bill is to be released to the insured, with a copy to the servicing agent, every 30 days after the first installment until the outstanding balance is eliminated.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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 June 30, 1992.

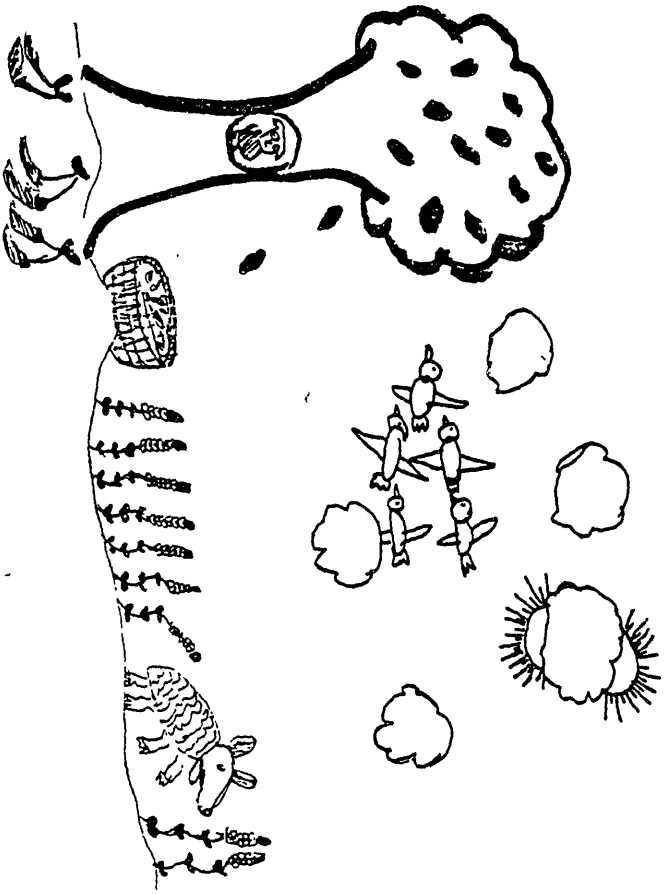
TRD-9209050 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date: July 22, 1992

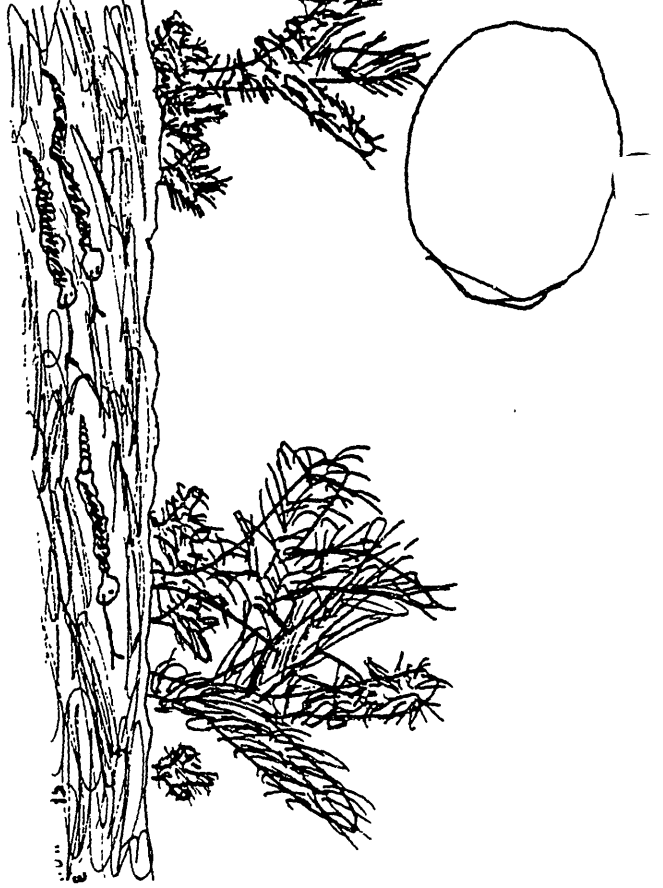
Proposal publication date: March 20, 1992

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

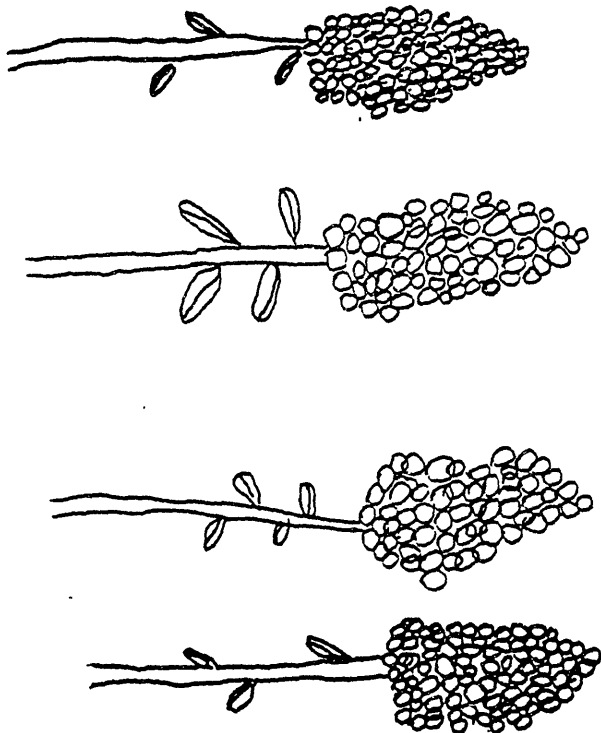
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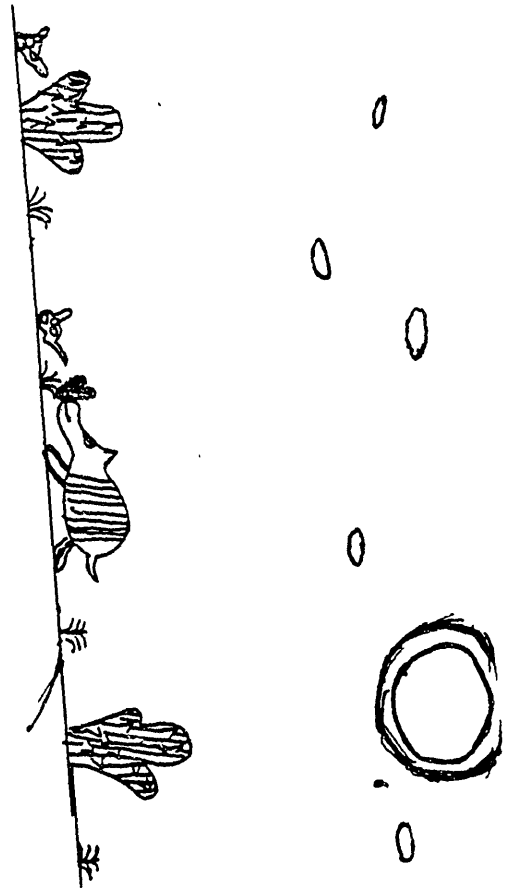
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# Open Meetings

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

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

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

**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 State Board of Public Accountancy

**Thursday, July 9, 1992, 9 a.m.** The Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda summary, the board will discuss approval of the minutes of the April 21, 1992 meeting; report of the executive committee (executive session in possible and pending litigation: Complaint Numbers 90-06-21L, 90-11-05L, 90-11-06L, 90-11-07L, and motion for contempt against TAPA); and report of the Technical Standards Review Committee; report of the Behavioral Enforcement Committee; ratification of May, 1992, examination results; report of the Licensee Education Committee; report of the Licensing Committee; report of the Constructive Enforcement Committee; report of the Major Case Enforcement Committee; adoption of board rules: §501.2 (Definitions), §501.32 (Records), §501.40 (Licensing/Registration Requirements), §505.8 (Board meetings), §519.3, (Extensions), §519.6, (Notice and Service), §519.9 (Appearances in Person or by Representative), §519.10 (Classification of Pleadings). [REPEAL], §519.11 (Form and Content of Pleadings), §519.13 (Motions) [REPEAL], §519.15 (Publication of Notice in Nonrulemaking Proceedings) [REPEAL], §519.16 (Personal Service) [REPEAL], §519.17 (Motions [Relating to Disciplinary Action]), §519.18 (Place and Nature of Hearings), §519.19 (Order of Procedure), §519.20 (Reporters and Transcript), §519.21 (Formal Exceptions), §519.23 (The Record), §519.26 (Informal [Committee] Conferences), §519.27 (Hearings in Disciplinary Action), §519.29 (Publication of Disciplinary/Administrative Sanctions), §519.30 (Service by Mail) [REPEAL],

§519.31 (Certificate of Service) [REPEAL], §523.63 (Mandatory CE Attendance); ratification of board orders; consent orders; proposals for decision; review of certain board communications; review of future meeting/hearing schedules; and adjourn.

