

# Texas Register

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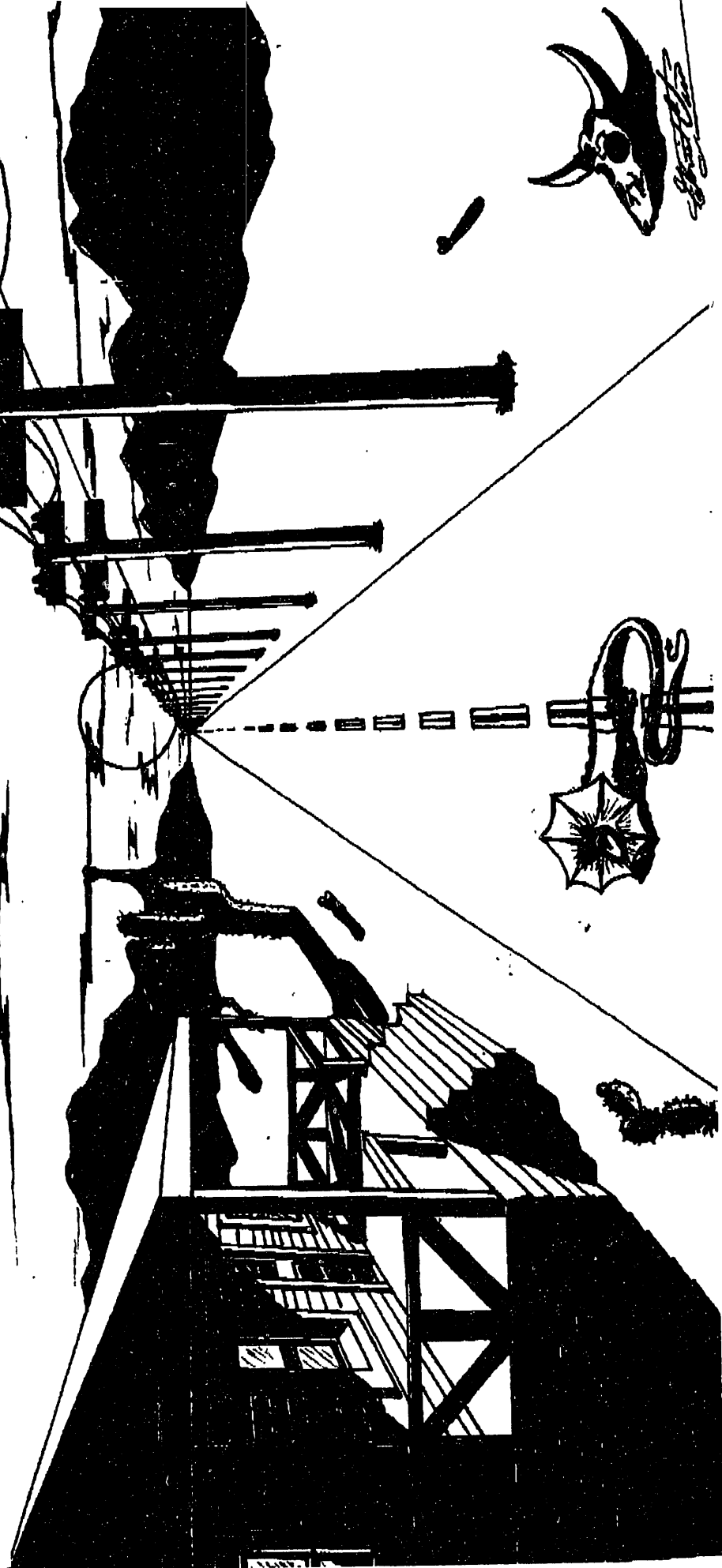
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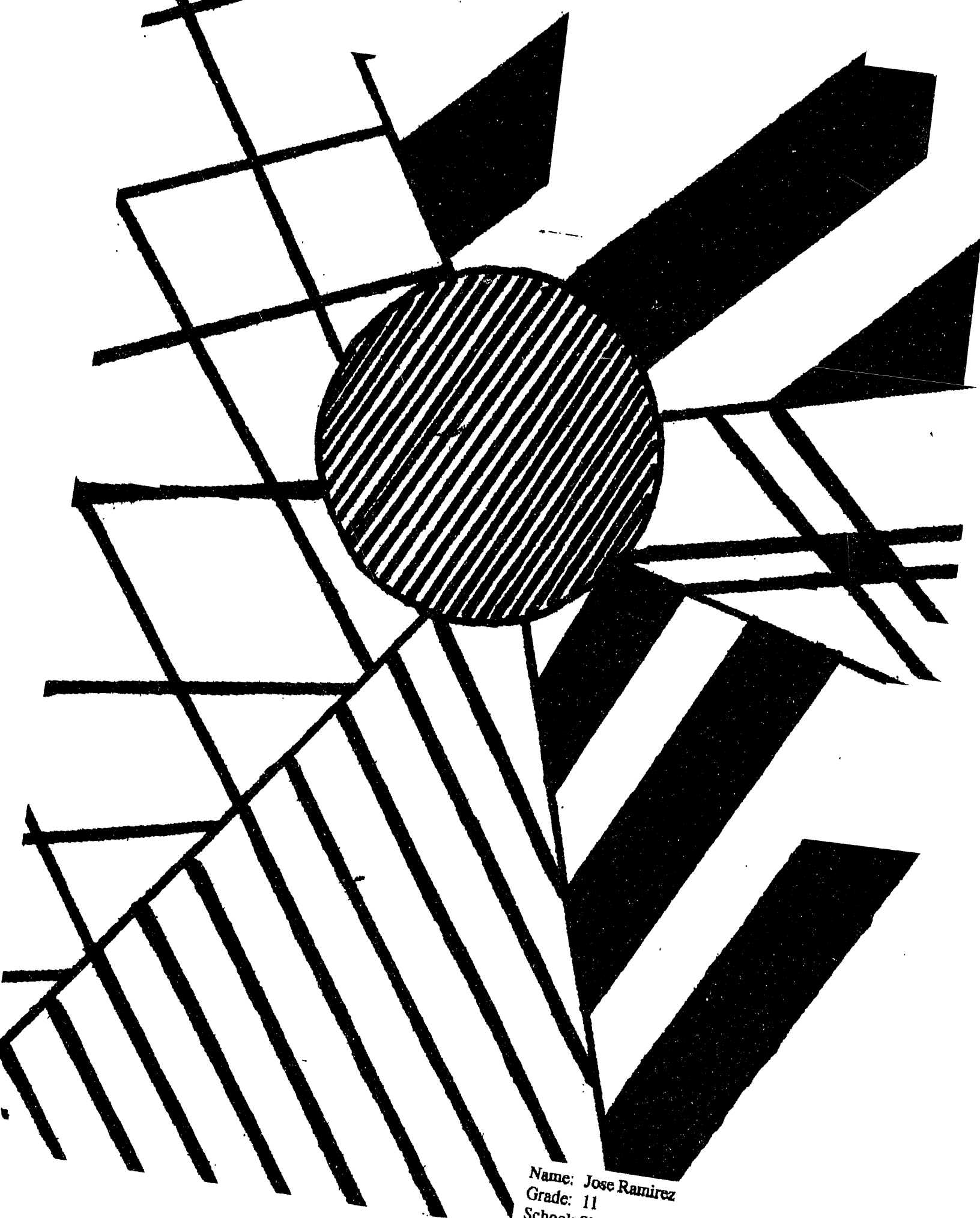
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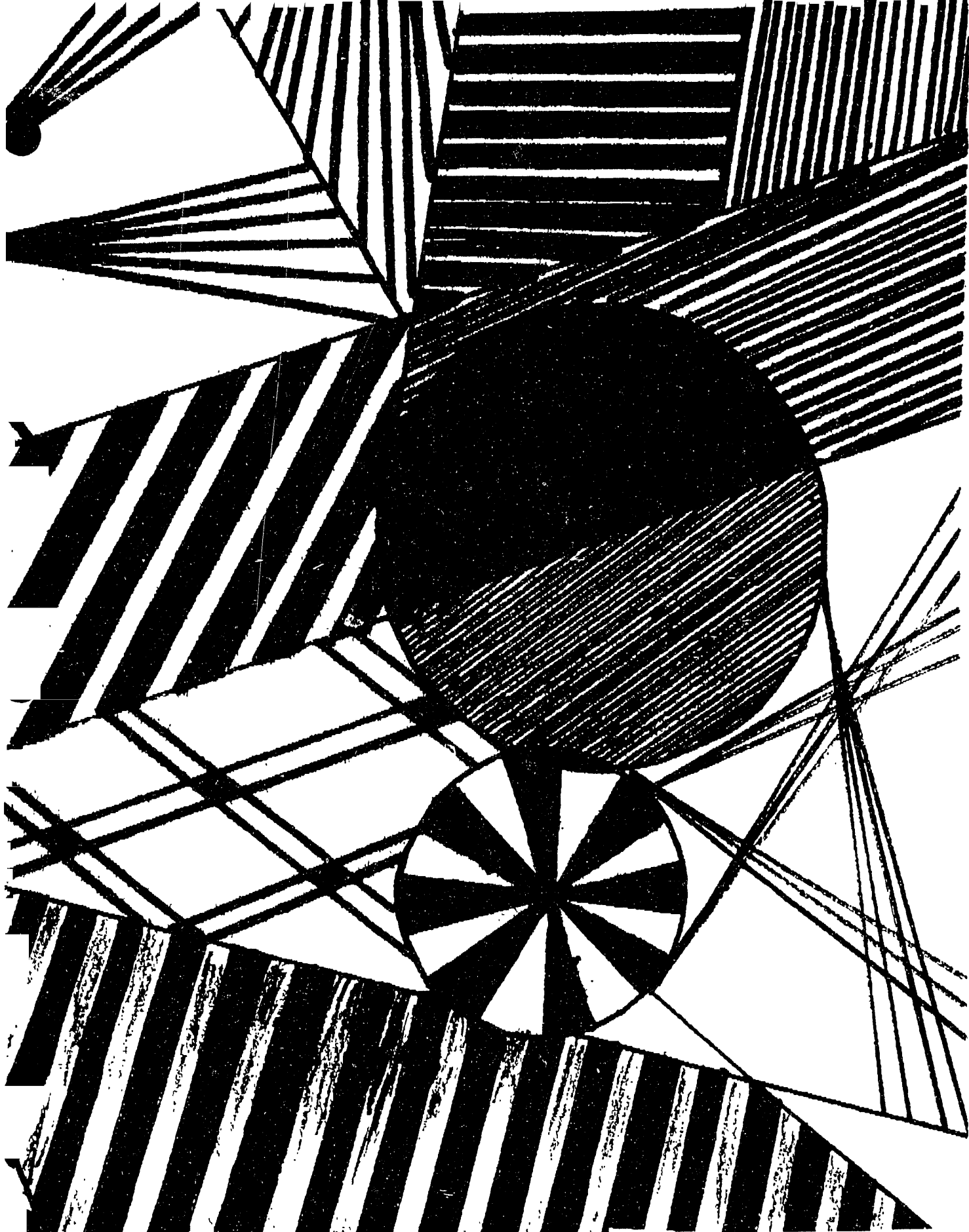
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# Proposed Sections

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 22. EXAMINING BOARDS

### Part XXX. Texas State Board of Examiners of Professional Counselors

#### Chapter 681. Professional Counselors

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

The Texas State Board of Examiners of Professional Counselors, with the approval of the Texas Board of Health, proposes amendments to §§681.83, 681.84, and 681.174, concerning licensed professional counselors. These sections cover supervisor requirements, other conditions for supervised experience, and types of acceptable continuing education.

The amendments establish criteria for acceptable supervisor training, clarify employment settings for interns, and clarify language concerning acceptable continuing education.

Kathy Craft, executive secretary, Texas State Board of Examiners of Professional Counselors, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Craft also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that counseling interns will receive a more consistent form of supervised experience ensuring a higher quality of counseling services. There is no anticipated economic cost to small or large businesses. There may be some cost to persons to comply with the sections as proposed depending on their present educational background. Persons presently meeting the new requirements will not experience any costs. Persons needing the 40 additional hours will experience costs for the additional course work. There is no effect on local employment.

Written comments on the proposal may be submitted to Kathy Craft, Executive Secretary, Texas State Board of Examiners of Professional Counselors, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6658. Comments will be accepted for 30 days following the date of publication in the *Texas Register*.

#### • 22 TAC §§681.83-681.84

The amendments are proposed under Texas Civil Statutes, Article 4512g, §6, which provide the Texas State Board of Examiners of professional counselors, subject to the approval of the Texas Board of Health, with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

##### §681.83. Supervisor Requirements.

(a) A supervisor acceptable to the board must be one of the following:

(1) a person licensed by the board or a person licensed as a counselor in another state [who has the academic training and experience or specialty designation to supervise the counseling services being provided by a counseling intern];

(2) a person licensed or certified by this state or any other state in a profession that provides counseling [with the academic training and experience to supervise the counseling services offered by the intern]. This person may be a licensed psychologist, a licensed physician with board certification as a psychiatrist, or a certified social worker advanced clinical practitioner. The person must submit to the board proof of licensure and certification, official graduate transcripts, and other appropriate documentation; or

(3) (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, shall meet [in addition to] the requirements stated in paragraph (1) of this subsection and must have completed one of the following: [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.];

(A) successful completion of an examination offered for certification as a counselor supervisor or current certification as a counselor supervisor by a nationally recognized counseling association acceptable to the board;

(B) current certification in clinical supervision by a nationally recognized counseling association acceptable to the board;

(C) 40 clock hours of training in the supervision of counseling or mental health services through one or a combination of the following:

(i) a graduate course taken for credit at an accredited college or university;

(ii) continuing education programs meeting the requirements of §681.174 of this title (relating to types of Acceptable Continuing Education); or

(iii) clinical supervision of the proposed supervisor by a person:

(I) licensed by the board or as a counselor in another state; or

(II) licensed or certified by this state or another state as a mental health professional that would be acceptable under subsection (a)(2) of this section;

(D) a doctoral degree in counseling or a related field which was designed to train the person to provide direct services to individuals or groups in a counseling relationship in the resolution of personal-social, educational, or occupational problems. The degree must have been awarded before January 1, 1995, by a university described in the academic requirements for examination and licensure in §681.62(a) or (b) of this title (relating to General); or

(E) provided at least three years of clinical supervision in counseling

of another person(s) through a university described in §681.62(a) or (b) of this title or a mental health facility licensed, accredited, or otherwise credentialed by the federal, state, or local government or a nationally recognized organization in the field of mental health. The three years must have been completed before January 1, 1995.

(3) The 40 clock hours shall include at least the following:

(A) defining and conceptualizing supervision and models of supervision for at least three clock hours;

(B) supervisory relationship and counselor development for at least three clock hours;

(C) supervision methods and techniques for at least 12 clock hours covering roles (teacher, counselor, and consultant), focus (process, conceptualization, and personalization), group supervision, multicultural supervision (racial and ethnic issues and gender issues), and evaluation methods;

(D) ethical, legal and professional issues for at least 12 clock hours covering rules for supervision and standards of practice (Subchapter B of this chapter (relating to The Practice of Counseling); §681.82 of this title (relating to Experience Requirements); and this section should be included.), other codes of ethics, and ethical and legal dilemmas; and

(E) executive and administrative tasks for at least three clock hours covering supervision plan and contract, time for supervision and recordkeeping and reporting.

(4) At the time of application for a license, a person must submit required documentation showing that the person's supervisor meets the requirements of this section.

(5) [(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.)

§681.84. *Other Conditions for Supervised Experience.*

(a) A person may be employed or used in his or her supervisor's private practice of counseling as part of the person's internship. [A person who has commenced and is in the process of completing the 24 months or 2,000 hours of supervised experience may not practice within his or her own private independent practice of counseling as part of such months or hours and may not count the months or hours spent in the person's private independent practice of counseling as part of the supervised experience; however, the person may be employed in his or her supervisor's private practice of counseling as part of such months or hours].

(1) A person may not count the months or hours spent in the person's own private independent practice of counseling as part of the internship.

(2) A person may not count the months or hours spent in the practice of counseling when the counseling setting is owned or operated by a corporation, partnership, company, or other legal entity which the intern organized; which the intern has an ownership interest; or of which the intern is an officer, director, shareholder, partner, or manager.

(b)-(l) (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 November 25, 1992.

TRD-9215831

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

Proposed date of adoption: February 13, 1993

For further information, please call: (512) 834-6658

◆ ◆ ◆  
Part XXXII. State  
Committee of Examiners  
for Speech-Language  
Pathology and  
Audiology

Chapter 741. Speech-Language  
Pathologists and Audiologists

Subchapter A. Introduction.

The State Committee of Examiners for Speech-Language Pathology and Audiology proposes amendments to existing sections §741.2, §741.41, §741.61, §741.81, §741.103, §741.123, §741.182, §741.163,

§741.193, §741.194, §741.197, and §741.198; and proposes new §741.27 and §741.301 concerning speech-language pathologists and audiologists. The sections cover the definitions; petition for adoption of a rule; code of ethics; the purpose/academic requirements for examination and licensure for speech-language pathologists; purpose/academic requirements for examination and licensure for audiologists; required application materials; requirements for licensure examinations; general requirements for license renewal; requirements for continuing professional education; complaint procedures; procedures for denying, suspending, or revoking a license; licensing of individual with criminal backgrounds to be speech-language pathologists, audiologists, licensed associates in audiology, and licensed associates in speech-language pathology; formal hearings; academic requirements for examination and dual licensure for speech-language pathologists and audiologists.

Dorothy Cawthon, program administrator, has determined that for the first five years that the sections are in effect there will be no fiscal implications to the state or local government as a result of enforcing or administering the sections as proposed.

Ms. Cawthon, also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be to assure that the licensing and regulation of speech-language pathologist and audiologist continues to identify competent licensees by updating and clarifying the rules. There is no cost to small business. There is no anticipated cost to persons who are required to comply with the sections as proposed. There will be no impact on local employment.

Comments on the proposal may be submitted to Dorothy Cawthon, State Committee of Examiners for Speech-Language Pathology and Audiology, 1100 West 49th Street, Austin, Texas, 78756-3183, (512) 834-6627. Public comments will be accepted for 30 days after publication of the sections in the *Texas Register*.

• 22 TAC §741.2

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, Section 5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

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



Aide-A licensed associate in speech-language pathology or audiology [or a generally licensed communication helper].

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 November 30, 1992.

TRD-9215954

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

Proposed date of adoption: February 13, 1993

For further information, please call: (512) 834-6627

### Subchapter B. The Committee.

#### • 22 TAC §741.27

The new section is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provide the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

#### §741.27. *Petition for adoption of a rule.*

(a) Purpose. The purpose of this section is to delineate the committee's procedures for the submission, consideration, and disposition of a petition to the committee to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the committee to adopt a rule.

(2) The petition shall be in writing; shall state the petitioner's name, address, and telephone number; and shall contain the following:

(A) a brief explanation of and justification for the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The petition shall be mailed or delivered to the executive secretary, State Committee of Examiners for Speech-Language Pathology and Audiology, 1100 West 49th Street, Austin, Texas 78756-3183.

(c) Consideration and disposition of the petition.

(1) Except as otherwise provided in paragraph (4) of this subsection, the executive secretary shall submit a completed petition to the committee for its consideration.