**Contact:** William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** July 1, 1992, 4:39 p.m.

TRD-9209145

## Texas Alcoholic Beverage Commission

**Thursday, July 16, 1992, 9 a.m.** The Texas Alcoholic Beverage Commission will meet at 5806 Mesa Drive, Travis County, Austin. According to the complete agenda, the commission will take public comments on proposed Rule 37.60 dealing with penalties for administrative violations of the Texas Alcoholic Beverage Code and Bingo Enabling Act.

**Contact:** Dick Durbin, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** July 1, 1992, 2:46 p.m.

TRD-9209118

## Texas Board of Architectural Examiners

**Thursday, July 9, 1992, noon.** The Committee Chairs of the Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda summary, the committee will call the meeting to order; hear

chairman's opening remarks; and consider/act on committee matters. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Carolyn Lewis at (512) 458-1363 two (2) work days prior to the meeting so that appropriate arrangements can be made.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

**Filed:** June 30, 1992, 1:59 p.m.

TRD-9209057

**Friday, July 10, 1992, 9 a.m.** The Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda summary, the board will call the meeting to order; recognition of guests; take roll call; hear chairman's opening remarks; consider/act on the following categories: discuss approval of minutes; consent on director's report; personal appearances; committee matters; examinations; legislative matters; reciprocity; rules and regulations; disciplinary matters; board policies; next scheduled meeting; and hear public comment. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Carolyn Lewis at (512) 458-1363 two work days prior to the meeting so that appropriate arrangements can be made.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

**Filed:** June 30, 1992, 1:59 p.m.



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## State Bar of Texas

**Thursday-Friday, July 9-10, 1992, 10 a.m. and 8:30 a.m. respectively.** The Commission for Lawyer Discipline of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Room #204, Austin. According to the agenda summary, the commission will call the meeting to order; swearing in of members; introduce visitors; discuss approval of prior minutes; review status report of pending cases; discuss appointments to committees; review commission's compliance of State Bar Act and orders of Supreme Court; discuss general counsel's budget; discuss grievance committees; commission's budget; pending litigation pursuant to Article 6252-17(e); discuss pending grievance matters pursuant to §4.06(e) and §2.15; discuss assignment of special counsel cases; personnel matters; authorization of settlement offers; authorization of grievance committee judgments; discuss future meeting dates; receive public comment; and adjourn.

**Contact:** Lori Markham, 400 West 15th Street, Suite 1500, Austin, Texas 78701, (512) 463-1381.

**Filed:** July 1, 1992, 3:56 p.m.

TRD-9209129

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## Texas Commission for the Blind

**Friday-Saturday, July 10-11, 1992, 10 a.m. and 8 a.m.** The Consumer Advisory Committee (CAC) of the Texas Commission for the Blind will meet on Friday at 4800 North Lamar Boulevard, CCRC, and on Saturday at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the complete agenda, the committee will discuss housekeeping by CAC Chairman; review and discuss approval of minutes; report from TCB Assistant Director of Vocational Rehabilitation and Criss Cole Rehabilitation Center director; report from coordinator of consumer affairs; subcommittee assignments; report from TCB liaisons to subcommittees; report from the supervisor of program specialists; regional issues; report from the executive director; and on Saturday, housekeeping by CAC Chairman; subcommittee reports; and committee report to the executive director.

**Contact:** Cecilia Berrios, 4800 North Lamar Boulevard, Suite 320, Austin, Texas 78756, (512) 459-2611.

**Filed:** July 1, 1992, 2:01 p.m.

TRD-9209107

## East Texas State University

**Wednesday, July 8, 1992, 10 a.m.** The Board of Regents of East Texas State University will meet at the East Texas State University Metroplex Center, 2600 Motley Boulevard, Mesquite. According to the complete agenda, the board will discuss approval of minutes of the May 1, 1992 meeting; receive reports from its presidents, the vice president for student and university advancement and the vice president for academic affairs; and consider the following items: adjustments in the ETSU-Commerce FY92 operating budget; ETSU-Texarkana FY92 operating budget; ETSU-Texarkana FY93 operating budget; approval of depository contract; vending contracts, ETSU-Commerce; vending contracts, ETSU-Texarkana; Athletic Hall of Fame nominations; amendment to Policy II D 4 (Distinguished alumnus); dates and locations of FY93 board meetings; revocation of degrees of Grasso Ebako; and meet in executive session under Authority of Article 6252-17, 2(e), (g), and (r).

**Contact:** Charles Turner, East Texas State University, Commerce, Texas 75429, (903) 886-5539.

**Filed:** June 30, 1992, 1:54 p.m.

TRD-9209055

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## Texas Education Agency

**Wednesday, July 8, 1992, 3:30 p.m.** The Ad Hoc Committee on Textbooks of the State Board of Education (SBOE) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the agenda summary, the committee will review and discuss proposed amendments to 19 TAC §67.21, General content requirements and limitations [Textbooks], and §67.66, Samples [textbooks]; discuss approval of agreement on Applied Biology textbook purchases as a result of elimination of below-level courses; discussion of selected issues posed by the SBOE Ad Hoc Committee on Textbooks; and irregularities related to failure to correct textbooks.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** June 30, 1992, 3:46 p.m.

TRD-9209077

**Thursday, July 9, 1992, 9 a.m.** The State Board of Education (SBOE) Committee on Personnel of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the agenda summary, the committee will hear public testimony;

reports of visiting teams and requests for reapproval of alternative teacher certification programs; adoption of the examination for the Certification of Educators in Texas (ExCET) competencies; petition for rule concerning private music lessons; petition for rule regarding school health services programs; petition for rule regarding staffing of school health services programs; report on the status of teacher certification process; report on new accreditation process pilot project; accreditation of school districts; and report on the commissioner's tripartnership governance project.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:25 p.m.

TRD-9209137

**Thursday, July 9, 1992, 9 a.m.** The State Board of Education (SBOE) Committee on Students of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the agenda summary, the committee will hear public testimony; proposed amendments to 19 TAC, Chapter 75, Curriculum, Subchapters B, C, and D (essential elements-PreK-Grade 6; Grades 7-8; and Grades 9-12), and E (phase-out of below-level courses); proposed revision of the six-year textbook adoption cycle; endorsement of recommended proficiencies for Texas high school graduates; review of vocational and applied technology education projects to be funded under the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Public Law 101-392); and report on the commissioner's tripartnership governance project.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:26 p.m.

TRD-9209138

**Thursday, July 9, 1992, 9 a.m.** The State Board of Education (SBOE) Committee on School Finance of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; minimum standards for operation of proprietary schools; school facilities standards; allocation of funds for purchase/distribution of textbooks; large type textbooks for the visually handicapped; apprenticeship and training advisory committee contact-hour rate for apprenticeship training programs; review of vocational and applied technology education projects to be funded under the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Public Law 101-392); review of operating budget for 1992-93; estimated



program funds for public education for fiscal year 1993; and review of annual audit plan of the school audits division for 1992-93.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:26 p.m.

TRD-9209139

**Thursday, July 9, 1992, 12:30 p.m.** The State Board of Education (SBOE) Committee of the Whole of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; commissioner's overview of July SBOE meeting; high school education task force policy recommendation; University Interscholastic League rule concerning amateur athletic status; collection of suspension/expulsion information; SBOE legislative program; report from professional preparation and development task force on policy recommendations; discussion of pending litigation; and discussion of personnel matters. The discussion of pending litigation will be held in Room 1-103 executive session in accordance with Article 6252-17, §2(e), Vernon's Texas Civil Statutes. The discussion of personnel matters will be held in Room 1-103 in executive session in accordance with Article 6252-17, §2(g), Vernon's Texas Civil Statutes.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:24 p.m.

TRD-9209136

**Friday, July 10, 1992, 8:30 a.m.** The State Board of Education (SBOE) Committee of the Whole of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 2-112, Austin. According to the complete agenda, the committee will hold a work session that will provide an opportunity for the committee to discuss with the chairman recommendations for the board meeting scheduled beginning September 1992.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:26 p.m.

TRD-9209140

**Friday, July 10, 1992, 9 a.m.** The State Board of Education (SBOE) Committee on Long-Range Planning of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear

public testimony; expert session on issues related to restructuring high schools for student engagement and authentic achievement; interim report on study of the impact of educational reform on students in at-risk situations in Texas; discussion of federal relations activities; and report on implementation of board policy on commercial access to students.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:26 p.m.

TRD-9209141

**Friday, July 10, 1992, 9 a.m.** The State Board of Education (SBOE) Committee on the Permanent School Fund (PSF) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will hear public testimony; recommended PSF investment program for July and August and funds available for the program; review of PSF securities transactions and the investment portfolio; and report of the PSF manager.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:26 p.m.

TRD-9209142

**Friday, July 10, 1992, 1 p.m.** The State Board of Education (SBOE) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the board will hear public testimony; resolutions; discuss textbooks: general content requirements and limitations and samples; approval of agreement on Applied Biology textbook purchases as a result of elimination of below-level courses; high school education task force policy recommendation; University Interscholastic League rule-amateur athletic status; alternative teacher certification; examination for certification of educators in Texas competencies; petitions concerning-private music lessons, school health services programs, and staffing of school health services programs; 19 TAC Chapter 75, Curriculum, Subchapters B, C, and D (essential elements-PreK-Grade 6; Grades 7-8; and Grades 9-12) and E (Phase-out of below-level courses); six-year textbook adoption cycle; proficiencies for Texas high school graduates; standards for operation of proprietary schools; school facilities standards; funds for purchase/distribution of textbooks; large type textbooks; apprenticeship and training advisory committee contact hour rate; permanent school fund program for July/August; SBOE meeting schedule beginning September 1992; and

information on agency administration.

**Contact:** Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** July 1, 1992, 4:27 p.m.

TRD-9209143

## Office of the Governor

**Friday, July 10, 1992, 9:30 a.m.** The Texas Mental Health and Mental Retardation Facility Task Force of the Office of the Governor will meet at the John H. Reagan Building, Room 101, 105 West 15th Street, Austin. According to the complete agenda, the task force will hold an informational meeting; meeting will be called to order by Linda Parrish, Ph.D., Chairperson; discuss approval of minutes of the May 19, 1992 meeting; presentation on national trends in systems of mental health care service delivery and other state experiences in the downsizing and closure of state hospitals-David Goodrick, Ph.D., Goodrick and Goodrick; presentation on the development of community services and supports as alternatives to reliance on inpatient facilities-Susan Besio, Ph.D., Center for Community Change through Housing and Support; presentation on the future role and utilization of state hospitals for people with mental illness-Steve Shon, Deputy Commissioner for Mental Health Services and Dennis Jones, Commissioner, TxMHMR; discussion of task force work plan/site visitation schedule; scheduling of future meetings and public hearings; public testimony regarding whether there should be closure or consolidation of state hospitals; and adjourn.

**Contact:** Nicholas Hoover, P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

**Filed:** July 1, 1992, 12:22 p.m.

TRD-9209101

## Office of the Governor, Criminal Justice Division

**Wednesday, July 8, 1992, 9 a.m.** The Automobile Theft Prevention Authority of the Criminal Justice Division of the Office of the Governor will meet at the John H. Reagan Building, 105 West 15th Street, Room 104, Austin. According to the complete agenda, the division will call the meeting to order; make introductions; elect vice-chairperson for ATPA; update and discussion on hiring of the ATPA Program Director; update and discussion on Department of Insurance's collection of assessment fee and rule covering recoupment of assessment fee; discussion and/or approval of proposed contract between the ATPA and the Depart-

ment of Insurance; discussion and/or adoption of ATPA rules and procedures; discussion and/or adoption of ATPA plan of operation; update and discussion of Department of Public Safety statewide sticker identification program; timetable for publishing rules, plan of operation, distribution of an application kit; scheduling of next ATPA meeting; and adjourn.

**Contact:** Glenn Brooks, 201 East 14th Street, Austin, Texas 78701, (512) 463-1919.

**Filed:** June 30, 1992, 2:09 p.m.

TRD-9209061

## Texas Department of Human Services

**Wednesday, July 15, 1992, 9:30 a.m.** The Physician Payment Advisory Committee of the Texas Department of Human Services will meet at the Texas Department of Health, Moreton Building, Board Room M-739, 1100 West 49th Street, Austin. According to the complete agenda, the committee will make opening remarks; hear deputy commissioner's comments; discuss approval of minutes; discuss proposed access-based fees; simulation discussion update; access measurement update; open discussion; plan next meeting; and adjourn.

**Contact:** Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

**Filed:** July 1, 1992, 9:47 a.m.

TRD-9209093

**Wednesday, July 15, 1992, 7 p.m.** The Indigent Health Care Advisory Committee of the Texas Department of Human Services will meet at 701 East 11th Street, Austin Marriott at the Capitol Hotel, Salon H, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of minutes; discuss DHS program reform initiatives project; and other items from committee.

**Contact:** Jane Jaggar, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6461.

**Filed:** July 1, 1992, 9:12 a.m.

TRD-9209085

## Texas Department of Insurance

**Thursday, July 9, 1992, 9 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will discuss pending board order; discuss personnel; solvency;

litigation; commissioners orders; planning calendar; consider 1992 call for Texas Title Insurance Company and agent statistical report for year-end 1991; determine meeting or hearing to consider filing by Progressive Casualty Insurance Company; consider proposed new 28 TAC §5.205 relating to insurer pass through fee to fund the Automobile theft prevention authority; determine meeting or hearing to consider changes to Texas Automobile Rules and Rating Manual regarding insurer pass through fee; consider filing by Firemans Fund Insurance Company and Old Republic Insurance Company; determine meeting or hearing to consider adoption of National Fire Protection Association NFPA-13 et al; consider reference filings by insurers to use multi-peril forms/rules; consider adoption of 28 TAC §1.36(b) and repeal of 28 TAC §3.3314; consider proposed new 28 TAC §§5.6702-5.6707 concerning workers' comp subscriber notices.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** July 1, 1992, 2:54 p.m.

TRD-9209119

## Texas Juvenile Probation Commission

**Friday, July 10, 1992, 9 a.m.** The Board of the Texas Juvenile Probation Commission will meet at 2010 South IH-35, Austin. According to the complete agenda, the board will review and discuss excused absences; discuss approval of the minutes of April 24, 1992; staff acknowledgements; TJPC's six year strategic plan; line item transfers; state aid allocation; administration line item; Title IV-E program; challenge grant program and allocation guidelines; discretionary funds guidelines; community corrections diversionary placement guidelines; community corrections guidelines for innovative and creative projects; proposed amendment to 37 TAC , §341.21; update on 37 TAC §341.4; report on internal audit; report on House Bill 93; response to Ron Jackson's letter dated May 29, 1992; state auditor's report; evaluation committee report; schedule next meeting; and adjourn.

**Contact:** Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

**Filed:** June 30, 1992, 12:03 p.m.

TRD-9209052

## Legislative Natural Resources Board

**Wednesday, July 8, 1992, 2 p.m.** The Leg-

islative Natural Resources Board will meet at the Senate Meeting Room Two, One Capitol Square, 300 West 15th Street, Austin. According to the complete agenda, the board will hold an organizational meeting to include: consideration of operating procedures; election of officers; staff assignments; and consideration of future meetings.

**Contact:** Shayne Woodard, P.O. Box 12068, Austin, Texas 78711, (512) 463-0390.

**Filed:** June 30, 1992, 11:17 a.m.

TRD-9209051

## Texas Department of Licensing and Regulation

**Saturday, July 11, 1992, 9:30 a.m.** The Texas Commission of Licensing and Regulation of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, Room 1012, 920 Colorado Street, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call and certification of quorum; consider the contested cases; agreed orders; property tax consultants; staff reports; consider the administrative operating procedures; meet in executive session; discussion of date, time and location of next commission meeting; and adjourn.

**Contact:** Jack W. Garison, 920 Colorado Street, Austin, Texas 78701, (512) 463-3925.

**Filed:** July 1, 1992, 11:08 a.m.

TRD-9209095

## Board of Nurse Examiners

**Tuesday-Wednesday, July 21-22, 1992, 8 a.m.** The Board of Nurse Examiners will meet at the John H. Reagan Building, 105 West 15th Street, #101, Austin. According to the agenda summary, the board will receive minutes from the May 19, 1992 meeting; consider acceptance of April and May financial statements; consider practice and compliance issues such as groups seeking CE credentialing recognition from the board; consider education and examination issues; hold a public hearing at 10:30 a.m., July 21 to receive testimony in relation to the development of an ADN program at Temple Junior College; hold an open forum at 1:30 p.m. on July 21 to receive input from the public; receive reports from various task force committees; receive an update on Senate Bill 3 and Sunset; and consider ratification of proposed board orders. This being the annual meeting, election of officers will be held and meeting dates for

1993 will be scheduled.