(2) Within 60 days after receipt of the completed petition by the executive secretary, the committee shall either:

(A) deny the petition;

(B) initiate rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; or

(C) deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(3) If the committee denies the petition, the executive secretary shall give the petitioner written notice of the committee's denial, including the reason(s) for the denial.

(4) If the committee initiates rule-making procedures in accordance with the APTRA, §5, the version of the rule which the committee proposes may differ from the version proposed by the petitioner.

(d) Subsequent petitions to adopt the same or similar rules. All initial petitions for the adoption of a rule shall be presented to and decided by the committee in accordance with the provisions of subsections (b) and (c) of this section. The committee may refuse to consider any subsequent petition for the adoption of the same or similar rule submitted within six months after the date of the initial petition.

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 November 30, 1992.

TRD-9215953

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

Proposed date of adoption: February 13, 1993

For further information, please call: (512) 834-6627

### Subchapter C. The Practice of Speech-Language Pathology and Audiology.

#### • 22 TAC §741.41

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.41. *Code of Ethics.* This section [in this subchapter] establishes the standards of professional and ethical conduct required of a speech-language pathologist, an audiologist, a licensed associate in speech-language pathology, and a licensed associate in audiology, and constitutes a code of ethics as authorized by the Act, §17(a)(3). It is the responsibility of all licensed speech-language pathologists, licensed audiologists, licensed associates in speech-language pathology, and licensed associates in audiology to uphold the highest standards of integrity and ethical principles.

(1) A licensee [Licensees] shall honor his or her professional responsibility to each client [hold paramount the welfare of individuals served professionally].

(A) A licensee [Licensees] shall fully inform clients [individuals served] of the nature and possible effects of the services rendered by the licensee.

(B) A licensee [Licensees] shall not engage in the medical treatment of speech-language and hearing disorders.

(C) A licensee [Licensees] shall seek appropriate medical consultation whenever indicated.

(D) A licensee [Licensees] shall fully inform subjects participating in research or teaching activities of the nature and possible effects of these activities.

(E) A licensee [Licensees] shall maintain [adequate and] accurate records of professional services rendered.

(F) A licensee [Licensees] must not guarantee, directly or by implication, the results of any therapeutic procedures. A reasonable statement of prognosis may be made, but caution must be exercised not to mislead clients [individuals served professionally] to expect results that cannot be predicted from reliable evidence.

(G) A licensee [Licensees] must not delegate any service requiring professional competence of a licensee [licensed clinician] to anyone not licensed for the performance of that service.

(H) A licensee [Licensees] shall seek to identify competent, dependable referral sources for clients [individuals served professionally].

(I) A licensee shall not provide services to a client if the services can not be provided with reasonable skill or safety to the client.

(J) A licensee shall not provide any services which create an unreasonable risk that the client may be mentally or physically harmed.

(K) A licensee shall not engage in sexual contact, including intercourse, kissing or fondling, with a client or an associate, intern or student supervised by the licensee.

(L) A licensee shall not use alcohol or drugs when the use adversely affects or could adversely affect the licensee's provision of professional services.

(2) A licensee's [Licensees'] statements to clients [individuals served professionally] and to the public shall provide accurate information about the nature and management of communicative disorders and about the profession and the services rendered by the licensee [its practitioners].

(A) A licensee [Licensees] shall not misrepresent his or her [their] training or competence.

(B) A licensee shall not present false, misleading or deceptive information in any advertisement, announcement or presentation relating to the services of the licensee or any person supervised or employed by the licensee [Licensees' public statements providing information about professional services and products shall not contain representations or

claims that are false, deceptive or misleading].

(C) A licensee [Licensees] shall not use professional or commercial affiliations in any way that would mislead clients [individuals served professionally] or the public.

(D) A licensee shall bill a client or a third party only for the services actually rendered in the manner agreed to by the licensee and the client or the client's authorized representative.

(E) A licensee shall not present false, misleading or deceptive information in connection with an application by the licensee for employment to provide speech-language pathology or audiology services.

(F) A licensee shall cooperate with the committee by furnishing required documents or papers and by responding to a request for information from or a subpoena issued by the committee or the committee's authorized representative.

(3) A licensee [Licensees] shall maintain objectivity in all matters concerning the welfare of clients [individuals served professionally].

(A) A licensee [Licensees] must not participate in activities that constitute a conflict of professional interest.

(B) Activities that constitute a conflict of interest may include the following:

(i) (No change.)

(ii) lack of accuracy in the performance description of a product a licensee has developed; or

(iii) the restriction of freedom of choice for sources of services or [and/or] products.

(C) A licensee shall not use his or her professional relationship with a client, intern, associate or student to promote for personal gain or profit any item, procedure, or service unless the licensee has disclosed to the client, intern, associate or student the nature of the licensee's personal gain or profit.

(D) A licensee shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the services being provided.

(4) A licensee shall supervise an intern or associate in accordance with this chapter. [Licensees shall honor the standards of the profession and shall uphold these standards in their professional interactions.]

(5) A licensee [Licensees] shall inform the committee of violations of this code of ethics [and shall assist the committee in matters pertinent to professional conduct related to this code of ethics].

(A) A licensee shall comply with any order relating to the licensee which is issued by the committee.

(B) A licensee shall not aid or abet the practice of an unlicensed person when that person is required to have a license under the Act.

(C) A licensee having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect by any person shall report in accordance with the Family Code, §34.12.

(D) A licensee shall not interfere with a committee investigation or disciplinary proceeding by willful misrepresentation of facts to the committee or its authorized representative or by the use of threats or harassment against any person.

(6) A licensee [Licensees] who supervises [supervise] associates, interns, students or other supportive personnel is [are] responsible for the services to the client that may be performed by these individuals. The supervising professional must ensure that all services provided are in compliance with this chapter.

(7) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage. The provisions of the Health and Safety Code, §161.091 relating to the prohibition of illegal remuneration apply to licensees.

(8) A licensee who provides direct patient care must comply with the Health and Safety Code, Chapter 85, Subchapter I, relating to the prevention of the transmission of HIV or Hepatitis B virus by infected health care workers.

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

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Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
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For further information, please call: (512) 834-6627

◆ ◆ ◆  
**Subchapter D. Academic Requirements for Examination and Licensure for Speech-Language Pathologists.**

• 22 TAC §741. 61

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.61. *Purpose.* The purpose of this section is to delineate the academic requirements for examination and licensure of speech-language pathologists.

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

(5) An applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as [include] clinical practicum.

(B)-(D) (No change.)

(6)-(8) (No change.)

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

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**Subchapter E. Academic Requirements for Examination and Licensure for Audiologists.**

• 22 TAC §741.81

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.81. *Purpose.* The purpose of this section is to delineate the academic requirements for examination and licensure of audiologists.

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

(5) An applicant must have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as [include] clinical practicum.

(B)-(D) (No change.)

(6)-(8) (No Change.)

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

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**Subchapter F. Application Procedures.**

• 22 TAC §741.103

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas

Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.103. *Required Application Materials.*

(a) All applicants applying for a speech-language pathology or audiology license must submit the following:

(1) an application [Application] form obtained from the committee office which [The application form] shall contain:

(A)[(1)] specific information regarding personal data, employment and nature of professional practice, other state licenses and [and/or] certifications held, felony and misdemeanor convictions, educational background, practicum experience, supervised experience and references;

(B)[(2)] a statement that the applicant has read the Act and this chapter of the [these] committee rules and agrees to abide by them;

(C)[(3)] a statement that the applicant, if issued a license, shall return the license to the committee upon the revocation or suspension of the license;

(D) [(4)] a statement that the applicant understands that fees submitted in the licensure process are nonrefundable; and

(E)[(5)] the dated and notarized signature of the applicant;[.]

(2)[(b)] a supervised [Supervised] post-graduate experience form which [The supervised experience form] must contain the following information:

(A)[(1)] the name of the applicant;

(B)[(2)] the supervisor's name, address, degree, and licensure status [or American Speech-Language-Hearing Association Certificate of Clinical Competence, or evidence of equivalent credentials];

(C) [(3)] the name and address of the agency or organization where the experience was gained;

(D)[(4)] the inclusive dates of the supervised experience and the total number of hours of supervised post-graduate practice;

(E)[(5)] the number of hours of weekly face-to-face supervision provided for the applicant and the types of supervision used (direct, observation room, video tape, audio tape, review of records, etc.);

(F)[(6)] the applicant's employment status during supervised experience; and

(G)[(7)] the supervisor's signature ;[.]

(3)[(c)] an original or certified copy of [Graduate transcripts. An applicant must have the official] transcript(s) of all relevant course [graduate] work [and sent directly to the Committee by the educational institution.];

(4) a record of all clinical practicum clock hours documented by the academic program; and

(5)[(d)] Other documents.] vitae, resumes and other documentation of the applicant's credentials [may be submitted,] but not in lieu of any other required documentation.

(b) All applicants applying for an associate license must submit the following:

(1) an application form obtained from the committee office which contains:

(A) specific information regarding personal data, employment and nature of professional practice, other state licenses and certifications held, felony and misdemeanor convictions, educational background and references;

(B) a statement that the applicant has read the Act and this chapter of the committee rules and agrees to abide by them;

(C) a statement that the applicant, if issued a license, shall return the license to the committee upon the revocation or suspension of the license;

(D) a statement that the applicant understands that fees submitted in the licensure process are nonrefundable; and

(E) the dated and notarized signature of the applicant;

(2) a supervisory responsibility statement form obtained from the committee office which contains:

(A) the name, address, employer, area of licensure and license number of the supervisor and the name, area of licensure and employer of the associate; and

(B) the dated and notarized signature of the supervisor;

(3) an original or certified copy of transcript(s) of relevant course work. The transcript(s) must show that at least a baccalaureate degree was earned; and

(4) vitae, resumes and other documentation of the applicant's credentials, but not in lieu of any other required documentation.

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

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Subchapter G. Licensure Examinations.

• 22 TAC §741.123

The amendment is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.123. Requirements.

(a) (No change.)

(b) An applicant wishing to take the required examination shall contact the Educational Testing Service (ETS) directly for any required registration forms or other information. The fee shall be paid to the

committee if the applicant is taking the examination solely for licensure purposes. The fee shall be paid to the testing service if the applicant is taking the examination for licensure purposes and to obtain private certification. If the fee is to be paid to the committee, it must be received in the committee office by a date set by the office [All fees shall be paid to the testing service].

(c)-(e) (No charge.)

(f) Persons who fail the examination may be examined at a subsequent time if they pay another nonrefundable examination fee. An applicant who has taken and failed to pass two examinations may not take the examination until the person has submitted a new application together with a nonrefundable application fee and presented evidence to the committee of additional study in the area for which licensure is sought.

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◆ ◆ ◆  
Subchapter I. Licensure Renewal

• 22 TAC §741.162, §741.163

The amendments are proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.162. General.

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

(c) At least 45 days prior to the expiration date of an individual's license, the executive secretary shall send notice to the licensee of the expiration date of the license, the amount of the renewal fee

due, the number of continuing education hours required for renewal, and a license renewal form which the licensee must complete and return to the committee with the required fee. A licensed associate is also required to provide an updated supervisory responsibility statement signed by the associate's current licensed supervisor. [A 60-day grace period, after the date of expiration of a license, shall be allowed for payment of the renewal fee. A licensee may continue to practice during the grace period and must follow all requirements of the Act and this chapter.]

[(1) If the licensee earned continuing education hours as required by §741.163 of this title (relating to Requirements for Continuing Professional Education) prior to expiration of the license, no additional continuing education hours are required for renewal of the license.]

[(2) If the licensee failed to meet the requirement of paragraph (1) of this subsection, the licensee must earn 10, 15 if dual, continuing education hours during the 60-day grace period in order to renew the license during the grace period.]

[(3) If a licensee earned or accrued fewer than the required continuing education hours (10, or 15 if dual) prior to expiration of the license, those hours will not be available for credit for renewal.]

[(4) After expiration of the grace period, the committee may renew each license in accordance with subsection (g) of this section.]

(d) The licensee is required to provide current addresses and telephone numbers, employment information, and other information on the license renewal form. A request to change the name as issued on the certificate or license verification cards must be submitted in writing with a copy of the divorce decree, marriage certificate, or social security card showing the new name. The committee is not responsible for lost, misdirected, or undelivered renewal forms and fees if sent to the address last reported to the committee. [At least 45 days prior to the expiration date of an individual's license, the executive secretary shall send notice to the licensee of the expiration date of the license, the amount of the renewal fee due, the number of continuing education hours required for renewal, and a license renewal form which the licensee must complete and return to the committee with the required fee. A licensed associate is also required to provide an updated supervisory responsibility statement signed by the associate's current licensed supervisor.]

(e) The committee shall issue a license verification card to a licensee who has met all requirements for renewal. The licensee must display the license ver-

ification card with the certificate. [The licensee is required to provide current addresses and telephone numbers, employment information, and other information on the license renewal form. The committee is not responsible for lost, misdirected, or undelivered renewal forms and fees if sent to the address last reported to the committee.]

(f) A 60-day grace period, after the date of expiration of a license, shall be allowed. A licensee may continue to practice during the grace period and must follow all requirements of the Act and this chapter. [The committee shall issue a license verification card to a licensee who has met all requirements for renewal. The licensee must display the license verification card with the certificate.]

(g) At the end of the 60-day grace period, a license will be placed in an inactive status and will remain in this status until renewed or deleted in accordance with this subsection. An inactive licensee may not practice or represent himself or herself as a speech-language pathologist or audiologist.

(1) [Requests.] A licensee may submit, prior to expiration of the 60-day grace period, a written request for inactive status to the committee office specifying the reason for the request. Failure to earn continuing education hours is not an acceptable reason. A licensee who made a proper request for inactive status must pay the applicable penalty fee at the time of renewal but not a late renewal penalty fee.

(2) A request for renewal of a license in inactive status must be made in writing. The request must be postmarked within two years of the date of expiration of the license. [Penalties upon renewal.]

[(A) If a licensee wishes to reactivate the license at the end of the first or the second year of inactive status, the licensee:

[(i) must request reactivation in writing prior to the end of the first or second year of inactive status;

[(ii) must pay a penalty fee as follows:

[(I) if inactive status was requested under paragraph (1) of this subsection, a penalty fee equal to all accrued renewal fees must be paid; or

[(II) if inactive status was not requested under paragraph (1) of this subsection, the late renewal penalty fee must be paid; and

[(iii) must furnish proof of having earned, during the inactive period, at least 10 continuing education

hours. Dual licensees must submit proof of having earned, during the inactive period, at least 15 hours of continuing education. A person who has at least 10 continuing education hours, or at least 15 continuing education hours for holders of dual licenses, accrued under §741.163(5) of this title (relating to Requirements for Continuing Professional Education) for renewal shall be deemed to have met this requirement.

[(B) If a licensee chooses to reactivate the license at a time different from the first or second year renewal date, the licensee:

[(i) must pay the late renewal penalty fee; and

[(ii) must meet one of the following requirements:

[(I) if reactivated before the end of the first year, no additional continuing education hours need to be earned if the licensee has completed at least 10 continuing education hours, or at least 15 hours for holders of dual licenses, prior to expiration of the license and could have renewed the license;

[(II) if reactivated before the end of the first year, no continuing education hours need to be earned if the licensee is reactivating an initial license;

[(III) if reactivated before the end of the first year and if the licensee has not earned at least 10 continuing education hours, or at least 15 continuing education hours for holders of dual licenses, prior to expiration of the license and could not have renewed the license, the licensee must earn at least 10 continuing education hours, or at least 15 continuing education hours for holders of dual licenses, during the inactive period. The hours must be earned before reactivation will be granted. A person who has at least 10 continuing education hours, or at least 15 continuing education hours for holders of dual licenses, accrued under §741.163(5) of this title (relating to Requirements for Continuing Professional Education) for renewal shall be deemed to have met this requirement; or

[(IV) if reactivated after the end of the first year but before the end of the second year, the licensee must furnish proof of having earned, during the inactive period, at least 10 continuing education hours. Dual licensees must submit proof of having earned, during the inactive period, at least 15 hours of continuing education. A person who has at least 10 continuing education hours, or at least 15

continuing education hours for holders of dual licenses, accrued under §741.163(5) of this title (relating to Requirements for Continuing Professional Education) for renewal shall be deemed to have met this requirement.]

(3) After the end of the 60-day grace period, a licensee may renew his or her license upon payment of the applicable penalty and late renewal penalty fees and the furnishing of proof of having earned or accrued the following continuing education hours: [Deleted license following inactive status. A license that is not reactivated within the two year period after expiration may not be renewed, and the license may not be restored, reissued, or reinstated thereafter, but that person may reapply for and obtain a new license if requirements of this Act are met.]

(A) if renewing before the end of the first year of the inactive status, no continuing education hours need to be earned if the licensee is renewing an initial license;

(B) if renewing before the end of the first year of inactive status, at least 10 continuing education hours or 15 for holders of dual licenses;

(C) if renewing at the end of the first year of inactive status but before the end of the second year, at least 20 continuing education hours or 30 hours for holders of dual licenses;

(D) if renewing at the end of the second year of inactive status, at least 30 continuing education hours or 45 hours for holders of dual license; and

(E) the hours earned or accrued before expiration of the license shall count toward meeting these hours.

(4) After renewal of the license, the licensee shall earn and accrue continuing education hours as required by §741.163 of this title (relating to Requirements for Continuing Professional Education).

(5) A license that is not reactivated within the two year period after expiration may not be renewed and the license may not be restored, reissued, or reinstated thereafter, but that person may reapply for and obtain a new license if requirements of the Act are met.

(h)-(l) (No change.)

*§741.163. Requirements for Continuing Professional Education.* Continuing professional education requirements must be met for renewal of license.

(1) Continuing professional education in speech-language pathology and audiology consists of a series of planned individual learning experiences beyond the basic educational program which has led to a degree or qualifies one for licensure.

(A) (No change.)

(B) Continuing education hours under subparagraph (A)(iv) of this paragraph shall be considered if the licensee submits a description of the continuing education activity; prior approval is advised. Review by the committee or the appropriate subcommittee to determine that the activity is in a related area may require the submission of additional information. Any continuing education hours earned in a related area must further the knowledge of speech-language pathology or audiology or enhance service delivery. [Prior approval may be requested.]

(2)-(5) (No change.)

(6) If a licensee successfully completes course work from an accredited college or university, that course work may be accepted for continuing education credit. The licensee must submit an original or certified copy of the transcript and complete a statement that this was a continuing education experience. Ten continuing education clock hours or one continuing education unit equals one semester hour of course work.

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

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

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◆ ◆ ◆  
Subchapter K. Denial, Suspension, or Revocation of License.

• 22 TAC §§741.193, 741.194, 741.197, 741.198

The amendments are proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt

rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

*§741.193. Complaint Procedures.*

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

(c) [Upon receipt of a complaint.] The [the] executive secretary may, [shall] notify the alleged violator of the complaint and request a written response within 45 days.

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

*§741.194. Procedures for Denying, Suspending, or Revoking a License.*

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

(d) If denial, revocation or suspension of a license is proposed, the committee shall give written notice [by certified mail, return receipt requested,] that the licensee or applicant must request, in writing, a formal hearing within 10 days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended. The notice shall include a copy of written charges, if applicable. Receipt of the notice is presumed to occur on the 10th day after the notice is mailed to the last address known to the committee unless another date is reflected on a United States Postal Service return receipt. [The postmarked date of the response is the date to be used for determining if the response is within 10 days.]

(e) (No change.)

(f) If the applicant or licensee requests a formal hearing:

(1) the subcommittee may request that a formal hearing be set by the Texas Department of Health, Office of General Counsel. The chair shall [, which may] appoint a hearing examiner to conduct the formal hearing. The hearing examiner shall [and] recommend final action to the committee based on the evidence presented at the formal hearing. The committee is not required to adopt the recommendations of the hearing examiner and may deny, suspend, or revoke a license or impose probationary conditions on a license as the committee deems appropriate and lawful; or

(2) (No change.)

(g) (No change.)

(h) Not less than one year from the date of revocation of a license, application may be made to the committee for

reinstatement. The committee may accept or reject an application for reinstatement and may require an examination for the reinstatement. [Renewal, reinstatement, or reissuance of a denied, revoked, or suspended license is governed by the Act, §5 and §17.]

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

(j) If a suspension overlaps a license renewal date, the individual whose license is suspended may comply with the renewal procedures in this chapter; however, the committee may not renew the license until the committee determines that the reason for the suspension no longer exists or the period of suspension is completed.

(k) If the committee denies an initial license or renewal request, a person may reapply for a license by complying with the then-existing requirements and procedures for application. The committee may refuse to issue a license if the reason for the denial continues to exist.

(l) Upon revocation, suspension, or nonrenewal, a licensee shall return his or her license certificate and identification card to the committee.

*§741.197. Licensing of Individuals with Criminal Backgrounds to be Speech-Language Pathologists, Audiologists, Licensed Associates in Audiology and Licensed Associates in Speech-Language Pathology.*

(a) This section [subsection] is designed to establish guidelines and criteria on the eligibility of individuals with criminal backgrounds to obtain licenses as speech-language pathologists, audiologists, licensed associates in audiology, and licensed associates in speech-language pathology.

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

(3) In considering whether a criminal conviction directly relates to the profession of a speech-language pathologist, audiologist, licensed associate in audiology and licensed associate in speech-language pathology, the committee shall consider:

(A) (No change.)

(B) the relationship of the crime to the purposes for requiring a licensee to be a speech-language pathologist, audiologist, licensed associate in audiology or licensed associate in speech-language pathology; [ The following felonies and misdemeanors relate to the license of speech-

language pathologists, audiologists, licensed associates in audiology, or licensed associates in speech-language pathology because these criminal offenses indicate an inability or a tendency to be unable to perform as a licensed speech-language pathologist, audiologist, licensed associate in audiology, or licensed associate in speech-language pathology:]

[(i) the misdemeanor of violating any of the provisions of the Act;

[(ii) the deceptive trade practice of any individual practicing or representing himself or herself as a speech-language pathologist or audiologist in the State of Texas after August 31, 1984;

[(iii) offenses under the following titles of The Texas Penal Code: Title 5, Offenses Against the Person; Title 7, Offenses Against Property; and, Title 8, Offenses Against Public Administration; including the offense of attempting or conspiring to commit any of the offenses listed in either Title 5, Title 7, or Title 8;

[(iv) the misdemeanors and felonies listed in clauses (i) -(iii) of this subparagraph are not exclusive in that the subcommittee may consider other particular crimes in special cases in order to promote the intent of the Act and these rules;]

(C) (No change.)

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensed speech-language pathologist, audiologist, licensed associate in audiology, and licensed associate in speech-language pathology. In making this determination, the committee shall consider the following evidence:

(i)-(v) (No change.)

(vi) other evidence of the person's present fitness, including letters of recommendation from[:] prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person; and

(vii) (No change.)

(b) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, his license shall be subject to [review and] revocation.

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an inability or a tendency for the person to be unable to perform or to be unfit for licensure:

(1) the misdemeanor of violating the Act;

(2) a conviction relating to deceptive business practices;

(3) a misdemeanor or felony offense involving:

(A) murder;

(B) assault;

(C) burglary;

(D) robbery;

(E) theft;

(F) sexual assault;

(G) injury to a child;

(H) injury to an elderly person;

(I) child abuse or neglect;

(J) tampering with a governmental record;

(K) forgery;

(L) perjury;

(M) failure to report abuse;

(N) bribery; or

(O) harassment;

(4) a conviction relating to delivery, possession, manufacturing, or use of a controlled substance, dangerous drug, or narcotic; or

(5) other misdemeanors or felonies, including convictions under the Texas Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency for the person to be unable to perform as a licensee or unfit for licensure if action by the committee will promote the intent of the Act, this chapter, and Texas Civil Statutes, Article 6252-13c.

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

(1) (No change.)



(2) If the committee denies, suspends, or revokes a license under this subsection after hearing, the executive secretary will give the individual written notice in accordance with Texas Civil Statutes, Article 6252-13d [of the reason for the decision.

[(A) The written notice will also inform the individual that after exhausting administrative appeals, he or she may file an action either in a district court of Travis County, Texas, or in a district court of the county of his or her residence for review of the evidence presented to the committee and to review the committee decision; and

[(B) The individual must begin the judicial review by filing a petition with the court within 20 days after the committee's action is final and appealable.]

#### §741.198. Formal Hearings.

(a) The Committee adopts by reference the Texas Department of Health's formal hearing procedures in Chapter 1 of this title (relating to the Board of Health) [25 TAC §§1. 21-1.34] with the following exceptions:

(1) all final orders or decisions will be made by the Committee; [and]

(2) all references in the formal hearing procedures [Formal Hearing Procedures] to "agency," "board," and "commissioner" mean the State Committee of Examiners for Speech-Language Pathology and Audiology; and [.]

(3) the procedures in the Act, §19 shall govern when there is a conflict between the provisions of §19 and the department's formal hearing procedures.

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

(e) If the applicant or licensee fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the charges and proposed action and to have waived the right to a hearing.

(f) The parties to a hearing shall be the applicant or licensee who requested the hearing and the subcommittee appointed under §741.193 of this title (relating to Complaint Procedures).

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Texas Department of  
Health

Proposed date of adoption: February 13, 1993

For further information, please call: (512) 834-6627

### Subchapter M. Academic Requirements for Examination and Dual Licensure for Speech-Language Pathologists and Audiologists.

#### • 22 TAC §741.301

The new section is proposed under Texas Civil Statutes (TCS), Article 4512j, §5, which provides the State Committee of Examiners for Speech-Language Pathology and Audiology, subject to the approval of the Texas Board of Health, with the authority to adopt rules consistent with Article 4512j and as necessary to administer and enforce the Act; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The amendment will affect Texas Civil Statutes, Article 4512j, §5.

§741.301. Purpose. The purpose of this section is to delineate the academic requirements for examination and dual licensure of speech-language pathologists and audiologists.

(1) An applicant must possess at least a master's degree with a major in speech-language pathology or audiology from an accredited or approved college or university.

(2) An applicant must submit transcripts showing successful completion of at least 30 semester hours in courses acceptable toward a graduate degree by the college or university in which they were taken. At least 21 graduate hours must be within the professional area of speech-language pathology and at least 21 graduate hours in audiology.

(3) The undergraduate and graduate preparation required in audiology and speech-language pathology should be in the broad, but not necessarily exclusive, categories of study, as follows:

(A) information pertaining to the normal development and use of speech, language and hearing with emphasis on the normal aspects of human communications;

(B) information pertaining to evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) information pertaining to related areas that augment the work of clinical practitioners of speech-language pathology and audiology (i.e. theories of learning and behavior; information pertaining to related professions that also deal with individuals who have communication disorders; and information from these professions about the sensory, physical, emotional, social and/or intellectual status of a child or an adult). No more than three semester hours in any of the following areas may be accepted:

(i) in statistics, beyond the introductory level course;

(ii) academic study of the administrative organization of speech-language pathology and audiology programs;

(iii) courses that provide an overview of research; or

(iv) academic credit for a thesis or dissertation.

(4) Original transcripts shall be required to process an application for licensure or internship approval. Certified copies of transcripts shall be considered originals. Transcripts shall be reviewed as follows.

(A) Degrees and course work must have been completed at a college or university within the United States of America which holds accreditation or candidacy status from a recognized regional accrediting agency, such as the Southern Association of Colleges and Universities.

(B) Degrees and course work received at foreign universities shall be acceptable only if such course work could be counted as transfer credit by accredited universities, as reported by the American Association of Collegiate Registrars and Admissions Officers.

(C) Academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other official means.

(D) The committee shall not accept an undergraduate level course taken by an applicant to meet academic requirements for licensure at the graduate level unless the applicant's transcript clearly shows that the course was awarded graduate credit by the college or university from which the graduate degree was granted.

(E) Academic credit obtained from practice teaching or practice work in other professions will not be counted toward the minimum requirements.



(F) The committee shall only accept course work completed with a passing grade or for credit. In the case of course work taken outside a program of studies from which a degree was granted, no grade below C shall be counted toward meeting academic requirements for examination for licensure.

(G) The committee shall consider a quarter hour of academic credit as 2/3 of a semester hour.

(5) An applicant must have completed a minimum of 200 clock hours in speech-language pathology under the supervision of a licensed speech-language pathologist and 200 clock hours in audiology under the supervision of a licensed audiologist of supervised clinical experience with individuals who present a variety of communication disorders.

(A) Clinical experience may be referred to as clinical practicum.

(B) Clinical practicum may be considered to be the supervised, direct experience during academic training which includes evaluation and management of individuals with speech, language, and/or hearing problems.

(C) This experience must have been obtained within a training institution or in one of its cooperative programs.

(D) While pursuing this course of study, the applicant shall be designated as a trainee in speech-language pathology or audiology, depending on the area of work being done.

(6) An applicant must have obtained the equivalent of 18 months of full-time, 40 hours weekly, supervised professional experience in which bona fide clinical work has been accomplished. Nine months shall be in speech-language pathology and nine months in audiology.

(A) While pursuing this professional employment experience, the applicant shall be designated as an intern in speech-language pathology or audiology, depending on the area of work being done.

(B) This internship must begin within two years after the academic and clinical experience requirements have been met and must be completed within a maximum period of 48 consecutive months once initiated.

(C) This work must be done under the supervision of an individual who holds a master's degree and a valid Texas license in the professional area in which the clinical experience is being done.

(D) Licensees who supervise interns are responsible for the services to the client that may be performed by the intern. The supervising professional must ensure that all services provided are in compliance with this chapter.

(E) Until licensed the intern must continue to be supervised if the intern is working.

(F) Prior to the beginning of an intern's required supervised professional experience, the intern form must be filed with the executive secretary in the office of the committee.

(i) This form is to be completed and signed by the licensed supervising professional and must be updated every six months.

(ii) Original transcripts of the intern's college or university course work with verification of graduate degree(s) awarded are required at the time of submission of the intern form.

(iii) The committee shall not consider an individual an intern until the intern form is approved. The office must be notified of any change in the supervisory arrangement and a new form must be filed.

(iv) Upon acceptance of the intern form the executive secretary shall provide a letter of registration to be placed in the intern's personnel file.

(7) A supervisor of an intern must show proof of having earned at least a master's degree with a major in the area being supervised from an accredited college or university by submitting an original or photocopy of the transcript.

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 November 30, 1992.

TRD-9215945

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

Proposed date of adoption: February 13, 1993

For further information, please call: (512) 834-6627



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 57. Fisheries

##### Authorized Methods of Removing Sand and Gravel from Public Waters

###### • 31 TAC §57.12

The Texas Parks and Wildlife Department proposes new §57.12, concerning sand and gravel dredging in the San Jacinto River between Lake Houston Dam and the mouth of the River. This section is proposed as a three-year moratorium to allow adequate time to assess potential impacts to fish and wildlife resources, recreation and navigation activities, and processes of erosion and subsidence. During that three-year period, information would be gathered and State policies would be developed as part of the process of developing a State Wetlands Conservation Plan and Coastal Management Plan.

The Department received a petition for rulemaking from the San Jacinto River Association citing numerous grounds for the requested prohibition on commercial dredging in this area, including: a 1971 study concluding that surplus materials had been removed from the area; the loss of wetlands in the San Jacinto River area; concern for resuspension of toxic contaminants in the River; and interference with navigation and recreation. Department staff have reviewed the currently available information and have determined that additional review is warranted.

In addition to this proposed rule being published in the *Texas Register* for comment, the department will conduct a public comment hearing to receive testimony concerning the proposed rule. The hearing will be held Wednesday, December 9, 1992, from 4-6 p.m. and 7-9:30 p.m., at Highlands Elementary School, 200 East Wallisville Road, Highland, Harris County Texas 77562. The department particularly invites testimony concerning impacts of dredging on bank erosion and subsidence, water quality, river channel maintenance, the existence of sedimentary materials in the relevant area, recreation, and navigation.

Robin K. Riechers, staff economist, has determined that for the first five-year period the section is in effect and a temporary moratorium on issuance of permits for commercial dredging in the San Jacinto River below the Lake Houston Dam is in place there will be a loss of revenue to the state. Based on historical records, approximately 85,976 cubic yards of sand were dredged in a six-month period, which was valued at \$17,195. Total loss of revenue for an entire year would be estimated to be \$34,390.44 per year for each year the rule is administered. There will be no effect on local government.

Mr. Riechers 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 avoidance of the potential for future harm to the area as described while additional technical information is being gathered. The fiscal implications to businesses as a result of enforcing the section will come in the form of lost revenue associated with the loss of dredging privilege in this area.

There will be implications to persons who are required to comply with the section such that there will be no further sand mining allowed within the area as described.

The department has filed a local employment impact statement with the Texas Employment Commission (TEC) in compliance with the Administrative Procedure and Texas Register Act, §4A. The department has initiated correspondence with the TEC regarding the local employment impacts and as of this date has not received a response.

Comments on the rule as proposed may be submitted to Catherine Livingston, Natural Resources Attorney, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; telephone (512) 389-4585 or 1-800-792-1112, extension 4585, or Rolin MacRae, Wetlands Program Leader, telephone (512) 389-4639 or 1-800-792-1112, extension 4639.

The new section is proposed under the Texas Parks and Wildlife Code, §86.001 et seq., authorizing the Texas Parks and Wildlife Commission to manage, control, and protect sand of commercial value and all gravel located within the tidewater limits of the state, and on islands within those areas.

*§57.12. San Jacinto River Dredging.* No permits shall be issued pursuant to the Parks and Wildlife Code, Chapter 86, for dredging that involves the permanent removal for commercial purposes of sand or gravel from the bed of the San Jacinto River between the Lake Houston Dam and the mouth of the River. This section expires on February 1, 1996.

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 November 30, 1992.

TRD-9215993

Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption: January 8, 1993

For further information, please call: 1 (800) 792-1112, extension 4433 or (512) 389-4433

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part XIII. Texas Commission on Fire Protection

#### Chapter 531. Fire Alarm Rules

##### • 37 TAC §§531.1-531.13, 531.21

The Texas Commission on Fire Protection proposes amendments to §§531.1-531.13 and 531.17-531.21 (formerly §§27.201-27.225 of Title 28) and new §§531.14, 531.15, and 531.16 concerning regulation of the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems. The amendments include new definitions of direct supervision and monitoring equipment, which were not previously defined. Other definitions are clarified. Section 531.7 is amended to update the standards of the National Fire Protection Association that are adopted by reference. New language is added to §531.10 and §531.13 that limit monitoring activities by firms that monitor fire alarm systems. Section 531.11 creates two new categories of licenses for businesses engaged in residential alarm installation and servicing and a new §531.14 establishes fees for those licenses. Section 531.13 and a new §531.15 clarify requirements for issuance and renewal of licenses and certificates of registration. Insurance requirements set forth in §531.13 are also clarified and made consistent with statutory amendments. New provisions are included in §531.16 that create additional limits on businesses that sell, install, and service residential single station alarm devices, as well as those businesses that sell, install, and service other alarm systems. These provisions are intended to insure strict conformity to adopted National Fire Protection Association standards except where the rules allow exceptions to those standards. Sections 531.19, 531.20, and 531.21, relating to installation and service labels, are also amended to clarify and make more exact the requirements for the various tags used by the alarm industry on alarm equipment to document the condition of the equipment. A new §531.22 provides for certain enforcement procedures, and a new §531.23 contains a severability clause.

Ernest Emerson, state fire marshal, has determined that there will be no fiscal implications for state or local governments as a result of enforcing or administering the sections.

Mr. Emerson also has determined that for each year of the first five years the sections as proposed are in effect the public benefit will be that there will be more effective regulation of these businesses, with a resulting improvement in the quality of protection afforded property and lives by fire alarm equipment. The cost of compliance with the sections for both small and large business will be increased as a result of the addition of the definition of direct supervision in §531.6 that

effectively requires the physical presence of a licensee during the performance of certain work on fire detection and alarm devices and systems. In some circumstances, for some businesses regulated under these rules, the hourly cost of labor may be increased. The updating of the National Fire Protection Association standards that are adopted by reference, and the creation of additional licensing categories may also result in an increase in hourly cost of labor or in the cost per \$100 per sales. There will be no anticipated economic cost to persons required to comply with the sections as proposed.

Comments on the proposal may be submitted to Mike Hines, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Insurance Code, Article 5.43-2, §§4, 4A, and 6, which provides the Texas Commission on Fire Protection with the authority to adopt rules necessary to its administration through the state fire marshal for the protection and preservation of life and property.

*§531.1. Purpose.* The purpose of this chapter [subchapter] is to administer through the state fire marshal the law set forth in the Insurance Code, Article 5.43-2, regarding inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems in the interest of safeguarding lives and property.

*§531.2. Title.* The sections of this chapter [subchapter] shall be known as and may be cited as the Fire Alarm Rules.

*§531.3. Applicability of Sections.* The sections of [in] this chapter [subchapter] shall apply to persons and organizations engaged in the business of inspecting, planning, certifying, leasing, selling, servicing, testing, installing, monitoring, and maintaining fire alarm or fire detection devices and systems, and not to the general public.

*§531.4. Exceptions.* The exceptions of the Insurance Code, Article 5.43-2, §3, are applicable to the sections of this chapter [subchapter].

*§531.5. Notices.* Notice by the state fire marshal, as required by provisions of the statutes or of this chapter [subchapter], may be given by personal service or mail, postage prepaid, addressed to the person to be notified at the last known address of the person's residence or business as it appears on the records in the Office of the State Fire Marshal.

*§531.6. Definitions.* The following words and terms, when used in this chapter

[subchapter], shall have the following meanings, unless the context clearly indicates otherwise.

**Business-Inspecting, planning [Planning]**, certifying, leasing, selling, servicing, testing, installing, monitoring, or maintaining of fire alarm or fire detection devices and systems.

**Certify**-To attest to the proper planning or servicing, installing, or maintaining of fire detection and fire alarm devices and systems, including monitoring equipment, by attaching a completed installation/service record label and completing an installation certificate form or other additional form required by a governmental authority.

**Commission**-The Texas Commission on Fire Protection.

**Direct supervision**-The control of work, excluding the installation of conduit, raceways, junction boxes, back boxes, or similar electrical enclosures, as it is being performed on fire detection or fire alarm devices and systems by a licensed fire alarm technician or a licensed fire alarm planning superintendent physically present at the location of the work.

**Firm**-A person, as defined in this section, or an organization, as defined in the Insurance Code, Article 5.43-2[, as amended by the 70th Legislature, 1987].

**Full-coverage system**-A combination of fire detection and fire alarm devices and equipment installed in all areas of a building according to required standards.]