**Contact:** Erlene Fisher, P.O. Box 140466, Austin, Texas 78714, (512) 835-8675.

**Filed:** July 1, 1992, 2:13 p.m.

TRD-9209109

### Texas Board of Licensure for Nursing Home Admin- istrators

**Friday, July 10, 1992, 10 a.m.** The Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Chris Cole Building, Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; agenda approval; discuss approval of minutes from April 24, 1992 and May 9, 1992 meetings; review strategic plan; committee reports; task force on long term care; hear executive director's report; disciplinary report; staff reports; report from ex-officio members; chair report; guest speaker-representative from Sunset Commission; discussion of personnel matters; final vote on application procedures; view AGE WAVE video; re-view agency code of ethics; review code of ethics for nursing home administrators; discuss task force for test revision; and adjourn.

**Contact:** Janet Lacy, 4800 North Lamar, Suite 310, Austin, Texas 78756, (512) 458-1955.

**Filed:** July 1, 1992, 3:43 p.m.

TRD-9209124

**Friday, July 9, 1992, 7 p.m. (Revised agenda).** The Policy and Procedures Committee and the Education Committee of the Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the agenda summary, the policy and procedures committee will call the meeting to order; take roll call; develop board policy of public comments; discuss personnel policy delay; discuss disciplinary policy; and adjourn. The education committee will call the meeting to order; take roll call; discuss test revisions; review test results from May exam; review preceptor curriculum; discuss acceptance of video/audio CE credit; discuss increase in CE hours and categories; review sponsor and educator approval requests; review requests to approve education and internship waivers; and adjourn.

**Contact:** Janet Lacy, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

**Filed:** July 1, 1992, 3:43 p.m.

TRD-9209125

### Texas Parks and Wildlife Department

**Wednesday, July 8, 1992, 3:30 p.m.** The Regulations Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of regulations committee minutes from May 20, 1992 meeting; briefing on early season migratory game birds, proposed rules; a preliminary review and discussion of trophy fish tags; proposed amendments to wildlife rehabilitation regulations; and other issues that may properly come before the regulations committee.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** June 30, 1992, 3:16 p.m.

TRD-9209066

**Wednesday, July 8, 1992, 3:30 p.m.** The Finance Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building C, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of minutes from March 25, 1992 meeting; preview of FY 1993 operational budget; preview of FY 1994-1995 biennial appropriations process; audit plan and charter; report on bond issue; and discuss other business.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** June 30, 1992, 3:16 p.m.

TRD-9209065

**Wednesday, July 8, 1992, 6 p.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at Ruth's Chris Steakhouse, 3010 Guadalupe Street, Austin. According to the agenda summary, the commission members plan to have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for July 9, 1992, at 9 a.m.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** June 30, 1992, 3:17 p.m.

TRD-9209069

**Thursday, July 9, 1992, 9 a.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquar-

ters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; presentation of retirement certificates and service awards; presentation of award to Sebastopol House State Historic Site; presentations to: Dallas Ecological Foundation, Dallas Safari Club, Houston Chapter of Quail Unlimited, and Texas Chapter of the National Wild Turkey Federation; Early Season Game Bird Proclamation, 1992-1993; strategic plan; easement-Mustang Island State Park-Nueces County; pipeline easement-J. D. Murphree Wildlife Management Area-Jefferson County; nomination for oil and gas lease-Sea Rim State Park-Jefferson County; land acquisition-Floyd, Briscoe, and Hall Counties; and Admiral Nimitz Museum State Historical Park easement transfer.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** June 30, 1992, 3:17 p.m.

TRD-9209068

**Thursday, July 9, 1992, 9 a.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will meet in executive session; reconvene in open meeting; discuss approval of minutes; land acquisition-Floyd, Briscoe, and Hall Counties; and discuss Admiral Nimitz Museum State Historical Park easement transfer.

**Contact:** Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** June 30, 1992, 3:17 p.m.

TRD-9209067

### Public Utility Commission of Texas

**Thursday, July 9, 1992, 9 a.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the agenda summary, the commission will consider the following dockets: 10200, 10034, 11035, 11094, 10948, 10887, 11211, P-10805, and P-11004.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 1, 1992, 4:23 p.m.

TRD-9209132

**Thursday, July 9, 1992, 9:05 a.m.** The Administrative Division of the Public Utility Commission of Texas will meet at 7800

Shoal Creek Boulevard, Suite 450, Austin. According to the agenda summary, the commission will discuss reports; discussion and action on budget and fiscal matters including a budget amendment for moving expenses; presentation of outstanding employee awards; discussion and consideration of initiating a project to address the commission's role in the deployment of advanced telecommunications services, such as distance learning, telemedicine, etc.; consider subscribing to Texas State Agencies Newsletter; approval of PUC/CES interagency contract for YF 93; report on workshop to review substantive rules; approval of revision to annual audit plan; adjourn for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and adjourn.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 1, 1992, 4:22 p.m.

TRD-9209131

**Monday, July 13, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11266-application of Guadalupe-Blanco River Authority for a rate increase for the Guadalupe Valley Hydro System.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 30, 1992, 3:24 p.m.

TRD-9209074

**Monday, July 13, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11271-application of Bowie-Cass Electric Cooperative, Inc. for authority to change rates.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 30, 1992, 3:24 p.m.

TRD-9209075

**Tuesday, July 14, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11220-application of Southwestern Bell Telephone Company to revise general exchange tariff to introduce Bill Plus.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 30, 1992, 3:23 p.m.

TRD-9209072

**Tuesday, July 14, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10832-Houston Lighting and Power Company standard avoided cost calculation for the purchase of firm energy and capacity from qualifying facilities, pursuant to Substantive Rules 23.66(h)(3).

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 1, 1992, 4:24 p.m.

TRD-9209134

**Wednesday, July 15, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 11226-petition of the general counsel to inquire into the reasonableness of the rates and services of Lake Dallas Telephone Company, Inc.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 1, 1992, 4:24 p.m.

TRD-9209135

**Thursday, September 10, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11223-application of Southwestern Bell Telephone Company to revise general exchange tariff to add a charge for duplicate copies of a customer's bill.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 1, 1992, 4:24 p.m.

TRD-9209133

**Monday, October 5, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 10986-application of Brazos Electric Power Cooperative, Inc. to amend certificate of convenience and neces-

sity within Freestone and Leon Counties.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 30, 1992, 3:24 p.m.

TRD-9209073

## Board for Lease of State-owned Lands

**Thursday, July 9, 1992, 2 p.m.** The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-owned Lands will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin. According to the agenda summary, the board will discuss approval of the minutes of the previous board meeting; consideration of nominations, terms, conditions and procedures for the October 1992 oil, gas and other minerals lease sale; and easement applications, Jefferson and Nueces Counties.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** July 1, 1992, 4 p.m.

TRD-9209130

## Texas Guaranteed Student Loan Corporation

**Wednesday, July 8, 1992, 11 a.m.** The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Suite 300, Austin. According to the complete agenda, the board will meet in executive session to discuss building acquisition; and Department of Education reinsurance policy.

**Contact:** Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78754, (512) 835-1900.

**Filed:** June 30, 1992, 2:33 p.m.

TRD-9209062

## Texas Council on Vocational Education

**Thursday-Friday, July 23-24, 1992, 8:30 a.m.** The Texas Council on Vocational Education will meet at Aquarena Springs Resort and Conference Center, One Aquarena Springs Drive, San Marcos. According to the agenda summary, the council will review its federal and state responsibilities; analyze council initiatives and activities, and develop a statement of purpose; report from its nominating committee; elect officers; discuss its vision for vocational-

technical education in the future; develop principles; adopt a statement of goals; review and discuss a draft of a report; and recommendations on vocational education in correctional institutions. On Friday, the council will hear public testimony on issues related to vocational education; approve the minutes of the council's May 7 meeting; discuss upcoming meetings; receive a legislative update; develop a schedule-of-work; discuss the council's FY 1993 budget and expenditures for FY 1991-92; establish council committees and make committee assignments; hold committee meetings; and conduct other business.

**Contact:** Lynda S. Rife, P.O. Box 1886, Austin, Texas 78767, (512) 463-5490.

**Filed:** July 1, 1992, 2:13 p.m.

TRD-9209110

### **Texas Health Policy Task Force**

**Thursday, July 9, 1992, 10 a.m.** The Texas Health Policy Task Force will meet at One Capitol Square, Senate Committee Room One, 300 West 15th Street, Austin. According to the complete agenda, the task force will call the meeting to order; presentation by Larry Tonn regarding medical malpractice; discuss medical malpractice; and presentation by policy analysts on cross-cutting issues. Persons requesting interpreter services for the hearing impaired, please contact this office.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** June 30, 1992, 2:06 p.m.

TRD-9209059

**Thursday, July 9, 1992, 10 a.m.** The Texas Health Policy Task Force will meet at One Capitol Square, Senate Committee Room One, 300 West 15th Street, Austin. According to the agenda, the meeting will be called to order; presentation by Larry Tonn regarding medical malpractice; discussion of medical malpractice; and presentation by policy analysts on cross-cutting issues. Persons requesting interpreter services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Carolyn Lewis at (512) 458-1363 two work days prior the meeting so that appropriate arrangements can be made.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** June 30, 1992, 2:06 p.m.

TRD-9209060

**Thursday, July 9, 1992, 10 a.m. (Revised agenda).** The Texas Health Policy Task Force will meet at One Capitol Square, Senate Committee Room One, 300 West 15th Street, Austin. According to the com-

plete agenda, the task force will call the meeting to order; presentation by Larry Tonn regarding medical malpractice; and task force discussion; and discussion of medical malpractice and presentation by policy analysts on cross-cutting issues. Persons requesting interpreter services for the hearing impaired, please contact this office.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** July 1, 1992, 3:46 p.m.

TRD-9209126

**Thursday, July 9, 1992, 3 p.m.** The Subcommittee on Cost Containment of the Texas Health Policy Task Force will meet at One Capitol Square, Senate Committee Room One, 300 West 15th Street, Austin. According to the complete agenda, the subcommittee will call the meeting to order; and hear subcommittee deliberations.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** July 1, 1992, 3:46 p.m.

TRD-9209127

**Friday, July 10, 1992, 9 a.m.** The Texas Health Policy Task Force will meet at One Capitol Square, Senate Committee Room One, 300 West 15th Street, Austin. According to the complete agenda, the task force will have a presentation and discussion of cross-cutting issues; continuation of discussion; discuss other task force business; and adjourn. Persons requesting interpreter services for the hearing impaired, please contact this office.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** June 30, 1992, 2:06 p.m.

TRD-9209058

### **Onsite Wastewater Treatment Research Council**

**Friday, July 10, 1992, 11 a.m.** The Onsite Wastewater Treatment Research Council will meet at the Y.O. Hilton Hotel, 2033 Sidney Baker, Kerrville. According to the agenda summary, the council will discuss approval of minutes of May 7, 1992 meeting; hear chairman's and executive remarks; symposia update by Maureen McReynolds; council brochure update by Ric Jensen; report of technical review committee; review new submittals; receive remarks from audience; and schedule ensuing meetings.

**Contact:** Ted Johns, 8407 West Wall Street, Austin, Texas 78754, (512) 834-6663.

**Filed:** July 1, 1992, 3:11 p.m.

TRD-9209121

### **Texas Workers' Compensation Commission**

**Friday, July 10, 1992, 9 a.m.** The Medical Advisory Committee of the Texas Workers' Compensation Commission will meet at the Southfield Building, 4000 South IH-35, Room 910, Austin. According to the agenda summary, the committee will call the meeting to order; review and approve the June 5, 1992 minutes; update on commission rules pursuant to the June 25, 1992 commission public meeting; discussion, consideration and recommendation of proposed dental fee guideline; update on time lines for treatment guidelines; general discussion on pharmaceutical services; review and consideration of proposed alternate medical advisory committee members; discussion on determining impairment ratings; establish next meeting date; establish draft agenda; and adjourn.

**Contact:** Todd Brown, 4000 South IH-35, Austin, Texas 78704, (512) 448-7962.

**Filed:** July 2, 1992, 9:59 a.m.

TRD-9209153

### **Regional Meetings**

#### **Meetings Filed June 30, 1992**

**The Aqua Water Supply Corporation** met at the Aqua Office, 305 Eskew, Bastrop, July 6, 1992, at 7:30 p.m. Information may be obtained from Adline Rathma, P.O. Drawer P, Bastrop, Texas 78602, (512) 321-3943. TRD-9209064.

**The Central Plains Center for Mental Health and Mental Retardation and Substance Abuse** Board of Trustees will meet at 208 South Columbia, Plainview, July 9, 1992, at 5:30 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9209080.

**The Riceland Regional Mental Health Authority** Board of Trustees will meet at 3007 North Richmond Road, Wharton, July 9, 1992, at noon. Information may be obtained from Marjorie Dornak, 3007 North Richmond Road, Wharton, Texas 77488, (409) 532-3098. TRD-9209063.

#### **Meetings Filed July 1, 1992**

**The Archer County Appraisal District** Board of Directors will meet at the Appraisal District Office, 211 South Center, Archer City, July 8, 1992, at 5 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9209120.

**The Atascosa County Appraisal District** Appraisal Review Board will meet at the Atascosa County Appraisal District Office, Fourth and Avenue J, Poteet, July 10, 1992, at 8 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9209097.

**The Brazos Valley Development Council** Executive Committee will meet at the Council Office, 3006 East 29th Street, Suite #2, Bryan, July 9, 1992, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128. TRD-9209087.

**The Cass County Appraisal District** Appraisal Review Board met at the Cass County Appraisal District, 502 North Main, Linden, July 6, 1992, at 9 a.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9209108.

**The Comal Appraisal District** Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, July 17, 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-9209111.

**The Concho Valley Council of Governments** Executive Committee will meet at 5014 Knickerbocker Road, San Angelo, July 8, 1992, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9209100.

**The Golden Crescent Regional Review Committee** will meet at the Victoria County Commissioner's Courtroom, County Courthouse, Bridge Street, Victoria, July 7, 1992, at 1:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9209096.

**The Gregg Appraisal District** Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 10, 1992, at 9 a.m. Information may be obtained from Bill Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015. TRD-9209090.

**The Hood County Appraisal District** Ap-

praisal Review Board will meet at 1902 West Pearl, District Office, Granbury, July 8, 1992, at 8:45 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9209098.

**The Kendall County Education District** Board of Trustees will meet at 121 South Main Street, Conference Room, Boerne, July 7, 1992, at 5:30 p.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9209088.

**The North Central Texas Council of Governments** Local Government Investment Fund for Texas will meet at 616 Six Flags Drive, Centerpoint Two, Arlington, July 10, 1992, at noon. Information may be obtained from Charles Cason, III, 616 Six Flags Drive, Centerpoint Two, Arlington, Texas 76011, (817) 640-3300, ext. 110. TRD-9209099.

**The Permian Basin Quality Work Force Planning Committee** will meet at the Ramada Inn, North Ballroom, 3100 West Wall, Midland, July 16, 1992, at 11 a.m. Information may be obtained from Georgia D. Hankins, 3600 North Garfield, Midland, Texas 79705, (915) 685-4673. TRD-9209086.

**The Permian Basin Regional Planning Commission** Board of Directors will meet at PBRPC Offices, 2910 LaForce Boulevard, Midland, July 8, 1992, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9209128.

**The Texas Municipal Power Agency ("TMPA")** Board of Directors will meet at the Gibbons Creek Steam Electric Station, Administration Building, FM 244, 2 1/2 Miles North of Carlos, July 9, 1992, at 9 a.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9209122.

**The West Central Texas Council of Governments** Regional Review Committee will meet at the WCTCOG Offices, 1025 East North 10th Street, Abilene, July 21, 1992, at 2:30 p.m. Information may be obtained from Jim Compton, P.O. Box 3195, Abi-

lene, Texas 79604, (915) 672-8544. TRD-9209144.

◆ ◆ ◆  
**Meetings Filed July 2, 1992**

**The Erath County Appraisal District** Appraisal Review Board will meet at 1390 Harbin Drive, Board Room, Stephenville, July 14, 1992, at 9 a.m. Information may be obtained from Nicolle Minder, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9209151.

**The Hickory Underground Water Conservation District Number One** Board and Advisors will meet at 2023 South Bridge Street, Brady, July 9, 1992, at 7 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9209146.

**The Hunt County Appraisal District** Appraisal Review Board will meet at the Hunt County Appraisal District, Board Room, 1801 King Street, Greenville, July 13-21, 1992, at 8:30 a.m. Information may be obtained from Mildred Compton, P.O. Box 1339, Greenville, Texas 75401, (903) 454-3510. TRD-9209147.

**The Kendall Appraisal District** Appraisal Review Board will meet at 121 South Main Street, Kendall Appraisal District Office, Boerne, July 7-10, 1992, at 9 a.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9209149.

**The Lavaca County Central Appraisal District** Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, July 13, 1992, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9209150.

**The Upshur County Appraisal District** Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, July 13, 1992, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280. TRD-9209148.