**License**-The document issued to a fire alarm technician or a fire alarm planning superintendent.]

**Local authority having jurisdiction**-As used in the Texas Insurance Code, Article 5.43-2. §9(c), means a fire chief, fire marshal, or other designated official having statutory authority.

**Monitoring equipment**-Equipment used to transmit and receive fire alarm, trouble, and supervisory signals from protected premises to a firm registered to monitor or one exempt from licensing by the Insurance Code, Article 5.43-2.

**NFPA**-[The] National Fire Protection Association[, Inc.], a nationally recognized standards-making organization.

[Person-A natural person.]

**Plan**-To lay out, detail, draw, calculate, devise, or arrange an assembly of fire alarm or detection devices, [and] equipment, and appurtenances, including monitoring equipment, in accordance with [either fire protection] standards adopted in this chapter [subchapter, or designs or specifications specially prepared by a Texas registered professional engineer acting solely in his professional capacity].

**Registered firm**-A person, partnership, corporation, organization, or association holding a current certificate of registration.]

**Repair**-To restore to proper oper-

ating condition [Any work performed upon or to any fire detection and fire alarm device or system other than installation].

**Test**-The act of subjecting a [any] fire detection or alarm device or system, including monitoring equipment, to any procedure required by applicable standards or manufacturers' recommendations [necessary] to determine whether it is properly installed or operates correctly.

#### §531.7. Adopted Standards.

(a) The commission [board] adopts by reference those sections of [in their entirety] the following copyrighted minimum standards, [and] recommendations, and appendices concerning fire alarm, fire detection, or supervisory services or systems, except to the extent they are at variance to sections of this chapter, [subchapter] the Texas Insurance Code, Article 5.43-2, or other state statutes. The standards are published by and are available from the National Fire Protection Association, [Inc., Batterymarch Park,] Quincy, Massachusetts[, 02269].

(1) NFPA 11-1988, Standard on Low Expansion Foam and Combined Agent Systems.

(2) NFPA 11A-1988, Standard for Medium- and High-Expansion Foam Systems.

(3) NFPA 12-1989, Standard for Carbon Dioxide Extinguishing Systems.

(4) NFPA 12A-1989, Standard on Halon 1301 Fire Extinguishing Systems.

(5) NFPA 12B-1990, Standard on Halon 1211 Fire Extinguishing Systems.

(6) [(1)] NFPA 13-1991 [1987], Standard [Standards] for the Installation of Sprinkler Systems[, §§3-17 only].

(7) [(2)] NFPA 13A-1987, Recommended Practice for the Inspection, Testing, and Maintenance of Sprinkler Systems[, §4 and §5 only].

(8) NFPA 13D-1991, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes.

(9) NFPA 13R-1991, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height.

(10) NFPA 15-1990, Standard for Water Spray Fixed Systems for Fire Protection.

(11) NFPA 16-1991, Standard on Deluge Foam-Water Sprinkler and Foam-Water Spray Systems.

(12) NFPA 17-1990, Standard for Dry Chemical Extinguishing Systems.

(13) NFPA 17A-1990, Standard on Wet Chemical Extinguishing Systems.

(14) NFPA 25-1992, Standard for Inspection, Testing and Maintenance of Water Based Extinguishing Systems.

(15) [(3)] NFPA 70-1990 [1987], National Electrical Code[, Article 760].

(16) [(4)] NFPA 71-1989 [1987], Standard for the Installation, Maintenance, and Use of Signaling Systems for Central Station Service [Signaling Systems].

(17) NFPA 72-1990, Standard for the Installation, Maintenance, and Use of Protective Signaling Systems.

[(5)] NFPA 72A-1987, Standard for the Installation, Maintenance, and Use of Local Protective Signaling Systems for Guard's Tour, Fire Alarm, and Supervisory Service.

[(6)] NFPA 72B-1986, Standard for the Installation, Maintenance, and Use of Auxiliary Protective Signaling Systems for Fire Alarm Service.

[(7)] NFPA 72C-1986, Standard for the Installation, Maintenance, and Use of Remote Station Protective Signaling Systems.

[(8)] NFPA 72D-1986, Standard for the Installation, Maintenance, and Use of Proprietary Protective Signaling Systems.]

(18) [(9)] NFPA 72E-1990 [1987], Standard on Automatic Fire Detectors.

[(10)] NFPA 72F-1985, Standard for the Installation, Maintenance, and Use of Emergency Voice/Alarm Communication Systems.]

(19) [(11)] NFPA 72G-1989 [1985], Guide for the Installation, Maintenance, and Use of Notification Appliances for [the] Protective Signaling Systems.

(20) [(12)] NFPA 72H-1988, Guide for Testing Procedures for Local, Auxiliary, Remote Station, and Proprietary Protective Signaling Systems.

(21) [(13)] NFPA 74-1989 [1984], Standard for the Installation, Maintenance, and Use of Household Fire Warning Equipment.

(22) [(14)] NFPA 90A-1989 [1985], Standard for the Installation of Air Conditioning and Ventilating Systems[, Chapter 4, and its reference].

(23) [(15)] NFPA 101-1991 [1988], Code for Safety to Life from Fire

in Buildings and Structures (Life Safety Code), except that where a local jurisdiction has adopted a code, ordinance, or other regulation governing fire alarm or fire detection devices the local requirements will prevail to the extent allowed by Texas Insurance Code, Article 5.43-2 [Only those sections in Chapter 4 and Chapter 8-30 concerning recommended fire alarm systems by occupancies].

(24) NFPA 170-1991, Standard for Firesafety Symbols, Chapter 4.

§531.8. *Approved Testing Laboratories.* The commission [board] approves Underwriters Laboratories[,] Inc., [and] Factory Mutual Research Corporation, and United States Testing Company, Inc. as testing laboratories which list equipment and appurtenances for use in compliance with standards adopted in §531.7 of this title (relating to Adopted Standards).

§531.9. *Approved Testing [Certification] Organization.* The commission [board] approves the National Institute for Certification in Engineering Technologies (NICET) [or other similar testing organizations specifically recommended by the state fire marshal,] as a testing standards organization for testing license applicants.

§531.10. *Certificate [Certificates] of Registration.*

(a) (No change.)

(b) Posting. Each certificate must [shall] be posted conspicuously for public view at the business location.

(c) Business [Service] vehicles. All vehicles regularly used in installation, service, maintenance, testing, or certification activities must [shall] prominently display the company name, telephone number, and certificate [-of-registration] number. The numbers and letters must be at least one inch high and permanently affixed or magnetically attached to each side of the vehicle [a side panel and/or front door panel] in a color contrasting with the background color of the vehicle. The certificate[-of-registration] number must [shall] be designated in the following format [as]: TX ACR-(number) [Texas fire alarm registration (number) or it may be abbreviated to TEX: ACR (number)].

(d) Change of ownership.

(1) The total change of a firm's ownership invalidates the current certificate. To assure continuance of the business, a complete [new] application for a new certificate must [should] be submitted to the state fire marshal at least 14 days prior to such change.

(2) A partial change in a firm's ownership requires [will require] a revised certificate if it affects the firm's name, location, or mailing address.

(e)-(f) (No change.)

(g) Revised certificates. The change of a firm's name, location, or mailing address requires a revised certificate. [Certificates requiring changes must be surrendered to the state fire marshal] Within [within] 14 days after the change requiring the revision, the [The] certificate holder must submit written notification of the necessary change [with the surrendered certificate,] accompanied by the required fee.

(h) Monitoring requirements. [Nontransferable. A certificate is neither temporarily nor permanently transferable from one firm to another.]

(1) A registered firm may not monitor a fire alarm system unless the system was installed or certified by a registered firm.

(2) A registered firm may not connect a fire alarm system to a monitoring service unless the monitoring service is registered under or is exempt from the licensing requirements of the Insurance Code, Article 5.43-2, so long as the monitoring equipment being used is in compliance with Article 5.43-2, §9.

(3) A registered firm currently engaged in monitoring must comply with the requirements of §531.13(a)(5) of this title (relating to Applications) within 60 days of the effective date of this chapter, as amended.

§ 531.11. *[Fire Alarm Planning Superintendent and Fire Alarm Technician] Licenses.*

(a) Types of licenses.

(1) [(a)] Fire alarm technician license—For installing, inspecting servicing, testing, maintaining, and certifying fire alarm or fire detection devices and systems. [Each person who installs, services, maintains, or certifies fire alarm and fire detection devices and systems must have a fire alarm technician license issued by the state fire marshal.]

(2) Residential fire alarm superintendent single station license - For Planning, selling, leasing, installing, certifying, inspecting, testing, servicing, and maintaining to single station smoke or heat detectors which are not a part of or connected to any other detection device or system in single-family or two-family residences.

(3) Residential fire alarm superintendent license - For planning, selling, leasing, installing, certifying, inspecting, testing, servicing, and main-

taining fire alarm or fire detection devices and systems in single-family or two-family residences.

(4)[(b)] Fire alarm planning superintendent license—For planning, selling, leasing, installing, certifying, inspecting, testing, servicing, and maintaining fire alarm or fire detection devices. [Each person who plans a fire alarm or fire detection system must hold a fire alarm planning superintendent license issued by the state fire marshal.]

(b)[(c)] Posting. Wall licenses must be posted conspicuously for public view at the firm's business location.

(c) [(d)] Pocket license. A licensee must carry a pocket license for identification while engaged in the activities of the business.

(d) [(e)] Duplicate license. A duplicate license must be obtained from the state fire marshal to replace a lost or destroyed license. The license holder or registered firm must submit written notification of the loss or destruction without delay, accompanied by the required fee.

(e) [(f)] Revised licenses. The change of a licensee's registered firm [employer, home address,] or mailing address requires a revised license. [Licenses requiring changes must be surrendered to the state fire marshal] Within [within] 14 days after the change requiring the revision, the [The] license holder or registered firm must submit written notification of the necessary change [with the surrendered license,] accompanied by the required fee.

(f)[(g)] Restrictions.

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

(3) Each person who engages in the activities of the business must have the appropriate license issued by the state fire marshal unless excepted from the licensing provisions by the Insurance Code, Article 5.43-2, §3(b) [A license is neither temporarily nor permanently transferable from one person to another].

§531.12. *Alteration of Certificates or[,] Licenses[, or Permits].* The alteration [Alteration] of certificates or[,] licenses[, or permits] renders them invalid and is the basis for administrative action pursuant to the Insurance Code, Article 5.43-2, §10(b).

§531.13. *[Original] Applications.*

(a) Certificates of registration.

(1) Applications for certificates and branch office certificates must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sec-

tions of this chapter [subchapter]. An application will not be deemed complete until all required forms, fees, and documents have been received in the State Fire Marshal's [state fire marshal's] office.

(2) Applications must be signed by the sole proprietor, or by each partner of a partnership, or by an officer of a corporation. [For corporations, the application must be accompanied by the corporate charter of a Texas corporation, or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business.] For applicants using an assumed name, the application must also be accompanied by evidence of compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code, Chapter 36 [§36.01]. The application must also include written authorization by the applicant permitting the state fire marshal or written authorization by the applicant permitting the state fire marshal or his representative to enter, examine, and inspect any premises, building, room, or establishment used by the applicant while engaged in the business to determine compliance with the provisions of the Insurance Code, Article 5.43-2, and the sections of this chapter [subchapter].

(3) For corporations, the application must also include the names of each shareholder owning more than 25% of the shares issued by the corporation, the corporate taxpayer identification number, the charter number, a copy of the corporate charter of a Texas corporation, or, in the case of a foreign corporation, a copy of the Texas certificate of authority to do business, and a copy of the corporation's current franchise tax certificate of good standing issued by the State Comptroller's [state comptroller's] office.

(4) [Bond and] Insurance [insurance] required.

(A) The state fire marshal will [must] not issue a certificate of registration under these sections unless the applicant files with the State Fire Marshal's [state fire marshal's] office evidence [a surety bond and proof] of an acceptable general liability insurance policy. [The insurance must include products and completed operations coverage.]

(B) Each registered firm must maintain in force and on file in the State Fire Marshal's [state fire marshal's] office a [the surety bond and] certificate of insurance identifying the insured and the exact nature of the business insured [as required]. In identifying the named insured, the certificate of insurance must include either an assumed name or the name of the corporation, partners, if any, or sole proprietor, if applicable.

[(C) Evidence of public liability insurance, as required by the Insurance Code, Article 5.43-2, §5B, must be in the form of a certificate of insurance executed by an insurer authorized to do business in this state or, until September 1, 1989, a certificate of insurance for surplus lines coverage in compliance with the Insurance Code, Article 1.14-2, as provided for under the Insurance Code, Article 5.43-2, §5B(c).

[(D) If a certificate of registration is to be issued in the name of a corporation, the corporate name must be used on the applicable bond and insurance forms. If the corporation is obtaining a certificate of registration in an assumed name, the bond and insurance must be issued to the corporation doing business as (dba) the assumed name. Example: XYZ Corporation dba XXX Alarm Service.

[(E) The bond and insurance issued for a partnership must be issued to the name of the partnership or to the names of all the individual partners.

[(F) The bond and insurance for a proprietorship must be issued to the individual owner. If an assumed name is used, the bond and insurance must be issued to the individual doing business as (dba) the assumed name. Example: William Jones dba XXX Alarm Service.]

(5) Applicants for a certificate of registration who engage in monitoring must provide the specific business location(s) where monitoring will take place and the name and license number of the fire alarm licensee(s) at each business location. In addition the applicants must:

(A) for a central station: provide evidence of listing or certification as a central station by a testing laboratory approved by the Texas Commission on Fire Protection and a statement that the monitoring service is in compliance with adopted NFPA 71; or

(B) for a remote station: provide evidence of listing or certification as a remote station by a testing laboratory approved by the Texas Commission on Fire Protection, and a statement that the monitoring service is in compliance with adopted NFPA 72.

(b) Fire alarm licenses.

(1) In order to be complete, [original] applications for a fire alarm technician, residential fire alarm superintendent (single station), residential fire

alarm superintendent, or fire alarm planning superintendent license from an employee or agent of a registered firm [engaged in the business] must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sections of this chapter [subchapter]. Applications must be signed by the applicant and by a person authorized to sign on behalf of the registered firm. All applicants for any type of license must successfully complete a qualifying examination regarding Insurance Code, Article 5.43-2, and the Fire Alarm Rules to be conducted by the State Fire Marshal's office.

(2) Applicants for fire alarm technician licenses must:

(A) furnish notification from NICET confirming the applicant's successful completion of the examination requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(3) Applicants for a residential fire alarm superintendent (single station) license must successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(4) Applicants for a residential fire alarm superintendent license must:

(A) furnish notification from NICET confirming the applicant's successful completion of the examination requirements in work elements pertaining to fire alarm systems, as determined by the state fire marshal; or

(B) successfully complete a technical qualifying examination to be conducted by the State Fire Marshal's office.

(5)[(2)] Applications for a fire alarm planning superintendent license must be accompanied by one of the following documents as evidence of technical qualifications for a license:

(A) proof of registration in Texas as a professional engineer; or

(B) a copy of NICET's notification letter confirming the applicant's successful completion of the examination requirements for certification at Level II for fire alarm systems [or the equivalent exami-

nation requirements of another testing organization approved by the board for such testing].

(6)[(3)] Individuals applying for a fire alarm planning superintendent license on or before September 1, 1989, without completing the NICET examination requirements may be issued a license for one year. At the time of renewal of such license, the applicant must attach to the application a copy of NICET's notification letter confirming the applicant's successful completion of the examination requirements for certification at Level II for fire alarm systems[, or the requirements of another testing organization approved by the board for such testing].

[(4)] An applicant holding a valid license in another state who desires to obtain a Texas license must submit the following documentation with the application in addition to all other information required by the Insurance Code, Article 5.43-2, and the sections of this subchapter:

[(A)] a letter of certification from the licensing entity of another state certifying that the applicant holds a valid license in that state; and

[(B)] additional information from the state detailing material content of any required examination used to qualify for license, including NFPA or other standards, if applicable.]

(c) Renewal applications.

(1) In order to be complete, renewal applications for certificates and licenses must be submitted on forms provided by the state fire marshal and be accompanied by all fees, documents, and information required by the Insurance Code, Article 5.43-2, and the sections of this chapter. A complete renewal applica-

tion deposited with the United States Postal Service is deemed to be timely filed, regardless of actual date of delivery, when its envelope bears a postmark date which is before the expiration of the certificate or license being renewed.

(2) A license may not be renewed if the applicant is not currently an employee or an agent of a registered firm.

§531.14. Fees.

(a) Every fee required in accordance with the provisions of the Insurance Code, Article 5.43-2, and the sections of this chapter must be paid by cash, money order, or check. Money orders and checks must be made payable to the Texas Commission on Fire Protection.

(b) Fees must be paid at the Office of the State Fire Marshal in Austin, Texas, or mailed to an address specified by the state fire marshal.

(c) Fees are as follows.

(1) Fire alarm certificate of registration:

(A) initial fee-\$500;

(B) renewal fee (for two years)-\$1, 000;

(C) branch office initial fee-\$150; and

(D) renewal fee (for two years)-\$300.

(2) Fire alarm technician license:

(A) initial fee-\$100; and

(B) renewal fee (for two years)-\$200.

(3) Residential fire alarm superintendent (single station) license:

(A) initial fee-\$100; and

(B) renewal fee (for two years)-\$200.

(4) Residential fire alarm superintendent license:

(A) initial fee-\$100; and

(B) renewal fee (for two years)-\$200.

(5) Fire alarm planning superintendent license:

(A) initial fee-\$100; and

(B) renewal fee (for two years)-\$200.

(6) Duplicate or revised certificates or licenses or other requested changes to certificates or licenses-\$20

(7) Examination fee-\$20.

(8) Reexamination fee-\$20.

(d) Late fees are required of all certificate or license holders who fail to submit complete renewal applications before the expiration of the certificate or license except as provided in the Insurance Code, Article 5.43-2, §5C(c).

(e) Fees for certificates and licenses which have been expired for less than two years include both renewal and late fees and must be determined in accordance with the following schedule.

Expired 1 day to 90 days:

	Renewal Fee	Late Fee	Total Fee
Certificate	\$1,000 (2 years)	\$125.00	\$1,125.00
Branch office certificate	300 (2 years)	37.50	337.50
<b>Licenses</b>			
(Technician)	200 (2 years)	25.00	225.00
(Residential Fire Alarm Superintendent (Single Station))	200 (2 years)	25.00	225.00
(Residential Fire Alarm Superintendent)	200 (2 years)	25.00	225.00
(Planning Superintendent)	200 (2 years)	25.00	225.00

Expired 91 days to 2 years:

	Renewal Fee	Late Fee	Total Fee
Certificate	\$1,000 (2 years)	\$500	\$1,500
Branch office certificate	300 (2 years)	150	450
<b>Licenses</b>			
(Technician)	200 (2 years)	100	300
(Residential Fire Alarm Superintendent (Single Station))	200 (2 years)	100	300
(Residential Fire Alarm Superintendent)	200 (2 years)	100	300
(Planning Superintendent)	200 (2 years)	100	300

§531.15. Examination.

(a) Each applicant for a license must pass the appropriate examinations. Examinations may be supplemented by practical tests or demonstrations necessary to determine the applicant's knowledge and ability.

(1) The license examination will include a section on this chapter and the Insurance Code, Article 5.43-2, and a technical qualifying examination:

(A) to be conducted by the State Fire Marshal's office; or

(B) to be conducted by  
NICET.

(2) The Standards used in examinations will be those adopted in §531.7 of this title (relating to Adopted Standards).

(b) Examinees who fail must file a reexamination application accompanied by the required fee in order to be reexamined on the next scheduled examination date.

(c) A person whose license has been expired for two years or longer who makes application for a new license must take and pass another examination. No examination is required for a licensee whose license is renewed within two years of expiration.

§531.16. Sales, Installation, and Service.

(a) Residential alarms (single station).

(1) Registered firms may employ persons exempt from the licensing provisions of the Insurance Code, Article 5.43-2, §3(b)(10) to sell, install, and service residential, single station alarms. Exempted persons must be under the supervision of a residential fire alarm superintendent (single station), residential fire alarm superintendent, or fire alarm planning superintendent.

(2) Each registered firm that employs persons exempt from licensing provisions of the Insurance Code, Article 5.43-2, §3(b)(10) is required to maintain documentation to include lesson plans and annual test results demonstrating competency of said employees regarding the provisions of Article 5.43-2, adopted standards, and this chapter applicable to single station devices.

(b) Fire detection and fire alarm devices or systems other than residential single station.

(1) The sale or lease of fire alarm devices or systems must be performed under the direct supervision of a licensed residential fire alarm superintendent or fire alarm planning superintendent.

(2) The installation, inspection, or servicing of all fire detection and fire alarm devices or systems, including monitoring equipment, subject to the Insurance Code, Article 5.43-2 must be performed by or under the direct supervision of a licensed fire alarm technician, residential fire alarm superintendent, or a fire alarm planning superintendent. The certifying licensee must be present for the final test prior to certification.

(3) If the installation or servicing of a fire alarm system also includes installation or servicing of any part of a fire protection sprinkler system and/or a fire extinguisher system other than inspection and testing of detection or supervisory devices, the licensing requirements of the appropriate Insurance Code, Article 5.43-1 or 5.43-3 must be satisfied.

(4) Installation of fire detection or fire alarm devices or systems, including monitoring equipment, must be in accordance with standards adopted in §531.7 of this title (relating to Adopted Standards) except:

(A) that a fire alarm system installed in compliance with NFPA 74 may utilize a single non-dedicated telephone line to transmit the system signals to a registered monitoring firm; or

(B) when the installation complies with a more recent edition of an adopted standard or a Tentative Interim

Amendment published as effective by the NFPA.

**§531.17. Certification. [Installation, Service, and Certification.]**

[(a) The installation, inspection, or servicing of all fire detection and fire alarm devices or systems in Texas must be performed by or under the direct on-site supervision of a licensed fire alarm technician or a fire alarm planning superintendent who must certify the work upon completion of the activity. The certifying licensee must be present for the final test prior to certification.]

[(b)] After completion of the installation of a system or single station detector unit, the licensee shall complete and present an installation certificate to the owner or his representative[,] or post the certificate near the main control panel. The installation certificate shall identify the standards applicable to the installation and certify compliance with such standards, unless variance is permitted in §531.16(b)(4) of this title (relating to Sales, Installation, and Service), in which event the specific variance and authority for such variance shall be identified. The installation certificate form shall be furnished by the state fire marshal. When an installation certificate form has been completed, legible copies shall be distributed as follows:

(1) original at the site of installation after completion of the installation;

(2) one copy retained by the certifying [installing] company;

(3) one copy to be sent within 10 days after completion of installation to the authority having jurisdiction; and

(4) one copy to be sent within 10 days after completion of installation to the State Fire Marshal's [state fire marshal's] office, Austin.

[(c) Testing must be in compliance with the appropriate standards adopted in §27.207 of this title (relating to Adopted Standards) for purposes of certification under the sections of this subchapter.]

**§531.18. Fire Alarm and Detection System Plans.**

(a) Each [All] fire alarm [or detection devices or] system or modification to an existing system [systems, other than combination systems containing a single detection or alarm device,] must be planned by a person holding a fire alarm planning superintendent license or a Texas registered [licensed] professional engineer [acting solely in his professional capacity].

(b) Plans showing details of system wiring, control panel terminal identification, and device location, with functional information and instructions on system operation, must be provided to the building owner or his representative [if the system consists of two or more alarm or detection devices]. Subsequent modifications, additions, or alterations must be legibly noted on updated plans and provided to the owner or his representative.

(c) Plans must bear the name, signature, and license number of the licensed fire alarm planning superintendent or Texas registered professional engineer, the completion date [of installation, alteration, or addition] and the name, address, and certificate [-of-registration] number of the registered firm.

(d) A rubber stamp may be used by a licensed fire alarm planning superintendent to supply the information required by subsection (c) of this section, except that a stamped signature is prohibited. If a rubber stamp is used, it must produce an imprint at least two [1/2] inches wide by one inch high, all in bold type and capital letters, and in the following format:

XXX ALARM SERVICE	
555 SPRING LANE	
HOMEVILLE, TEXAS 77777-7777	
ACR-(number)	
H. B. BROWN _____	
APS-0000	Date

**§531.19. Installation and Service Labels.**

(a) After an installation or modification has been completed, an installation label must be affixed to the inside of the control panel cover or, if the system has no panel, in a permanently visible loca-

tion designated by the property owner [in a manner to remain permanently visible]. Installation labels must be four inches in height and four inches in width and must be of the gummed [gum] label type. Installation labels must be white with black lettering. Installation labels must contain [only] the following information in the format of

the label shown in subsection (b) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-FIRE ALARM INSTALLATION RECORD" (all in capital letters, at least 10-point bold face [boldface] type);



(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) if required, the name and license number of the planning superintendent or Texas registered professional engineer; and

(6) the date of installation.

(b) Installation label:

**DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL  
FIRE ALARM INSTALLATION RECORD**

CR No. \_\_\_\_\_

Firm Name \_\_\_\_\_

Firm Address \_\_\_\_\_

City \_\_\_\_\_

Telephone \_\_\_\_\_

\_\_\_\_\_  
Signature of Licensee and License No.

\_\_\_\_\_  
Planning Superintendent and License No.  
or Professional Engineer and License No.

Installation Date \_\_\_\_\_

(c) After any service, including testing in connection with initial installation, a fire alarm service label must be completed in detail and affixed to the inside of the control panel cover or, if the system has no panel, in a permanently visible location designated by the property owner. The signature of the licensee on the service label certifies that the service performed complies with requirements of law.

(d) A new service label must be affixed each time service is performed and must be green in color with black lettering.

(e) The label must be at least three inches in height and three inches in width and must be of the gummed [gum] label type that allows for label removal. Service labels must contain [only] the following information in the format of the service label shown in subsection (f) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SERVICE RECORD" (all in capital letters, at least 10-point bold face [boldface] type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date of service performed; and

(6) the type of service performed.

(f) Service label [Label]:

DO NOT REMOVE  
BY ORDER OF  
THE STATE FIRE MARSHAL

SERVICE RECORD

XXX Alarm Service  
555 Spring Lane  
Homeville, Texas 77777-7777

555/333-3333                      ACR- (number)

---

Date-Licensee Signature-License #

List Services: \_\_\_\_\_

---

(g) If [impairments are found indicating] a fire alarm system does not comply [has been installed in a manner not complying] with applicable [NFPA] standards, has a fault condition, or is [found to be] inoperable, the owner or his representative must be notified in writing by the registered firm of the conditions which cause the system to be out of compliance, to be in a fault condition, or to be inoperable. The registered firm must send a copy of this notice to the authority having jurisdiction and must comply with the requirements of §531.20 (relating to Yellow Labels) and §531.21 (relating to Red Labels) of this title [impairments].

**§531.20. Yellow Labels.**

(a) If a fire alarm system does not comply [is found in noncompliance] with applicable [NFPA] standards adopted at the time the system was installed or has a fault condition that does not render the system inoperable, a completed yellow label must be attached to the outside of the control panel cover or, if the system has

no panel, in a permanently visible location designated by the property owner [door] to indicate that corrective action is necessary.

[(b) Yellow labels must conform to requirements of §27.221(d),(e) and (g) of this title (relating to Red Labels), except that the yellow-label inscription must be titled: "DO NOT REMOVE--SYSTEM NOT IN COMPLIANCE WITH NFPA STANDARDS."]

(b)[(c)] The signature of the licensee on a yellow label certifies that the conditions [impairments] listed on the label cause the system to be out of compliance with applicable [NFPA] standards.

(c) Yellow labels must be at least three inches in height and three inches in width and be of a gummed label type that allows for label removal. Labels must be printed with black lettering.

(d) Yellow labels must bear the following information in the format of the label shown in subsection (e) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM DOES NOT COMPLY WITH APPLICABLE STAN-

DARDS AND/OR HAS A FAULT CONDITION" (all in capital letters, at least 10-point bold face type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date the label is affixed; and

(6) a list of the non-complying and/or fault conditions.

(e)[(d)] A yellow label may be removed only by a licensed [an authorized] employee or agent of a registered firm that [who] has corrected the conditions [impairments] and certified the service [or by an employee of the state fire marshal's office or another governmental agency with regulatory authority].

(f) Yellow label:

DO NOT REMOVE  
BY ORDER OF THE STATE FIRE MARSHAL  
SYSTEM DOES NOT COMPLY WITH  
APPLICABLE STANDARDS AND/OR  
HAS A FAULT CONDITION

XXX Alarm Service  
555 Spring Lane  
Homeville, Texas 77777-7777  
555/333-3333 ACR-(number)

Date-Licensee Signature-License #

List Conditions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*§531.21. Red Labels.*

(a) If the system or any part thereof is [found] inoperable, a completed red label must be attached to the outside of the control panel cover or, if the system has no panel, in a permanently visible location designated by the property owner [door] to indicate that corrective action or system replacement is necessary.

(b) The signature of the licensee on a red label certifies that the conditions [impairments] listed on the label have caused the system to be inoperable.

(c) A completed service label must not be attached to the system by the licensee until the conditions [impairments] are [have been] corrected and the fire alarm system:

(1) is reinspected [and found to be];

(2) is in compliance with applicable [NFPA] standards; and

(3) is in good operating condition.

(d) Red labels must be at least three inches in height and three inches in width [the same size as service labels] and be of a gummed [gum] label type that allows for label removal. Labels must be printed with black lettering.

(e) Red labels must bear the following information in the format of the label shown in subsection (g) of this section:

(1) the inscription "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL-SYSTEM IS INOPERABLE [IMPAIRED]" (all in capital letters, at least 10-point bold face [boldface] type);

(2) the firm's name, address, and telephone number (either main office or branch office);

(3) the firm's certificate-of-registration number;

(4) the signature and license number of the certifying licensee (a stamped signature is prohibited);

(5) the date the label is affixed; and

(6) the list of conditions [impairments].

(f) A red label may be removed only by a licensed [an authorized] employee or agent of a registered firm who has corrected the conditions [impairments] and certified the service [or an employee of the state fire marshal's office or another governmental agency with regulatory authority].

(g) Red label [Label]:



For further information, please call: (512) 873-1700

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 61. Community Services

##### Volunteer Services

The Texas Department of Human Services (DHS) proposes the repeal of §§61.9001-61.9004 and 61.9013-61.9018, new §§61.9001-61.9004 and 61.9013, and amendments to §§61.9005-61.9008 and §§61.9010-61.9012, concerning volunteer services, in its Community Services chapter. The purpose of the repeals, new sections, and amendments is to reflect organizational changes in DHS and the addition of risk management practices to protect volunteers and DHS.

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

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a volunteer program with clear rights, benefits, and responsibilities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed repeal, new sections, and amendments.

Questions about the content of this proposal may be directed to Susan Smith at (512) 450-3135 in DHS's Volunteer Services Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-268, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

- 40 TAC §§61.9001-61.9004, 61.9013-61.9018

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

§61.9001. *Volunteer Reimbursement.*

§61.9002. *Definition.*

§61.9003. *Categories of Services.*

§61.9004. *Social Services Advisory Committee.*

§61.9013. *Membership of the Financial and Social Services Advisory Committee.*

§61.9014. *Officers of the Social Services Advisory Committee.*

§61.9015. *Expenses and Travel for the Financial and Social Services Advisory Committee.*

§61.9016. *Department Support of the Financial and Social Services Advisory Committee.*

§61.9017. *Terms of Membership.*

§61.9018. *Criteria for Use of Volunteers by Contracting Agencies.*

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 December 2, 1992.

TRD-9216030

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

Proposed date of adoption: January 31, 1993

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

- 40 TAC §§61.9001-61.9004, 61.9013

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

§61.9001. *Definition.*

(a) Volunteers are individuals who give their time, skills, or contributions for the benefit of clients, directly or indirectly. They do so as individuals or as groups without expectation of reimbursement for services they render, although Texas Civil Statutes, Article 6252-11e permits reimbursement for actual and necessary expenses.

(b) Volunteers recruited, trained, and assigned for a specific task are considered volunteer staff to the Texas Department of Human Services (DHS). As such, they have access to materials, equipment, and information needed to perform the assigned task. All volunteers must abide by the same regulations as DHS employees and have the same rights to equal opportunity

and complaint procedures.

(c) Each volunteer working directly for DHS must be registered and must be supervised by a DHS paid staff member or designated volunteer.

§61.9002. *Categories of Services.*

(a) Some volunteers and community partnerships provide direct help to clients.

(1) When delivering services to clients under the direct supervision of the Texas Department of Human Services (DHS) or contracted staff, volunteers must work from the client's service plan. Volunteers must document their interaction with clients as required by the specific program standards.

(2) Before a group of volunteers works with a client, the client must grant permission for the release of information. Permission must be documented in the client's case record.

(b) Other volunteers provide indirect support services including working in DHS offices, serving on boards, and advocating for DHS and clients.

(c) Except in the case of a staff member's illness or temporary absence, the volunteer does not replace a staff member but supplements the work of staff members in positions which have not been adequately funded or which have an emergency work load.

§61.9003. *Volunteer Reimbursement.*

(a) If funds are available, the Texas Department of Human Services (DHS) may reimburse a volunteer according to approved state limits and local program budgets. Reimbursement may include travel, per diem, and other out-of-pocket expenses such as training fees.

(b) A region or program area may set its own local policy for reimbursement which could limit reimbursement to only retired citizens or student interns. Mechanical repairs or the cost of replacement parts for personal vehicles are not reimbursed. Reimbursement is an allowable use of federal block grant, formula grant, and discretionary funds. Staff may investigate other sources of funding such as donations from civic, fraternal, or religious organizations.

(c) Community service directors, regional volunteer specialists, and medical transportation officers must coordinate activities to meet the needs of Social Security Act Title XIX clients as they relate to volunteer activity. These volunteers are reimbursed according to Title XIX guidelines. All arrangements for the reimbursement of volunteers providing transportation under

the Title XIX Medical Transportation Program must be made in advance.

(d) A personal identification number, letter of agreement, and purchase voucher are required to reimburse volunteers for allowable transportation costs. The staff person who supervises the volunteer activity is responsible for approving the purchase voucher.

#### *§61.9004. Volunteer Insurance.*

(a) All volunteers directly supervised by Texas Department of Human Services (DHS) staff or by DHS-designated volunteers are covered for excess accident and personal liability insurance. This is a secondary insurance and covers the volunteer in the performance of volunteer services.

(b) If funds are available, volunteers, especially those who transport clients, may be covered for excess automobile insurance. The insurance is secondary and will only apply if the volunteer has met state insurance requirements.

*§61.9013. Criteria for Use of Volunteers by Contracting Agencies.* Contract agencies must involve volunteers in service delivery, where feasible. Staff should include volunteer involvement as one of the elements in awarding contracts in the Request for Proposal (RFP) process. When the contract proposals include the use of volunteers in any stage of the delivery of services to Texas Department of Human Services clients, staff who review the proposal will see that the contract proposal includes the following points:

- (1) the number of volunteers to be used;
- (2) task description for those volunteers;
- (3) source of volunteers and recruitment;
- (4) orientation and training volunteers receive;
- (5) coordination of the work of volunteers;
- (6) methods for reporting volunteer services and hours to department clients through regional coordinator; and
- (7) provision for insurance coverage in the event that volunteers are used to provide transportation services.

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 December 2, 1992.

TRD-9216031

Nancy Murphy

Agency liaison, Policy and Document Support  
Texas Department of Human Services

Proposed date of adoption: January 31, 1993

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

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#### • 40 TAC §§61.9001-61.9004, 61.9013

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

#### *§61.9001. Definition.*

(a) Volunteers are individuals who give their time, skills, or contributions for the benefit of clients, directly or indirectly. They do so as individuals or as groups without expectation of reimbursement for services they render, although Texas Civil Statutes, Article 6252-11e permits reimbursement for actual and necessary expenses.

(b) Volunteers recruited, trained, and assigned for a specific task are considered volunteer staff to the Texas Department of Human Services (DHS). As such, they have access to materials, equipment, and information needed to perform the assigned task. All volunteers must abide by the same regulations as DHS employees and have the same rights to equal opportunity and complaint procedures.

(c) Each volunteer working directly for DHS must be registered and must be supervised by a DHS paid staff member or designated volunteer.

#### *§61.9002. Categories of Services.*

(a) Some volunteers and community partnerships provide direct help to clients.

(1) When delivering services to clients under the direct supervision of the Texas Department of Human Services (DHS) or contracted staff, volunteers must work from the client's service plan. Volunteers must document their interaction with clients as required by the specific program standards.

(2) Before a group of volunteers works with a client, the client must grant permission for the release of information. Permission must be documented in the client's case record.

(b) Other volunteers provide indirect support services including working in DHS offices, serving on boards, and advocating for DHS and clients.

(c) Except in the case of a staff

member's illness or temporary absence, the volunteer does not replace a staff member but supplements the work of staff members in positions which have not been adequately funded or which have an emergency work load.

#### *§61.9003. Volunteer Reimbursement.*

(a) If funds are available, the Texas Department of Human Services (DHS) may reimburse a volunteer according to approved state limits and local program budgets. Reimbursement may include travel, per diem, and other out-of-pocket expenses such as training fees.

(b) A region or program area may set its own local policy for reimbursement which could limit reimbursement to only retired citizens or student interns. Mechanical repairs or the cost of replacement parts for personal vehicles are not reimbursed. Reimbursement is an allowable use of federal block grant, formula grant, and discretionary funds. Staff may investigate other sources of funding such as donations from civic, fraternal, or religious organizations.

(c) Community service directors, regional volunteer specialists, and medical transportation officers must coordinate activities to meet the needs of Social Security Act Title XIX clients as they relate to volunteer activity. These volunteers are reimbursed according to Title XIX guidelines. All arrangements for the reimbursement of volunteers providing transportation under the Title XIX Medical Transportation Program must be made in advance.

(d) A personal identification number, letter of agreement, and purchase voucher are required to reimburse volunteers for allowable transportation costs. The staff person who supervises the volunteer activity is responsible for approving the purchase voucher.

#### *§61.9004. Volunteer Insurance.*

(a) All volunteers directly supervised by Texas Department of Human Services (DHS) staff or by DHS-designated volunteers are covered for excess accident and personal liability insurance. This is a secondary insurance and covers the volunteer in the performance of volunteer services.

(b) If funds are available, volunteers, especially those who transport clients, may be covered for excess automobile insurance. The insurance is secondary and will only apply if the volunteer has met state insurance requirements.