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board

### Extension of Deadline for Written Comments

In the April 24, 1992, issue of the *Texas Register* (17 TexReg 3021), the Texas Air Control Board (TACB) published a notice of public hearings on proposed rule amendments to be held May 21 and May 22, 1992. The purpose of the hearings was to receive testimony on proposed revisions to TACB Regulation I, Control of Air Pollution From Visible Emissions and Particulate Matter; TACB Regulation II, Control of Air Pollution From Sulfur Compounds; the general rules and the state implementation plan. In the June 5, 1992, issue of the *Texas Register* (17 TexReg 4129), the original deadline of May 25, 1992 for receipt of written comments was extended to June 25, 1992. Now, the deadline has been extended to July 9, 1992. All comments at the hearings, as well as written comments received by 4 p.m. on July 9, 1992, in the TACB central office in Austin, will be considered by the board prior to any final decision on the proposed changes.

Copies of the proposed revisions are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753 and at all TACB regional offices.

For further information, contact Mr. Robert B. Cameron at (512) 908-1495.

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

TRD-9209091 Lane Hartscock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: June 29, 1992

For further information, please call: (512) 908-1451

### Public Notice

Pursuant to 40 Code of Federal Regulations, Part 51, Subpart P, the Texas Air Control Board (TACB) gives the following notice.

The three-year periodic review report on the protection of visibility in mandatory Class 1 federal areas is available to all interested parties at the TACB central office in Austin. The two areas that are designated as Class 1 are the Big Bend National Park and the Guadalupe Mountains National Park.

Persons interested in receiving a copy of this report should contact Mr. Beecher Cameron at the TACB central office, Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, (512) 908-1495.

The TACB is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age or disability in employment or in the provision of services, programs, or activities.

In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting the Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX or 1-800-Relay-TX (TDD), or by writing or visiting at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753.

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

TRD-9209092 Lane Hartscock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 1, 1992

For further information, please call: (512) 908-1451

## 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 Article 1.04, Title 79, Revised Texas Civil Statutes, Articles 5069-1.04, Vernon's Texas Civil Statutes.

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(1)</sup>/Agricultural/ Commercial <sup>(2)</sup> thru \$250,000</u>	<u>Commercial<sup>(2)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/06/92-07/12/92	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) <sup>(3)</sup>	07/01/92-07/31/92	18.00%	18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose. (3)For variable rate commercial transactions only.



The Finance Commission has approved effective July 6, 1992, a revision of the 1988 rule requiring a consumer notice in contracts and agreements subject to Chapters 6, 6A, and 7 of the Texas Credit Code. The notice has been modified to require disclosure of the seller, creditor, or holder in the notice along with that party's telephone number. The intent of this change is to provide notice to the consumer of how he or she can contact the party to whom they are indebted under the contract or agreement. We have attempted to be flexible in the notice requirements to permit interested parties to design the most effective and useful notice. Obviously if a seller retains and services all of the seller's credit transactions, then the seller's name and telephone number should appear in the notice. If a seller routinely assigns all of its credit transactions to a particular person who subsequently services the accounts, then it would be desirable to place the name and telephone number of the assignee in the notice. All interested parties should strive to place the name and telephone number in the notice that would be most useful to the consumer in the future. The text of the revised Notice to Consumers is as follows: "To contact (insert name of retail seller, creditor, or holder as appropriate) about this account call (insert appropriate telephone number). This contract is subject in whole or in part to Texas law which is enforced by the Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207. Phone (512) 479-1285 or (800) 538-1579. Contact the commissioner relative to any inquiries or complaints."

Please note that further flexibility is provided in that the notice itself may refer a consumer to a particular place in the contract or agreement where the name and telephone number may be printed in the form or may be entered at the time the form is completed. That portion of the rule providing such flexibility and providing delayed implementation to avoid waste of forms reads as follows:

Alternatively the seller's, creditor's, or holder's telephone number may be printed in conjunction with the name and address of the retail seller, creditor, or holder entered elsewhere in the contract or agreement provided the legend required herein is amended to direct the reader's attention to the area of the contract where the telephone number may be found. Any unexecuted contracts in the hands of a retail seller as that term is defined in Chapter 6 and Chapter 7 or any such contracts in the hands of a creditor as that term is defined in Chapter 6A which contain the notice as previously required may be used without modification for a period of one year following the effective date of this rule. Thereafter all contracts and agreements must be modified or replaced so that the notice required herein is given."

Should you have questions about implementation of the new notice, please contact us.

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

TRD-9209089 Al Endsley  
Consumer Credit Commissioner

Filed: July 1, 1992

For further information, please call: (512) 479-1280



## Texas Education Agency Notice of Contract Amendment

The Texas Education Agency must develop additional test forms for evening high school students and expand the summer exit level administration of the Texas Assessment of Academic Skills (TAAS) and the Texas Educational Assessment of Minimum Skills (TEAMS). Services will include the printing and distribution of tests, manuals, ancillary materials, scoring of such tests, and reporting test results to the agency. National Computer Systems, P.O. Box 30, Iowa City, Iowa holds the current contract for test development for these two assessment instruments. Materials produced as a result of this contract are secure as specified in the Texas Education Code, §21.556. As no other company has access to this information and to maintain continuity with previously developed items, the Texas Education Agency has amended the contract with National Computer Systems for \$1,939,000 for the additional services. (See October 9, 1990, issue of *Texas Register* (15 TexReg 5966) and September 27, 1991, issue of *Texas Register* (16 TexReg 5345).

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

TRD-9209078 Lionel R. Meno  
Commissioner of Education  
Texas Education Agency

Filed: June 30, 1992

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



## Office of the Governor/Information and Referral

### Health and Human Services Dictionary Workgroup Request for Public Input

The Health and Human Services Dictionary Workgroup is requesting public involvement in a project that will enable Texans to more easily understand the health and human services delivery system. A draft of a document that defines the services provided by 11 state agencies will soon be ready and the Workgroup is requesting public comments on this document.

House Bill 7, Article III, §3.07 as passed by the 71st Legislature in the second called session, requires the governor to "appoint a work group...to develop...a statewide health and human services dictionary of uniform terms and services."

The Workgroup expects the draft to be available for public review by late August. In order to allow all who are interested adequate time to examine the information and respond, the Workgroup is compiling a list of persons who want to receive the draft Dictionary. To receive a copy, please send your name and address by August 1, 1992, to: Eddie De La Garza, Office of the Governor, P.O. Box 12397, Austin, Texas 78711.

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

TRD-9209027 David A. Talbot, Jr  
General Counsel  
Office of the Governor

Filed: June 29, 1992

For further information, please call: (512) 463-1782





**Texas Department of Health**  
**Notice of Emergency Cease and Desist**  
**Order**

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Roger Clifford, D.C. [registrant-R19073 (pending)] of Dallas to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected and all appropriate fees for registration have been paid. The bureau determined that the continued use of unregistered sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

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

TRD-9209000      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: June 29, 1992

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



Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Ronald J. Smith, D.D.S. (registrant-R10694) of Humble to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected, all sources of radiation at his facility have been properly registered, and all appropriate fees for registration have been paid. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

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

TRD-9209001      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: June 29, 1992

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



Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Marvin W. Polson, D.C. (registrant-R03810) of Paradise to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further

required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

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

TRD-9209002      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: June 29, 1992

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



Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Joel A. Moser, D.D.S. (registrant-R07666) of Dallas to cease and desist using any sources of radiation in his possession until all violations found during a recent inspection of his operations have been corrected. The bureau determined that the continued use of sources of radiation at this facility constitutes a threat to public health and safety. The registrant is further required to provide written evidence satisfactory to the bureau regarding the actions to correct the violations and the methods to prevent their recurrence.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

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

TRD-9209003      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: June 29, 1992

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



**Notice of Revocation of Certificate of**  
**Registration**

The Texas Department of Health, having duly filed a complaint pursuant to Texas Regulations for Control of Radiation, Part 13 (25 TAC §289.112), has revoked the following certificate of registration: James W. Bailey, III, D.D.S., Tyler, R13957, June 23, 1992.

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 June 29, 1992.

TRD-9208999      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: June 29, 1992

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



## Texas Department of Human Services Request for Proposal

The Texas Department of Human Services (TDHS) announces the issuance of a request for proposal (RFP) for services to develop recommendations for restructuring the current Texas Medicaid reimbursement methodologies for the nursing facility (NF) and intermediate care facility for the mentally retarded (ICF-MR) programs.

**Description of Services:**The objective of this RFP is to contract for both the NF and ICF-MR programs. TDHS wishes to consider recommendations for modifying the current reimbursement methodologies to incorporate variation in rates based on such factors as different staff wage and salary levels, payroll tax and employee benefit costs, and fixed capital-related costs. Such changes must be linked to costs which must be incurred by economically and efficiently operated facilities, and to indicators of quality care. A formal findings process must be developed to demonstrate that these criteria are met, in compliance with the federal Boren Amendment. In the ICF-MR program, TDHS also wishes to consider payment system alternatives to the current level-of-care classification system, which would provide for variation in care payments based on client characteristics and associated staffing and other service requirements. Due to the specialized nature of the ICF-MR program with regard to care and classification, the department will consider separate proposals and a separate contract to deal exclusively with the development of an alternative to the level-of-care classification system currently in use.

**Contact Person:**To obtain a copy of the request for proposal packet, contact Steve Lorenzen, Director, Provider Reimbursement Department, Texas Department of Human Services, P.O. Box 149030, Mail Code E-601, Austin, Texas 78714-9030, (512) 450-4951.

**Closing Date:**The closing date for receipt of offers is July 28, 1992.

**Evaluation and Selection:**Evaluation criteria will include the following: offeror's knowledge of alternative NF and ICF-MR reimbursement methodologies employed by other states, including NF case mix systems, alternative ICF-MR client classification systems, and fixed capital; offeror's knowledge of federal standards and legal requirements pertaining to long term care, including the Boren Amendment; offeror's knowledge and experience in developing Medicaid NF and ICF-MR reimbursement methodologies in other states; offeror's knowledge of quality assessment alternatives and issues and ability to develop quality indicators linked to payments; offeror's knowledge and experience in combining large computerized data bases and analyzing the results utilizing multivariate statistical methods; reasonableness of proposed cost of service in relation to the work described; demonstrated understanding of the products requested and the impacts those products have on the agency and other interested parties, including understanding of the political, cultural, and legal environment surrounding the agency's need to complete the specified tasks; and reasonableness of comprehensive and detailed proposal to accomplish each of the required tasks within the stated time frame.

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

TRD-9209084 Nancy Murphy  
Agency Liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: July 1, 1992

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

## Public Utility Commission of Texas Notice of Application To Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on June 23, 1992, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 50, 52, and 54. A summary of the application follows.

**Docket and Title Number:** Application of Contel of Texas, Inc. to amend certificate of convenience and necessity within Williamson County, Docket Number 11272, before the Public Utility Commission of Texas.

**The Application:** In Docket Number 11272, Contel of Texas, Inc. seeks approval of its application to amend the exchange area boundary between its Coupland exchange and GTE Southwest, Inc.'s Thorndale-Thrall exchange to allow a residential customer to be provided telephone service from the Coupland exchange.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before July 14, 1992.

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

TRD-9209071 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: June 30, 1992

For further information, please call: (512) 458-0100

## Texas Water Commission Notices of Application For Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of June 22-June 26, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain: the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Beazer West, Inc.; a sand and gravel mining operation; the plant site is approximately 1.5 miles south of the intersection of State Highway 6 and Loop 340 in McLennan County; renewal; 02893.

Ben Gay, Inc.; a feedlot; is on the east side of FM Road 3306 approximately two miles north of the intersection of FM Road 3306 and U.S. Highway 180 at a point approximately 22 miles west of the City of Seminole in Gaines County; amendment; 01738.

Dowell Well Service Incorporated; a dairy; the dairy is on the southeast side of Lone Oak Road and approximately three miles north of the intersection of U.S. Highway 67 and Lone Oak Road in Erath County; new; 03452.

Explorer Pipeline Company; a petroleum products pipeline tank farm; the plant site is just north of State Highway 26 about 2.5 miles west of Grapevine in Tarrant County; renewal; 02398.

Fina Oil and Chemical Company; its Port Arthur Petroleum Refinery; the plant site is on the northwest corner of State Highway 87 and FM Road 366 and northeast of the City of Groves in Jefferson County; amendment; 00491.

City of Georgetown; the wastewater treatment facilities; the plant site is approximately 1.2 miles northeast of the Williamson County Courthouse and approximately 1,000 feet southeast of the Granger Road crossing of the San Gabriel River in Williamson County; renewal; 10489-02.

H. B. Zachry Company; a heavy construction equipment repair and storage facility; the plant site is at 527 Logwood Avenue at West Harding Boulevard in the City of San Antonio in Bexar County; renewal; 02042.

Houston Lighting and Power Company Limestone S.E.S.; a steam and electricity generating facility. The plant site is adjacent to and on the west side of FM Road 39 at a point approximately 2.5 miles southeast of the City of Ferrar in Limestone County; renewal; 02430.

Mission Consolidated Independent School District; the Four Mile Elementary School; the wastewater treatment facility and absorption field sites are slightly over 1/2 mile west of State Highway 107 and approximately one mile south of FM Road 676 in Hidalgo County; new; 13604-01.

Vance Morris; a feedlot; the feedlot is approximately 2 and 1/2 miles northeast of the intersection of FM Road 1060 and FM Road 1573 in Sherman County; new; 03455.

Pettus Municipal Utility District; the wastewater treatment facilities; are approximately 1,400 feet west of U.S. Highway 181 and 2,400 feet south of FM 623 in Bee County; renewal; 10748-01.

Anthony J. Riedel; from Hickory Hollow Inn restaurant; the plant site is approximately 400 feet north of 10219 Fairbanks-North Houston Road, at a point approximately 1.25 miles west of FM Road 149 in Harris County; renewal; 02798.

Southern Pacific Transportation Company; a railroad locomotive service and repair facility; the plant site is between Hardy Street and Main Street on south side of Burnett Street in the City of Houston in Harris County; new; 03429.

Temple-Inland Forest Products Corporation; the proposed facility is to store, wet deck, debark, and chip pine and hardwood timber; the plant site is on County Road 23A, just south of the intersection with Highway 103, approximately seven miles west northwest of Lufkin in Angelina County; new; 03492.

Texas A&M University, Physical Plant Building; from the University Sewage Treatment Plant; the plant site is approximately 6,000 feet southeast of the intersection of FM Road 60 and FM Road 2818, 1,000 feet west of FM Road 2818, southwest of the City of College Station in Brazos County; amendment; 10968-01.

City of West; the wastewater treatment facilities; the plant site is approximately 4,000 feet northeast of City Hall and approximately 1,500 feet northeast of the intersection of Oak Street and FM Road 2114 in the City of West in McLennan County; amendment; 10544-01.

Issued in Austin, Texas, on June 29, 1992

TRD-9209054 Gloria A. Vasquez  
Chief Clerk  
Texas Water Commission

Filed: June 30, 1992

For further information, please call (512) 463-7906

## Public Hearing Notice

The Texas Water Commission will conduct a public hearing beginning at 6:30 p.m., August 24, 1992, City of Mesquite, Main Library, 300 Grubb Street, Mesquite, in order to receive testimony concerning the waste load evaluation report for Dissolved Oxygen in Lake Ray Hubbard in the Trinity River Basin (Segment 0820). The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.037.

The primary purpose of a waste load evaluation is to define treatment levels for wastewater dischargers to a segment and specify other program actions that need to be taken in order to attain and maintain the water quality standards, describe nonpoint source pollution from areas tributary to a segment, and identify treatment level alternatives using receiving stream water quality simulations. A section containing recommended treatment levels and other proposed recommended actions is also included.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the waste load evaluation. Written testimony which is submitted prior to or during the public hearing will be included in the record. The commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Larry Koenig, Texas Water Commission, Standards and Assessments Division, P.O. Box 13087, Austin, Texas 78711-3087 or call (512) 463-8462.

A limited number of copies of the draft waste load evaluation are available for review in the Texas Water Commission Library, Room B-20 of the Stephen F. Austin Building, 1700 North Congress Avenue in Austin. A copy of the

report may be obtained upon written request from Larry Koenig at the previously listed address. There are no charges for the pre-hearing draft copies of the waste load evaluation; however, a fee will be charged for the finalized post-hearing copies.

The date selected for this hearing is intended to comply with deadlines set by statute and regulation. Any publication or receipt of this notice less than 45 calendar days prior to the hearing date is due to the necessity of scheduling the hearing on the date selected.

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

TRD-9209094

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Filed: July 1, 1992

For further information, please call: (512) 463-8462

◆        ◆        ◆

## Texas Workers' Compensation Research Center

### Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Workers' Compensation Research Center invites proposals for consultant services leading to the possible award of a contract to conduct a research study of the vocational rehabilitation program needs of injured workers covered by the workers' compensation system and provide recommendations. This notice constitutes the entire request for proposal and contains all requirements necessary for an appropriate response.