*§61.9013. Criteria for Use of Volunteers by Contracting Agencies.* Contract agencies must involve volunteers in service delivery,

where feasible. Staff should include volunteer involvement as one of the elements in awarding contracts in the Request for Proposal (RFP) process. When the contract proposals include the use of volunteers in any stage of the delivery of services to Texas Department of Human Services clients, staff who review the proposal will see that the contract proposal includes the following points:

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- (4) orientation and training volunteers receive;
- (5) coordination of the work of volunteers;
- (6) methods for reporting volunteer services and hours to department clients through regional coordinator; and
- (7) provision for insurance coverage in the event that volunteers are used to provide transportation services.

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 December 2, 1992.

TRD-9216031

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

Proposed date of adoption: January 31, 1993

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

◆ ◆ ◆  
• 40 TAC §§61.9005-61.9008,  
61.9010-61.9012

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22 which authorizes the department to administer public assistance programs.

*§61.9005. Recruiting.* Volunteers are [should be] recruited to fill [for] specific job descriptions [tasks] with a known time commitment.

*§61.9006. Selection and Screening.*

(a) Each person who volunteers [his] services to the Texas Department of Human Services [a local office] must [should] complete a Volunteer Registration Form [an Application for Volunteer Services] in order to have on record some basic information [about each volunteer].

This information may be used in planning and evaluating [services] and for providing information about [to] the volunteer to the supervisor. Interviewing, screening and training of volunteers should be done on an individual basis whenever possible. If the nature of the service or the group is such that individual registration of each member of the group is impossible or unnecessary, careful training of the group including information on confidentiality requirements will suffice. The job description should be matched with the potential volunteer's [Consideration should be given to] fields of interest, past relevant activities, and competence and motivation for service.

(b) The screening process for individuals [occurs simultaneously with orientation and training. This process] should enable both the volunteer and staff to select [his service and allow the staff to judge] appropriate assignments for each individual.

*§61.9007. Training for Volunteers.*

(a) All volunteers must receive orientation and training [prior to service]. The extent of this training will vary depending upon the task to be done. If it is to be a short term job, informal training may be given by the volunteer's supervisor or by the regional volunteer specialist/community service director [volunteer consultant].

(b) Volunteers may, by prior arrangement with the continuing education staff, participate in relevant parts of new employee training sessions [which might not be covered by the training listed in subsection (a) of this section].

(c) Specific task training of volunteers is the responsibility of the staff who will supervise the volunteer. This will include training for the task as well as an explanation [understanding] of office procedures and expectations of the volunteer [staff].

(d) Volunteers may receive on-the-job training as arranged by their supervisor or regional volunteer specialist/community service director [consultant]. Should the volunteer task assignment change, appropriate training will be given before the new assignment begins [task has begun].

*§61.9008. Task Assignment.*

(a) When delivering services to clients under the direct supervision of Texas Department of Human Services (DHS) or contracted staff, volunteers must work from the client's service plan. Volunteers must document their interaction with clients as required by the specific program standards. [Volunteers are responsible for recording any action in

which they are involved with clients. These recorded actions should be included as a part of a case record.]

(b) Volunteers are expected to commit themselves to any assignment which they accept and are expected to perform that task dependably. They are to report immediately any circumstances which prevent performance to the supervisor or regional volunteer specialist/community service director [coordinator or his representative]. Volunteers should not be asked to perform any task that is in conflict with DHS [department] policy or with federal, state, or local laws.

*§61.9010. Coordination.* Volunteers who use their own automobiles to transport clients must [should] carry at minimum the auto liability insurance required by Texas State law and must hold a valid driver's license [according to the suggestions of their insurance advisor]. Volunteers transporting infants and small children must use child safety seats. A volunteer's liability in regard to Texas Department of Human Services [department] clients should be discussed with each volunteer in orientation.

*§61.9011. Identification Card.* Each volunteer should be given [have] a volunteer identification card prior to starting work. For [for] the protection of clients and the volunteer [and the department] it is recommended that each volunteer working directly with clients be provided with a photo identification card. [This card, identifying the volunteer by name and signed by the coordinator of volunteer services, is proof that the bearer is a registered department volunteer performing services in the name of the department. These cards are obtained through regional volunteer coordinators and should be furnished each volunteer when the volunteer is assigned his first volunteer tasks for the department.] A [The] volunteer who [should be required to return the card to the coordinator when he] decides not to participate further in the volunteer services program of the Texas Department of Human Services (DHS) [department] is required to return the card to DHS. This card is to be used for identification purposes only.

*§61.9012. Volunteer Support.*

(a) Volunteers may use Texas Department of Human Services (DHS) [department] office space, office equipment, and consumable supplies so long as DHS [the department] maintains control over the space, equipment, and supplies.

(b) Volunteers may not use DHS [department] vehicles.

(c) DHS [The department] does not have authority to fund banquets or meals honoring volunteer groups[,], but may recognize volunteers with plaques, certificates, and other recognition items in accordance with personnel policies.

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 December 2, 1992.

TRD-9216032

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

Proposed date of adoption: January 31, 1993

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

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**Part VI. Texas  
Commission for the  
Deaf and Hearing  
Impaired**

**Chapter 183. Board for  
Evaluation of Interpreters  
and Interpreter Certification**

**Subchapter E. Fees**

**• 40 TAC §183.573**

The Texas Commission for the Deaf and Hearing Impaired proposes an amendment to §183.573, concerning fees. The proposal amends the fees section, increasing fees for obtaining certification through evaluation, or recertification by paperwork and standardizes fees for certification by reciprocity.

Texana Faulk Conn, TCDHI Chairperson, has determined that for the first five-year period the section is in effect the fiscal implications

for state or local government as a result of enforcing or administering the section would be an increase in payments to the state. The increase brings the evaluation fees more in line with other state licensing entities and will enable the program to run more efficiently covering increased costs of materials and evaluations.

Ms. Faulk Conn 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 more availability of evaluators, a reduced waiting list, and increased numbers of certified interpreters. The effect on small businesses will be an increased availability of licensed interpreters to ensure compliance with the Americans with Disabilities Act. The anticipated economic cost to persons who are required to comply with the section as proposed will range from \$25-\$60 per individual depending on level of certification they are attempting to obtain.

Comments on the proposal may be submitted to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904.

The amendment is proposed under the Texas Human Resources Code, Chapter 81, §81.006, which provides the commission with the authority to adopt such rules.

*§183.573. Fees.* The commission shall charge the following fees.



## Certification Fee Schedule

	Level I	Level II	Level III	Level IV	Level V
(1) Application	\$20	\$20	\$20	\$20	\$20
(2) Evaluation	<u>\$75</u> [\$30]	<u>\$100</u> [\$40]	<u>\$100</u> [\$40]	<u>\$100</u> [\$50]	<u>\$100</u> [\$50]
(3) Annual Renewal/ Maintenance	\$25	\$25	\$25	\$25	\$25
(4) Late Validation	\$50	\$50	\$50	\$50	\$50
(5) Reciprocity Application	\$50	\$50	\$50	<u>\$50</u> [\$60]	<u>\$50</u> [\$60]
(6) Recertification Application	<u>\$50</u> [\$25]	<u>\$50</u> [\$30]	<u>\$50</u> [\$30]	<u>\$50</u> [\$40]	<u>\$50</u> [\$40]
(7) Re-issuance	\$15	\$15	\$15	\$15	\$15
(8) Re-grading	\$25	\$25	\$25	\$30	\$30
(9) Inactive Status	\$10	\$10	\$10	\$10	\$10

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 November 16, 1992.

TRD-9216021

Texana Faulk Conn  
Chairperson  
Texas Commission for the  
Deaf and Hearing  
Impaired

Earliest possible date of adoption: January 8, 1993

For further information, please call: (512) 444-3323





Name: Alissa Cordes

Grade: 5

School: Lakewood Elementary, Hurst-Euless-Bedford IS

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 7. Pesticides

- 4 TAC §7.10, §7.32

The Texas Department of Agriculture (TDA) adopts amendments to §7.10 and §7.32, concerning requirements for the use of the livestock protection collar, without changes to the proposed text as published in the August 7, 1992, issue of the *Texas Register* (17 TexReg 5497).

The amendments are adopted to bring the Livestock Protection Collar Applicator Recertification Program into the General Pesticide Applicator Recertification Program, which will result in the reduction of administrative costs to the agency and a reduction in costs to applicators using the collar.

The amendments integrate the Livestock Protection Collar Licensing and Recertification Program into the agency's General Recertification Program, terminate the reporting requirements of the three-year monitoring program, simplify monthly sales reporting requirements, remove the ceiling on the number of agents authorized to distribute the collars, and allow for collar pool agents.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code, §76.003, which provides TDA with the authority to regulate the time and conditions of use and purchase and establish recordkeeping requirements for state-limited-use pesticides; §76.004, which authorizes TDA to establish rules to carry out Chapter 76; §76.104, which authorizes TDA to adopt rules regarding the manner and method of pesticide application; and §§76.101-76.103 and 76.105-76.113, which provides TDA with the authority to establish requirements for the licensing and certification of pesticide applicators.

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 November 30, 1992.

TRD-9216035

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: December 23, 1992

Proposal publication date: August 7, 1992

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

## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Licensing and Regulation

#### Chapter 61. Boxing

##### Subchapter C. Karate

- 16 TAC §§61.301-61.316

The Texas Department of Licensing and Regulation adopts the repeal of §§61.301-61.316, concerning karate, without changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7632).

The sections are being repealed because Karate is no longer covered by Texas Civil Statutes, Article 8501.1.

The repeal of these sections clarifies that karate is no longer covered by Texas Civil Statutes, Article 8501.1.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 8501.1, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules to assure compliance with the Act.

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

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

TRD-9215998

Jack W. Garrison  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Effective date: December 22, 1992

Proposal publication date: October 30, 1992

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

## Chapter 66. Registration of Property Tax Consultants

- 16 TAC §66.21, §66.24

The Texas Department of Licensing and Regulation adopts an amendment to §66.21 and new §66.24, concerning the registration of property tax consultants, without changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7632).

Section 66.21 exempts real estate property tax consultants from the requirement that on or after February 1, 1995, a property tax consultant must be employed by or have an association with a registered senior property tax consultant and be under the direct supervision of the senior property tax consultant. Section 66.24 establishes procedures for applicants to reschedule an examination.

The sections clarify Texas Civil Statutes, Article 8886, §2(f), regarding property tax consultants who qualified and registered under this section, and establishes procedures for applicants to reschedule an examination.

No comments were received regarding adoption of the sections.

The amendment and new section are adopted under Texas Civil Statutes, Article 8886, which provide the Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take action necessary to assure compliance with the intent and purposes of the Act.

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

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

TRD-9215997

Jack W. Garrison  
Executive Director  
Texas Department of  
Licensing and  
Regulation

Effective date: December 22, 1992

Proposal publication date: October 30, 1992

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

## TITLE 22. EXAMINING BOARDS

### Part XV. Texas State Board of Pharmacy

#### Chapter 291. Pharmacies

##### Community Pharmacy (Class A)

###### • 22 TAC §§291.31-291.36

The Texas State Board of Pharmacy adopts amendments to §§291.31-291.36. Sections 291.31-291.34 and 291.36, concerning definitions, personnel, operational standards, records, and Class A pharmacies compounding sterile pharmaceuticals are adopted with changes to the proposed text as published in the August 25, 1992, issue of the *Texas Register* (17 TexReg 5782). Section 291.35, concerning triplicate prescription requirements.

The Federal Omnibus Budget Reconciliation Act of 1990 (OBRA '90) was signed into law on November 5, 1990. This Act amended the 1965 Medicaid law to condition Federal Medicaid payments for outpatient drugs on the participation of drug manufacturers in state rebate programs, the development of drug use review programs, and implementation of patient counseling requirements by the states. These adopted amendments will implement the prospective drug review provisions of the OBRA '90 and set standards for patient counseling and prospective drug review for all patients by pharmacists in Class A Pharmacies in Texas. In addition, the adopted rules correct non-substantive inconsistencies in the rules.

A public hearing on the proposed rules was held on September 15, 1992, with eight persons giving oral testimony. In addition, the agency has received 17 letters of comment from 16 individuals for a total of 25 comments. The comments are summarized as follows.

(1) Regarding §291.31 (Definitions), commentors suggested that: (a) the definition of "Confidential health information" be amended by deleting the word "which" and replace the "and" between subparagraph (B) and (C) with "or"; and (b) a definition for "new prescription" be added.

The Agency agrees with these suggestions and has amended the definition of "confidential health information" as requested and added a definition for "new prescription."

(2) Regarding §291.32 (Personnel), commentors suggested that: (a) the language in proposed §291.32(a)(2)(C) be modified to read the same as that in §291.33(c)(1)(B)(i); (b) pharmacists be allowed to delegate affixing the label to supportive personnel; (c) the phrase "in the pharmacist's professional judgement" be added to paragraph (2)(H); and (d) paragraph (2)(J) be amended as to read: assuring that a reasonable effort is made to obtain, record, and maintain patient medication records at the individual pharmacy.

The Agency agrees with the suggestions made in (a), (c), and (d) and has amended the proposed language as suggested. The agency disagrees with the suggestion in (b) and believes that at the present time a pharmacist should be required to affix the label to the prescription container.

(3) Regarding §291.33 (Operational Standards), commentors suggested that: (a) all pharmacies should not be required to have an area suitable for confidential patient counseling; (b) subsection (c)(1) should be modified to allow the pharmacist to use his or her professional judgement to determine the content of counseling and delete the reference to minimum; (c) "techniques for self-monitoring of drug therapy" as specified in the OBRA '90 language should be added to the list in (c)(1)(B); (d) subsection (c)(1)(B) should be modified to insert the words "to the patient" between "dispensed" and "by the pharmacy"; (e) subsection (c)(1)(B) be modified to not require that written information be provided; (f) subsection (c)(1)(B) be modified to not require written information but allow use of written information, "when deemed appropriate by the pharmacist"; and (g) subsection (c)(1)(B) be modified to delay requiring written information until January 1, 1994.

The Agency agrees with the suggestions made in (b), (c), and (d) and partially agrees with the suggestions made in (f) and (g). The proposed language has been amended to reflect this agreement.

The Agency disagrees with the suggestions in (a) and (e). The Agency believes that an area suitable for confidential patient counseling is necessary for pharmacists to effectively counsel their patients. The Agency also believes that the most effective method of presenting information to the patient is to orally tell the patient about the drug or device and to reinforce this oral counseling with written information. However, the proposed rules have been amended to allow pharmacies nine months to implement the provision to provide written information for patients who come into the pharmacy. Written information will be immediately required to be included with prescriptions that are delivered to the patient's residence.

(4) Regarding §291.34 (Records), commentors suggested that: (a) §291.34(c) exceeds the federal mandate and implementation should be delayed until 1994; (b) §291.34(c)(1) should be modified to delete the words "all pharmacies" and replace with "the individual pharmacy"; (c) the word "year" in §291.34(c)(2) and (4) should be clarified by replacing with "12-month period"; (d) review of patient history should be required for 180 days only, not one year; (e) a phase-in period for §291.34(c)(3)(E) and (F) should be allowed; (f) §291.34(c)(3)(G) should be deleted "since this is not mandated under OBRA and appears to be simply an unnecessary addition of details regarding specifics for a particular type of record system"; (g) implementation of §291.34(c)(4) should be delayed until January 1, 1994; and

(h) a new §291.34(c)(5) should be added as follows: "Nothing in this subparagraph shall be construed as requiring

a pharmacist to obtain, record, and maintain patient medication records when a patient or patient's agent refuses to provide the necessary information for such patient medication records."

The Agency agrees or partially agrees with the suggestions made in (b), (c), and (h) and the proposed language has been amended to reflect this agreement.

The Agency disagrees with the suggestions in (a), (e), (f), and (g). Each of these comments either suggest a delay in implementation of these proposed sections or suggest that the proposed sections exceed the requirements of the Federal requirements of OBRA. The Agency believes that these sections are mandated in the OBRA legislation and thus, does not believe that a delay in implementation is possible.

The Agency also disagrees with the suggestion in (d) to require review of medication records for 180 days rather than one year. The agency believes that the one year requirement will result in a better review of records for possible drug-drug interactions. However, the agency will continue to monitor this requirement and if this appears to be overburdensome will consider modification of this portion of the rules in the future.

Comments were received from the following groups: Texas Federation of Drug Stores; Texas Pharmaceutical Association; Texas Society of Hospital Pharmacists.

Each of these groups generally supported the intent and concepts of pharmacist/patient counseling and drug regimen review as proposed. However, each of the groups had specific comments about certain sections of the rules and made recommendations for changes in these sections.

The amendments are adopted under the Texas Pharmacy Act (Texas Civil Statutes, Article 4542a-1) §17, which gives the Board the authority to specify minimum standards for drug storage, maintenance of prescription drug records, and procedures for the delivery, dispensing in a suitable container appropriately labeled, or providing of prescription drugs or devices within the practice of pharmacy.

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

Confidential health information—Any health related information maintained by the pharmacy in the patient's records, is privileged and may be released only to:

(A) the patient, or as the patient directs;

(B) those health care professionals where, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; or

(C) other such persons or governmental agencies authorized by law to receive such confidential information.

New prescription drug order—A prescription drug order for a drug not previously taken by the patient.

Patient counseling—Communication by the pharmacist of information to the patient or patient's agent, in order to improve therapy by ensuring proper use of drugs and devices.

Prospective drug review—A review of the patient's medication record and prescription drug order prior to dispensing.

#### §291.32. Personnel.

(a) Pharmacist-in-charge.

(1) (No change.)

(2) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

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

(C) assuring that a pharmacist communicates to the patient or the patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgement, the pharmacist deems significant as specified in §291.33(c) of this title (relating to Operational Standards);

(D) assuring that a pharmacist communicates to the patient or the patient's agent on their request, information concerning any prescription drugs dispensed to the patient by the pharmacy;

(E) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(F) education and training of pharmacy supportive personnel;

(G) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(H) disposal and distribution of drugs from the Class A pharmacy;

(I) bulk compounding of drugs;

(J) storage of all materials, including drugs, chemicals, and biologicals;

(K) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and sections;

(L) establishment and maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(M) maintenance of records in a data processing system such that the data processing system is in compliance with Class A (Community) Pharmacy requirements; and

(N) legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or sections governing the practice of pharmacy.

(b) Pharmacists.

(1) (No change.)

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

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

(D) interpreting patient medication records;

(E)-(F) (No change.)

(G) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient;

(H) communicating to the patient or patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgement, the pharmacist deems significant, as specified in §291.33(c) of this title;

(I) communicating to the patient or the patient's agent on their request, information concerning any prescription drugs dispensed to the patient by the pharmacy; and

(J) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records.

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

#### §291.33. Operational Standards.

(a) (No change.)

(b) Environment.

(1) General requirements.

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

(D) A Class A pharmacy initially licensed after June 1, 1989, shall contain an area which is suitable for confidential patient counseling and beginning January 1, 1995, all Class A pharmacies shall contain an area which is suitable for confidential patient counseling;

(E)-(F) (No change.)

(2) (No change.)

(c) Prescription dispensing and delivery.

(1) Patient counseling and provision of drug information.