**Description of Services.** Under this request for consulting services, the Texas Workers' Compensation Research Center plans to procure the services of a consultant to perform the first phase of a research study on the feasibility and effectiveness of vocational rehabilitation programs entailing the following major activities: document the return-to-work employment patterns of injured workers in Texas over the last three to four years to include old and new law claims; determine when and if injured workers are returning to work and at what wages and positions; identify differences and similarities by industry, employer size, occupation, diagnostic group, and worker demographics, among other selected characteristics; analyze and report on the prevalence, characteristics, costs, and benefits of employer-based, return-to-work programs; analyze and report on outcomes of employees who have participated in return-to-work programs provided by employers, the Texas Rehabilitation Commission, and others; estimate the number of workers that might be in need of return-to-work services and their expected participation and program completion rates; and provide recommendations as to the effect the findings have on the need for and appropriate design of return-to-work programs.

**Specification for Deliverables.** The Texas Workers' Compensation Research Center will have review and approval authority over all deliverables. All information generated will become the property of the Texas Workers' Compensation Research Center. To protect the state's interest, all deliverables as well as the data bases, software programs, and all supporting documentation developed to perform the contract, will become the property of the Texas Workers' Compensation Research Center. All deliverables will be provided to the Texas Workers' Compensation Research Center in both a diskette and a camera-

ready, original form. Data bases, software programs, and supporting documentation will be provided in both a diskette and hard copy form. The proposal submitted must demonstrate that the applicant is capable of performing, and willing to provide, all deliverables. Texas Workers' Compensation Research Center reserves the right to change, add, or delete contract deliverables prior to contract selection. Following consultant selection, the Texas Workers' Compensation Research Center and the selected consultant may negotiate mutually-agreed-upon changes, additions, or deletions of deliverables during contract finalization, if it is in the best interest of the Texas Workers' Compensation Research Center to do so. After a contract has been executed, the Texas Workers' Compensation Research Center and the selected consultant may negotiate mutually-agreed-upon changes, additions, or deletions of deliverables only if it is in the best interest of the Texas Workers' Compensation Research Center to do so.

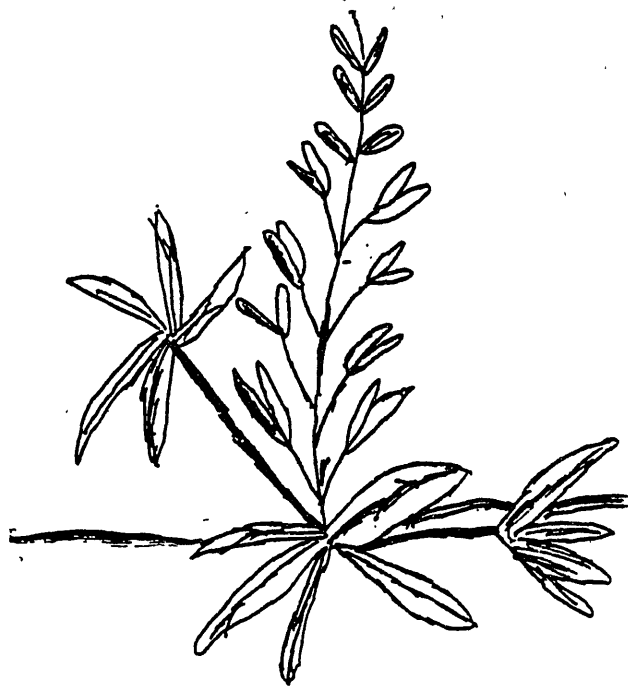
Project deliverables, at a minimum, will include: project work plan, providing details on project tasks, deliverables, and timelines; evaluation analysis plan, outlining the key research questions, methods of analysis proposed for addressing them, and data requirements for the proposed analysis; and project report, fully addressing the issues raised in the description of services and providing recommendations.

A draft of the project report is due by January 15, 1993, and a final copy is due by February 26, 1993.

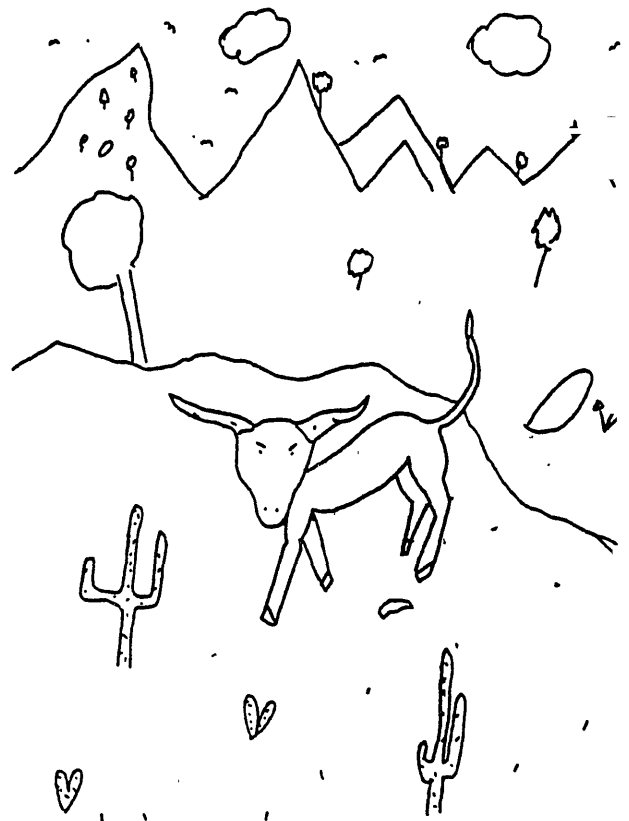
**Proposal Requirements.** The consultant must submit a typewritten proposal on 8 1/2 by 11-inch plain white paper. All proposals and their accompanying attachments become the property of the Texas Workers' Compensation Research Center upon submission. Materials submitted will not be returned. Only attachments essential to the proposal should be submitted. To be considered, the following items of information must be included in a consultant's proposal: an identification page listing the full legal name of the consultant, the mailing and street address if different, the name, title, and telephone number for the consultant's representative authorized to sign the contract and the same for the contact person; a one-page, executive summary describing the proposed approach to address what the proposal will accomplish (including products), who will be responsible for carrying out each part of the project, and the general timelines within which the proposed project will be accomplished; a review of the topic indicating the consultant's understanding of the proposal topic, for example, appropriate indicators would include an overview of the literature or knowledge of existing programs; the proposed approach, describing the methodology, activities, and/or procedures to be used in conducting the study; the proposed deliverables and timelines; a detailed budget of all costs including the terms under which the consultant agrees to provide testimony during the 73rd legislative session; a description of the services, if any, that the consultant requires from the Texas Workers' Compensation Research Center and other state agencies; the names of consultant's key staff to be used in this contract, their function, and a complete resume; and references, including client contact information from similar consultant contracts and copies of similar work products, if available, that demonstrate the consultant's experience and knowledge with project management, data design and collection.

**Closing Date.** An original and 10 copies of the written proposals must be received by the Texas Workers' Compensation Research Center by 4 p.m. on July 31, 1992.

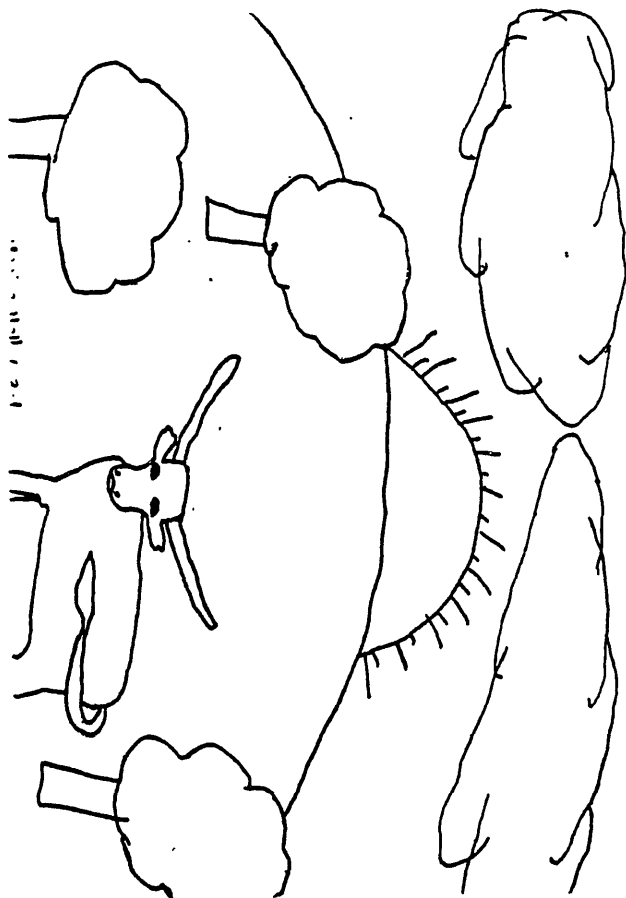




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