(A) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent, information about the prescription drug or device which in the exercise of the pharmacist's professional judgement the pharmacist deems significant, such as the following:

(i) the name and description of the drug or device;

(ii) dosage form, dosage, route of administration, and duration of drug therapy;

(iii) special directions and precautions for preparation, administration, and use by the patient;

(iv) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(v) techniques for self monitoring of drug therapy;

(vi) proper storage;

(vii) refill information;

and

(viii) action to be taken in the event of a missed dose.

(B) Such communication:

(i) shall be provided with each new prescription drug order, and if the pharmacist deems appropriate, with prescription drug order refills;

(ii) shall be provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(iii) shall be communicated orally in person unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication; and

(iv) may be reinforced with written information when deemed appropriate by the pharmacist. Beginning September 1, 1993, the communication shall be reinforced with written information.

(C) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation. The pharmacist shall document such refusal for consultation.

(D) In addition to the requirements of subparagraphs (A)-(C) of this paragraph, if a prescription drug order is delivered to the patient at the pharmacy the following is applicable.

(i) So that a patient will have access to information concerning his or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy, except as provided in clause (ii) of this subparagraph.

(ii) An agent of the pharmacist may deliver a prescription drug order to the patient or his or her agent during short periods of time when a pharmacist is absent from the pharmacy, provided the short periods of time do not exceed two hours, and provided a record of the delivery is maintained containing the following information:

(I)-(V) (No change.)

(iii) Any prescription delivered to a patient when a pharmacist is not in the pharmacy must meet the requirements described in subparagraph (E) of this paragraph.

(iv) A Class A pharmacy shall make available for use by the public, a current or updated edition of the United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient), or, another source of such information, such as patient information leaflets.

(E) In addition to the requirements of subparagraphs (A)-(C) of this paragraph, if a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable.

(i) The information specified in subparagraph (A) of this paragraph shall be delivered with the dispensed prescription in writing.

(ii) If prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll-free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist.

(iii) The pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and Spanish the local and if applicable, toll-free telephone number of the pharmacy and the statement: Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions.

(F) The provisions of this paragraph do not apply to patients in facilities where drugs are administered to patients by a person required to do so by the laws of the state (i.e., nursing homes).

(2) Prospective drug review.

(A) For the purpose of promoting therapeutic appropriateness, a pharmacist shall, at the time of dispensing a prescription drug order, review the patient's medication record. Such review shall at a minimum identify clinically significant:

- (i) inappropriate drug utilization;
- (ii) therapeutic duplication;
- (iii) drug-disease contraindications;
- (iv) drug-drug interactions;
- (v) incorrect drug dosage or duration of drug treatment;
- (vi) drug-allergy interactions; and
- (vii) clinical abuse/misuse.

(B) Upon identifying any clinically significant conditions, situations, or items listed in subparagraph (A) of this paragraph, the pharmacist shall take appropriate steps to avoid or resolve the problem including consultation with the prescribing practitioner.

(3) Prescription containers.

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

(4) Labeling. At the time of delivery of the drug, the dispensing container shall bear a label with at least the following information:

(A)-(M) (No change.)

(d)-(h) (No change.)

§291.34. Records.

(a) (No change.)

(b) Prescriptions.

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

(3) Verbal prescription drug orders.

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

(C) If a prescription drug order is transmitted to a pharmacist verbally, the pharmacist shall note any substitution instructions by the practitioner or practitioner's agent on the file copy of the prescription drug order. Such file copy may follow the two-line format indicated in paragraph (2)(B) of this subsection, or any other format that clearly indicates the substitution instructions.

(D)-(E) (No change.)

(4) (No change.)

(5) Authorization for substitution.

(A)-(D) (No change.)

(6)-(8) (No change.)

(c) Patient medication records.

(1) A patient medication record system shall be maintained by the pharmacy for patients to whom prescription drug orders are dispensed.

(2) The patient medication record system shall provide for the immediate retrieval of information for the previous 12 months which is necessary for the dispensing pharmacist to conduct a prospective drug review at the time a prescription drug order is presented for dispensing.

(3) The pharmacist-in-charge shall assure that a reasonable effort is made to obtain and record in the patient medication record at least the following information:

(A) full name of the patient for whom the drug is prescribed;

(B) address and telephone number of the patient;

birth;

(C) patient's age or date of

(D) patient's gender;

(E) any known allergies, drug reactions, idiosyncrasies, and chronic conditions or disease states of the patient and the identity of any other drugs currently being used by the patient which may relate to prospective drug review;

(F) pharmacist's comments relevant to the individual's drug therapy, including any other information unique to the specific patient or drug; and

(G) a list of all prescription drug orders dispensed (new and refill) to the patient by the pharmacy during the last two years. Such list shall contain the following information:

(i) date dispensed;

(ii) name, strength, and quantity of the drug dispensed;

(iii) prescribing practitioner's name;

(iv) unique identification number of the prescription; and

(v) name or initials of the dispensing pharmacists.

(4) A patient medication record shall be maintained in the pharmacy for two years. If patient medication records are maintained in a data processing system, all of the information specified in this subsection shall be maintained in a retrievable form for two years and information for the previous 12 months shall be maintained online.

(5) Nothing in this paragraph shall be construed as requiring a pharmacist to obtain, record, and maintain patient information other than prescription drug order information when a patient or patient's agent refuses to provide the necessary information for such patient medication records.

(d) Prescription drug order records maintained in a manual system.

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

(e) Prescription drug order records maintained in a data processing system.

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

(f) Limitation to one type of record keeping system. When filing prescription drug order information a pharmacy may use only one of the two systems described in subsection (d) or (e) of this section.

(g) Distribution of controlled substances to another registrant. A pharmacy, may distribute controlled substances to a practitioner, another pharmacy or other registrant, without being registered to distribute, under the following conditions:

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

(h) Other records. Other records to be maintained by a pharmacy:

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

(i) Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

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

(j) Ownership of pharmacy records. For the purposes of these sections, a pharmacy licensed under the Act is the only entity which may legally own and maintain prescription drug records.

(k) Confidentiality. A pharmacist shall provide adequate security of prescription drug order and patient medication records to prevent indiscriminate or unauthorized access to confidential health information.

*§291.36. Class A Pharmacies Compounding Sterile Pharmaceuticals.*

(a) (No change.)

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

(1)-(8) (No change.)

(9) Confidential health information—Any health related information maintained by the pharmacy in the patient's records, is privileged and may be released only to:

(A) the patient, or as the patient directs;

(B) those health care professionals where, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; or

(C) other such persons or governmental agencies authorized by law to receive such confidential information.

(10) Controlled substance—A drug, immediate precursor, or other substance listed in Schedules I-V or Penalty Groups 1-4 of the Texas Controlled Substances Act, as amended, or a drug, immediate precursor, or other substance included in Schedule I, II, III, IV, or V of the Federal

Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

(11) Cytotoxic—A pharmaceutical that has the capability of killing living cells.

(12) Dangerous drug—Any drug or device that is not included in Penalty Groups 1-4 of the Controlled Substances Act and that is unsafe for self-medication or any drug or device that bears or is required to bear the legend:

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

(13) Deliver or delivery—The actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

(14) Designated agent—An individual under the supervision of a practitioner, designated by the practitioner, and for whom the practitioner assumes legal responsibility, who communicates the practitioner's instructions to the pharmacist.

(15) Device—An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

(16) Dispense—Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(17) Distribute—The delivery of a prescription drug or device other than by administering or dispensing.

(18) Downtime—Period of time during which a data processing system is not operable.

(19) Enteral—Within or by the way of the intestine.

(20) Facsimile (FAX) prescription drug order—A prescription drug order which is transmitted by an electronic device which sends an exact image to the receiver (pharmacy) over telephone lines.

(21) Full-time pharmacist—A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(22) Hard-copy—A physical document that is readable without the use of a special device (i.e., cathode ray tube (CRT), microfiche reader, etc).

(23) Medical Practice Act—The Texas Medical Practice Act, Texas Civil Statutes, Article 4495b, as amended.

(24) New prescription drug order—A prescription drug order for a drug not previously taken by the patient.

(25) Original prescription—The:

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

(26) Parenteral—Sterile preparations of drugs for injection through one or more layers of the skin.

(27) Part-time pharmacist—A pharmacist who works less than full-time.

(28) Patient counseling—Communication by the pharmacist of information to the patient or patient's agent, in order to improve therapy by ensuring proper use of drugs and devices.

(29) Pharmacist-in-charge—The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(30) Physician assistant—A physician assistant recognized by the Texas State Board of Medical Examiners as having the specialized education and training required under the Medical Practice Act, §3.06(d), and issued an identification number by the Texas State Board of Medical Examiners.

(31) Practitioner—

(A)-(D) (No change.)

(32) Repackaging—The act of repackaging and relabeling quantities of drug products from a manufacturer's original commercial container into a prescription container for dispensing by a pharmacist to the ultimate consumer.

(33) Prescription drug—

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

(34) Prescription drug order—

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

(35) Registered nurse—A registered nurse recognized by the Texas State Board of Nurse Examiners as having the specialized education and training necessary to carry out a prescription drug order and issued an identification number by the Texas State Board of Nurse Examiners.

(36) Sterile pharmaceutical—A dosage form free from living microorganisms.

(37) Supportive personnel—Those individuals utilized in pharmacies whose responsibility it shall be to provide nonjudgmental technical services concerned with the preparation and distribu-

tion of drugs under the direct supervision of and responsible to a pharmacist.

(38) Texas Controlled Substances Act—The Texas Controlled Substances Act, Health and Safety Code, Chapter 481, as amended.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) (No change.)

(B) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

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

(iii) assuring that a pharmacist communicates to the patient or the patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgement, the pharmacist deems significant as specified in subsection (c)(3) of this section;

(iv) assuring that a pharmacist communicates to the patient or the patient's agent on his or her request, concerning any prescription drugs dispensed to the patient by the pharmacy;

(v) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(vi) education and training of pharmacy supportive personnel;

(vii) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(viii) disposal and distribution of drugs from the Class A pharmacy;

(ix) bulk compounding of drugs;

(x) preparation and sterilization of sterile pharmaceuticals compounded within the pharmacy;

(xi) admixture of sterile pharmaceuticals, including education and training of personnel concerning incompatibility;

(xii) participation in those aspects of the patient care evaluation program relating to pharmaceutical material utilization and effectiveness;

(xiii) implementation of the policies and decisions relating to pharmaceutical services;

(xiv) storage of all materials, including drugs, chemicals, and biologicals;

(xv) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over

and accountability for all pharmaceutical materials required by applicable state and federal laws and rules;

(xvi) establishment and maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(xvii) maintenance of records in a data processing system such that the data processing system is in compliance with this section;

(xviii) assuring that the pharmacy has a system to dispose of cytotoxic/biohazardous waste in a manner so as not to endanger the public health; and

(xvix) legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or rules governing the practice of pharmacy.

(2) Pharmacists.

(A) (No change.)

(B) Duties. Duties which may only be performed by a pharmacist are as follows:

(i)-(iii) (No change.)

(iv) interpreting patient medication records;

(v) affixing the label to the prescription container and performing the final check of the dispensed prescription before delivery to the patient;

(vi) communicating to the patient or patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgement, the pharmacist deems significant as specified in subsection (c)(3) of this section;

(vii) communicating to the patient or the patient's agent on his or her request, information concerning any prescription drugs dispensed to the patient by the pharmacy; and

(viii) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records.

(C) (No change.)

(3) -(4) (No change.)

(d) Operational standards.

(1) (No change.)

(2) Environment.

(A) General requirements.

(i) -(vi) (No change.)



(vii) If prescription drug orders are delivered to the patient at the pharmacy, beginning January 1, 1995, the pharmacy shall contain an area which is suitable for confidential patient counseling.

(B)-(C) (No change.)

(3) Prescription dispensing and sdelivery.

(A) Patient counseling and provision of drug information.

(i) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent, information about the prescription drug or device which in the exercise of the pharmacist's professional judgement the pharmacists deems significant, such as the following:

(I) the name and description of the drug or device;

(II) dosage form, dosage, route of administration, and duration of drug therapy;

(III) special directions and precautions for preparation, administration, and use by the patient;

(IV) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(V) techniques for self monitoring of drug therapy;

(VI) proper storage;

(VII) refill information; and

(VIII) action to be taken in the event of a missed dose.

(ii) Such communication:

(I) shall be provided with each new prescription drug order, and if the pharmacist deems appropriate, with prescription drug order refills;

(II) shall be provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(III) shall be communicated orally in person unless the patient or

patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication; and

(IV) may be reinforced with written information when deemed appropriate by the pharmacist. Beginning September 1, 1993, the communication shall be reinforced with written information.

(iii) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation. The pharmacist shall document such refusal for consultation.

(iv) In addition to the requirements of clauses (i)-(iii) of this subparagraph, if a prescription drug order is delivered to the patient at the pharmacy, the following is applicable.

(I) So that a patient will have access to information concerning his or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy, except as provided in subclause (II) of this clause.

(II) An agent of the pharmacist may deliver a prescription drug order to the patient or his or her agent during short periods of time when a pharmacist is absent from the pharmacy, provided the short periods of time do not exceed two hours, and provided a record of the delivery is maintained containing the following information:

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

(III) Any prescription delivered to a patient when a pharmacist is not in the pharmacy must meet the requirements described in clause (v) of this subparagraph.

(IV) A Class A pharmacy compounding sterile pharmaceuticals that delivers prescriptions to patients or their agents on-site shall make available for use by the public, a current or updated edition of the United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient), or, another source of such information, such as patient information leaflets.

(v) In addition to the requirements of clauses (i)-(iii) of this subparagraph, if a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable:

(I) the information specified in clause (i) of this subparagraph shall be delivered with the dispensed prescription in writing;

(II) if prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll-free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist;

(III) the pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and Spanish the local and if applicable, toll-free telephone number of the pharmacy and the statement: Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions;

(IV) the pharmacist-in-charge shall assure that:

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

(vi) The provisions of this subparagraph do not apply to patients in facilities where drugs are administered to patients by a person authorized to do so by the laws of the state (i.e., nursing homes).

(B)-(C) (No change.)

(4)-(6) (No change.)

(7) Patient medication records. A patient medication record shall be maintained for each patient of the pharmacy. The PMR shall contain at a minimum the following:

(A) patient information:

(i) patient's full name, gender, and date of birth;

(ii)-(iv) (No change.)

(v) other drugs the patient is receiving;

(vi) (No change.)

(vii) pharmacist's comments relevant to the individual's drug therapy, including any other information unique to the specific patient or drug; and

(viii) a list of all prescription drug orders dispensed (new and refill) to the patient by the pharmacy during the last two years. Such list shall contain the following information:

- (I) date dispensed;
- (II) name, strength, and quantity of the drug dispensed;
- (III) prescribing practitioner's name;
- (IV) unique identification number of the prescription; and
- (V) name or initials of the dispensing pharmacist.

(B) (No change.)

(C) Nothing in this paragraph shall be construed as requiring a pharmacist to obtain, record, and maintain patient information other than prescription drug order information when a patient or patient's agent refuses to provide the necessary information for such patient medication records.

(8)-(10) (No change.)

(e) Records.

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

(11) Confidentiality. A pharmacist shall provide adequate security of prescription drug order and patient medication records to prevent indiscriminate or unauthorized access to confidential health information.

(f) (No change.)

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

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

TRD-9216014 Fred S. Brinkley, Jr.,  
R.Ph., M.B.A.  
Executive  
Director/Secretary  
Texas State Board of  
Pharmacy

Effective date: January 1, 1993

Proposal publication date: August 25, 1992

For further information, please call: (512) 832-0661

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## Part XXIX. Texas Board of Professional Land Surveying

### Chapter 661. General Rules of Procedures and Practices

#### Contested Case

##### • 22 TAC §661.91

The Texas Board of Professional Land Surveying adopts an amendment to §661.91, concerning contested case, without changes to the proposed text as published in the October 16, 1992, issue of the *Texas Register* (17 TexReg 7154).

This section will clarify that the agency may assess the cost of the transcript to one or more of the parties.

The Board has been assessing the cost for transcripts to the guilty party through existing APTRA language. This rule merely puts this APTRA language into the Board's rules. Operations of the Board will not change.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5282c, §9, which provide the Texas Board of Professional Land Surveying with the authority to make and enforce all reasonable and necessary rules, regulations, and bylaws not inconsistent with the Texas Constitution, the laws of this state, and this Act.

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

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

TRD-9216013 Sandy Smith  
Executive Director  
Texas Board of  
Professional Land  
Surveying

Effective date: December 22, 1992

Proposal publication date: October 16, 1992

For further information, please call: (512) 452-9427

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

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

##### • 25 TAC §38.3

The Texas Department of Health (department) adopts an amendment to §38.3, concerning Chronically Ill and Disabled Children's (CIDC) Services, with changes to the proposed text as published in the October 6, 1992, issue of the *Texas Register* (17 Tex Reg 6854).

The amendment is to paragraph (1)(B) concerning CIDC medical eligibility criteria. The amendment will correct oversights; insert International Classification of Diseases (ICD-9) code revisions; move CIDC conditions listed in Priority 1 into full CIDC coverage; and make editorial changes to correct text errors.

No comments were received concerning the proposed amendment; however, a CIDC staff person noted that the description of the medical condition coded as 212.0, 212.1, 212.2, 212.3 was incorrectly titled. The department has changed the description from "Recurrent laryngeal papilloma (only)" to "Recurrent papilloma of the respiratory organs (only)."

The amendment is 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. The amendment will affect the Health and Safety Code, Chapter 35.

*§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) Medical criteria.

(A) (No change.)

(B) Coverable conditions. The Texas Department of Health, with approval by the Texas Board of Health, shall use the following medical criteria to determine CIDC Program eligibility.

**§38.3(1)(B): MEDICAL ELIGIBILITY CRITERIA**

**ICD-9 CODES**

**COVERABLE DIAGNOSES**

**INFECTIOUS AND PARASITIC DISEASES**

Tuberculosis  
015.00-015.96

Tuberculosis of bones and joints

Human Immunodeficiency Virus (HIV) Infection  
042.0-044.9

Human immunodeficiency virus (HIV) infection  
Positive serological or viral culture findings for HIV

795.8

Late Effects of Infectious and Parasitic Diseases  
137.3

Late effects of tuberculosis of bones and joints

138

Late effects of acute poliomyelitis

**NEOPLASMS**

Malignant Neoplasms  
140.0-208.9

All malignant neoplasms

Benign Neoplasms  
211.0-211.2  
212.0,212.1,212.2,212.3

Polyposis syndrome (only)  
Recurrent papilloma of the respiratory organs (only)  
Benign neoplasm of bone  
Giant blue nevus (only); giant pigmented nevus (only)  
Benign neoplasm of brain and other parts of nervous system  
Benign neoplasm of pituitary gland and craniopharyngeal duct (pouch)  
Benign neoplasm of pineal gland  
All lymphangiomas (including cystic hygromas)

213.0-213.9  
216.0-216.9

225.0-225.9

227.3

227.4

228.1

Carcinoma In Situ  
230.0-234.9

Cancer in situ

Neoplasms of Uncertain Behavior  
235.0-238.9

Neoplasms of uncertain behavior

**Neoplasms of Unspecified Nature**

239.6

239.7

Brain

Endocrine glands and other parts of nervous system

----- Conditional Diagnoses -----

**Benign Neoplasms**

228.00-228.09

Hemangioma (only with severe facial cosmetic disfigurement, hemorrhage, ulceration, necrosis, infection or impaired physiologic functioning)

**ENDOCRINE, NUTRITIONAL, METABOLIC DISEASES,  
AND IMMUNITY DISORDERS**

**Disorders of Thyroid Gland**

243

Congenital hypothyroidism

**Diseases of Other Endocrine Glands**

250.01,250.11,250.21,250.31,

250.41,250.51,250.61,250.71,

250.81,250.91

253.2

253.3

Insulin dependent diabetes mellitus

Panhypopituitarism

Pituitary dwarfism (growth hormone deficiency)

Iatrogenic pituitary disorders

Adrenogenital disorders

Medulloadrenal hyperfunction

253.7

255.2

255.6

**Nutritional Deficiencies**

268.0-268.1

268.2

268.9

Rickets

Osteomalacia, unspecified

Unspecified Vitamin D deficiency

**Other Metabolic and Immunity Disorders**

270.1

271.1

275.3

277.00-277.01

P.K.U.

Galactosemia

Disorders of phosphorus metabolism

Cystic fibrosis

277.8

Histiocytosis; Hand-Schuller-Christian Disease; eosinophilic granulomas, familial erythrophagocytic

lymphohistiocytosis, virus-associated  
hemophagocytic syndrome, sinus  
histiocytosis with massive  
lymphadenopathy

### DISEASES OF BLOOD AND BLOOD-FORMING ORGANS

282.4	Sickle-cell thalassemia (only)
282.60-282.69	Sickle-cell anemia
286.0	Congenital factor VIII disorder
286.1	Congenital factor IX disorder
286.2	Congenital factor XI deficiency
286.3	Congenital deficiency of other clotting factors
286.4	von Willebrand's disease

### DISEASES OF THE NERVOUS SYSTEM

<b>Neoplasms</b>	
191.0-192.9	Malignant neoplasm of the brain and nervous system
225.0-225.9	Benign neoplasm of brain and nervous system
237.70,237.71,237.72	Neurofibromatosis

<b>Inflammatory Diseases of the Central Nervous System</b>	
324.0-324.9	Intracranial and intraspinal abscess
326.0	Late effects of intracranial and intraspinal abscess

<b>Hereditary and Degenerative Diseases of the Central Nervous System</b>	
331.3	Communicating hydrocephalus
331.4	Obstructive hydrocephalus
331.89	Congenital cerebral ataxia
333.2	Myoclonus (epilepsy)
333.5	Other choreas (paroxysmal)
333.7	Symptomatic torsion dystonia (athetoid cerebral palsy)
334.1	Hereditary spastic paraplegia
336.0	Syringomyelia
336.1	Vascular myelopathies
336.2	Subacute combined degeneration of spinal cord
336.3	Myelopathy in other diseases
336.8	Myelopathy NEC
336.9	Spinal cord diseases NOS

**Other Disorders of the Central Nervous System**

342.0-342.9

343.0-343.9

344.0-344.5,344.60,344.61,344.8,344.9

345.00-345.91

348.0

349.81

**Disorders of the Peripheral Nervous System**

352.6

359.0-359.1

**Cerebrovascular Disease (not related to injury)**

430

431

432.0

432.1

432.9

434.0

434.1

434.9

436

437.3

438

**Dorsopathies**

720.0

721.0

721.1

721.2

721.3

721.41-721.42

721.5

721.6

721.7

Hemiplegia

Infantile cerebral palsy

Paralytic syndromes

Epilepsy/seizure disorder

Cerebral cysts

Cerebrospinal fluid rhinorrhea

Multiple cranial nerve palsies

Congenital hereditary and hereditary progressive muscular dystrophy

Subarachnoid hemorrhage; ruptured cerebral aneurysm

Intracerebral hemorrhage

Nontraumatic extradural hemorrhage

Subdural hemorrhage (nontraumatic)

Intracranial hemorrhage (unspecified)

Cerebral thrombosis

Cerebral embolism

Cerebral artery occlusion, unspecified (infarction)

Cerebrovascular accident

Cerebral aneurysm, nonruptured (430 is ruptured)

Late effects of cerebrovascular disease

Ankylosing spondylitis (rheumatoid arthritis of spine)

Cervical spondylosis without myelopathy

Cervical spondylosis with myelopathy

Thoracic spondylosis without myelopathy

Lumbosacral spondylosis without myelopathy

Thoracic or lumbar spondylosis with myelopathy

Kissing spine

Ankylosing vertebral hyperostosis

Traumatic spondylopathy

721.8  
721.90

721.91

Congenital Anomalies  
741.00-741.93

742.0  
742.2  
742.3  
742.4

742.51-742.59

747.81  
759.6

Other Conditions Originating in the Perinatal Period  
767.4  
767.6

Fracture of Neck and Trunk  
805.00-805.9

806.00,806.02-806.04,806.05-806.09,  
806.10,806.12-806.14,806.15-806.19,  
806.20-806.9

Injury to Nerves and Spinal Cord  
952.00,952.02-952.04,952.05-952.09

952.10-952.19

952.2  
952.3  
952.4  
952.8

Other allied disorders of spine  
Spondylosis of unspecified site  
without mention of myelopathy  
Spondylosis of unspecified site with  
myelopathy

Spina Bifida (includes Arnold-  
Chiari/Chiari II)  
Encephalocele  
Reduction deformities of brain  
Congenital hydrocephalus  
Other specified anomalies of brain;  
ex. congenital cerebral cysts,  
porencephaly  
Other specified anomalies of spinal  
cord (including diastematomyelia)  
Anomalies of cerebrovascular system  
Other hamartoses

Injury to spine and spinal cord  
Injury to brachial plexus due to birth  
trauma

Fracture of vertebral column,  
without mention of spinal cord injury  
Fracture of vertebral column with  
spinal cord injury; cervical, closed;  
cervical, open; dorsal (thoracic),  
closed; dorsal (thoracic), open;  
lumbar, closed; lumbar, open;  
sacrum and coccyx, closed; sacrum  
and coccyx, open; unspecified,  
closed; unspecified, open

C1-C4, C5-C7 spinal cord injury  
without evidence of spinal bone  
injury  
T1-T12 complete and incomplete  
spinal cord injury without evidence  
of spinal bone injury  
Lumbar  
Sacral  
Cauda equina  
Multiple sites of spinal cord

952.9	Unspecified site of spinal cord
953.0-953.9	Injury to nerve roots and spinal plexus (including brachial plexus injury)
955.0,955.1,955.2,955.3	Injury to axillary, median, ulnar or radial nerves
956.0,956.1,956.2,956.3	Injury to sciatic, femoral, posterior tibial or peroneal nerves

----- Conditional Diagnoses -----

Disorders of the Peripheral Nervous System

357.0	Acute infective polyneuritis; (Guillain-Barre or postinfectious polyneuritis) (rehabilitation only)
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**DISORDERS OF THE EYE AND ADNEXA**

365.14	Glaucoma of childhood (open-angle glaucoma)
365.41	Glaucoma associated with chamber angle anomalies
365.42	Glaucoma associated with anomalies of iris
365.43	Glaucoma associated with other anterior segment anomalies
365.44	Glaucoma associated with systemic syndromes
365.63	Glaucoma associated with vascular disorders
366.00-366.09	Infantile, juvenile, and presenile cataract
366.20-366.23	Traumatic cataract
368.00-368.03	Amblyopia ex anopsia

Congenital Anomalies of the Eye

743.00-743.06	Anophthalmos
743.10-743.12	Microphthalmos
743.20-743.22	Congenital glaucoma (buphthalmos)
743.30-743.39	Congenital cataract
743.45	Aniridia

----- Conditional Diagnoses -----

Disorders of Eye and Adnexa

360.89	Anophthalmos (acquired) (only)
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374.30-374.34  
378.00-378.9

**Congenital Anomalies of the Eye**  
743.61, 743.62

**Injury**  
951.0

951.1

951.3

951.4

Ptosis (surgery only)  
Strabismus and other disorders of  
binocular eye movement (surgery  
only)

Congenital anomalies of the eyelid  
(surgery only)

Injury to oculomotor nerve (surgery  
only)

Injury to trochlear nerve (surgery  
only)

Injury to abducens nerve (surgery  
only)

Injury to facial nerve (surgery only)

### **DISEASES OF THE EAR AND MASTOID PROCESS**

**Mastoiditis and Related Conditions**  
383.1  
383.20-383.22  
383.32

**Other Disorders of Middle Ear and Mastoid**  
385.02, 385.03

385.21-385.24

385.30

385.31

385.32, 385.33

**Congenital Anomalies of Ear, Face and Neck**  
744.00-744.09

Chronic mastoiditis  
Petrositis  
Postmastoid cholesteatoma

Tympanosclerosis involving  
tympanic membrane, ear ossicles,  
and middle ear

Acquired abnormality of ear ossicles  
(ankylosis, discontinuity, partial loss)

Cholesteatoma, unspecified

Cholesteatoma of attic

Cholesteatoma of middle ear/mastoid

Anomalies of ear causing impairment  
of hearing (includes microtia with  
hearing impairment)

#### ----- Conditional Diagnoses -----

**Mastoiditis and Related Conditions**  
383.00-383.02

Acute mastoiditis (surgery only)

### **DISEASES OF THE CIRCULATORY SYSTEM**

**Neoplasms**

212.7

**Acute Rheumatic Fever**

391.0-391.9

392.0,392.9

393

394.0

394.1

394.2

394.9

395.0

395.1

395.2

395.9

396.0-396.8

397.0

397.1

397.9

398.0-398.99

**Ischemic Heart Disease**

414.11

**Diseases of Pulmonary Circulation**

416.0

416.1

416.8

416.9

**Other Forms of Heart Disease**

424.0

424.1

424.2

**Benign neoplasm of heart**

Rheumatic fever with heart involvement - acute rheumatic pericarditis.

Rheumatic chorea

Chronic rheumatic pericarditis

Mitral stenosis

Rheumatic mitral insufficiency

Mitral stenosis with insufficiency

Other and unspecified mitral valve diseases

Rheumatic aortic stenosis

Rheumatic aortic insufficiency

Rheumatic aortic stenosis with insufficiency

Other and unspecified rheumatic aortic diseases

Diseases of mitral and aortic valves

Diseases of tricuspid valve

Rheumatic diseases of pulmonary valve

Rheumatic diseases of endocardium, valve unspecified

Other rheumatic heart disease

**Coronary arteriovenous aneurysm**

Primary pulmonary hypertension

Kyphoscoliotic heart disease

Other chronic pulmonary heart disease (secondary pulmonary hypertension)

Chronic pulmonary heart disease, unspecified

Mitral valve disorders - includes mitral valve prolapse

Aortic valve disorders

Tricuspid valve disorders, specified

424.3	as non-rheumatic
425.1	Pulmonary valve disorders
	Hypertrophic obstructive cardiomyopathy/idiopathic hypertrophic subaortic stenosis (IHSS)
425.3	Endocardial fibroelastosis
425.4	Primary cardiomyopathies
426.0-426.9	Conduction disorders
427.0	Paroxysmal supraventricular tachycardia
427.1	Paroxysmal ventricular tachycardia
427.2	Paroxysmal tachycardia, unspecified
427.31-427.32	Atrial fibrillation and flutter
427.81	Sinoatrial node dysfunction
<b>Cerebrovascular Disease (Not related to injury)</b>	
430	Subarachnoid hemorrhage; ruptured cerebral aneurysm
431	Intracerebral hemorrhage
432.0-432.9	Other and unspecified intracranial hemorrhage
434.0-434.9	Occlusion of cerebral arteries
436	Cerebrovascular accident
437.3	Cerebral aneurysm, nonruptured (430 is ruptured)
438	Late effects of cerebrovascular disease
<b>Diseases of Arteries, Arterioles, and Capillaries</b>	
446.1	Acute febrile mucocutaneous lymph node syndrome (MCL-Kawasaki disease)
<b>Congenital Anomalies</b>	
745.0-745.7,745.8,745.9	Bulbus cordis anomalies and anomalies of cardiac septal closure
746.00	Pulmonary valve anomaly unspecified
746.01	Congenital pulmonary valve atresia
746.02	Congenital stenosis of pulmonary valve
746.09	Congenital insufficiency of pulmonary valve (Fallot's triad)

746.1	Congenital tricuspid atresia/stenosis
746.2	Ebstein's anomaly
746.3	Congenital aortic valve stenosis
746.4	Congenital aortic valve insufficiency
746.5	Congenital mitral stenosis
746.6	Congenital mitral insufficiency
746.7	Hypoplastic left heart syndrome
746.81	Subaortic stenosis
746.82	Cor triatriatum
746.83	Infundibular pulmonic stenosis
746.84	Obstructive anomalies of heart not elsewhere classified
746.85	Coronary artery anomalies, including coronary arteriovenous aneurysm
746.86	Congenital heart block
746.87	Malposition of the heart and cardiac apex
746.89	Other specified anomalies of heart
746.9	Tricuspid insufficiency (only)
747.0	Patent ductus arteriosus
747.10-747.11	Coarctation of aorta
747.21	Anomalies of aortic arch
747.22	Atresia and stenosis of aorta
747.29	Other anomalies of aorta
747.3	Anomalies of the pulmonary artery
747.41	Total anomalous pulmonary venous connection
747.42	Partial anomalous pulmonary venous connection
747.49	Other anomalies of great veins
747.81	Anomalies of cerebrovascular system

----- Conditional Diagnoses -----

**Other Forms of Heart Disease**

421.0,421.1,421.9

Acute and subacute bacterial endocarditis (if other coverable cardiac condition present)

**Other Anomalies of Peripheral Vascular System**

747.6

Arteriovenous aneurysm (peripheral-only) - (requires documentation of severity with damage of surrounding muscle, bone, and/or other tissue; medical review required for eligibility determination)

## DISEASES OF THE RESPIRATORY SYSTEM

**Congenital Anomalies**  
748.0

Choanal atresia

### ----- Conditional Diagnoses -----

**Congenital Anomalies**  
748.1

Other anomalies of nose (congenital)  
(requires documentation  
demonstrating necessity for repair;  
medical review required for  
eligibility determination)

## DISEASES OF THE DIGESTIVE SYSTEM

**Neoplasms**  
211.3, 211.4

Colonic polyps

**Diseases of Esophagus, Stomach, and Duodenum**

530.1

530.3

530.4

530.6

537.3

Esophagitis - gastroesophageal reflux

Stricture and stenosis of esophagus

Perforation of esophagus

Diverticulum of esophagus acquired

Volvulus - midgut

**Hernia of Abdominal Cavity**

553.1

Omphalocele (only)

**Noninfectious Enteritis and Colitis**

555.0,555.1,555.2,555.9

556

Crohn's - large and small intestine

Colitis - ulcerative

**Other Diseases of Intestines and Peritoneum**

560.0

560.2

Intussusception

Volvulus

**Congenital Anomalies**

750.3

750.6

751.0

751.1

Tracheoesophageal fistula, esophageal  
atresia and stenosis (congenital)

Congenital hiatal hernia

Meckel's diverticulum

Atresia and stenosis of small

751.2	intestine Atresia and stenosis of large intestine, rectum and anal canal
751.3	Hirschsprung's disease and other congenital functional disorders of colon
751.4	Anomalies of intestinal fixation
751.5	Other congenital intestinal anomalies - intussusception
751.61	Biliary atresia
751.8	Other specified anomalies of the digestive system
756.6	Anomalies of diaphragm (congenital diaphragmatic hernia)
756.7	Anomalies of abdominal wall; gastroschisis/exomphalos/prune belly
Injury 862.22,862.32,874.4,874.5	Perforation of esophagus (traumatic)

### DISEASES OF THE GENITOURINARY SYSTEM

Nephritis, Nephrotic Syndrome, Nephrosis  
588.0

Renal osteodystrophy

Other Diseases of the Urinary System

591  
593.3  
593.4  
593.5  
593.7  
593.82  
596.1  
598.00-598.9  
599.1

Hydronephrosis  
Stricture or kinking of ureter  
Other ureteric obstruction  
Hydroureter  
Vesicoureteral reflux  
Ureteral fistula  
Intestinovesical fistula  
Urethral stricture  
Urethral fistula

Other Disorders of Female Genital Tract

619.0-619.8  
619.9

Female genital fistula  
Unspecified fistula involving female genital tract

Congenital Anomalies

752.2-752.49

752.6  
752.7

Congenital anomalies of genital organs  
Male hypospadias/epispadias  
Indeterminate sex and

753.2	pseudohermaphroditism
753.4	Congenital obstructive defects of renal pelvis and ureter
753.5	Other specified anomalies of ureter
753.6	Exstrophy of urinary bladder
753.7	Atresia and stenosis of urethra and bladder neck
753.8	Anomalies of urachus
	Other specified anomalies of bladder and urethra

**DISEASES OF THE MUSCULOSKELETAL SYSTEM AND CONNECTIVE TISSUE**

**Dentofacial anomalies, including malocclusion**

524.0	Major anomalies of jaw size
524.1	Anomalies of relationship of jaw to cranial base

**Arthropathies and Related Disorders**

710.0	Systemic lupus erythematosus
710.1	Scleroderma
710.3	Dermatomyositis
710.4	Polymyositis
710.8	Other specified diffuse diseases of connective tissue
711.00-711.09	Pyogenic arthritis
713.2	Arthropathy associated with hematological disorders
714.0-714.9	Rheumatoid arthritis and other inflammatory polyarthropathies - includes: polyarticular juvenile rheumatoid arthritis, chronic (includes Still's disease) and acute juvenile rheumatoid arthritis (pauciarticular and monoarticular)
715.00-715.98	Osteoarthrosis and allied disorders
716.10-716.19	Traumatic arthropathy
718.20-718.29	Pathological dislocation
718.30-718.39	Recurrent dislocation of joint
718.40-718.49	Joint contracture
718.50-718.59	Ankylosis of joint
719.20-719.29	Villonodular synovitis

**Dorsopathies**

720.0	Ankylosing spondylitis
721.0-721.91	Spondylosis and allied disorders

723.5	Torticollis (see also 754.10 and 767.80)
Rheumatism, excluding the back	
726.91	Exostosis of unspecified site
727.81	Contracture of tendon (sheath) (short achilles tendon, acquired)
728.3	Other specific muscle disorders (arthrogryposis)
Osteopathies, Chondropathies, and Acquired Musculoskeletal Deformities	
730.00-730.99	Osteomyelitis, periostitis, and other infections involving bone
732.0	Juvenile osteochondrosis of spine
732.1	Juvenile osteochondrosis of hip and pelvis
732.2	Nontraumatic slipped upper femoral epiphysis
732.3	Juvenile osteochondrosis of upper extremity
732.4	Juvenile osteochondrosis of lower extremity, excluding foot
732.5	Juvenile osteochondrosis of foot
732.6	Other juvenile osteochondrosis
732.7	Osteochondritis dissecans
732.8	Other specified forms of osteochondropathy
732.9	Unspecified osteochondropathy
733.1	Pathological fracture
733.20-733.29	Cyst of Bone
733.40-733.49	Aseptic necrosis of bone
733.81-733.82	Malunion and nonunion of fracture
735.0-735.9	Acquired deformities of toe
736.00-736.89	Other acquired deformities of limbs
737.0-737.9	Curvature of spine
738.4	Acquired spondylolisthesis
Congenital Anomalies	
(see also 524.0)	
754.0	Certain congenital musculoskeletal deformities of skull, face and jaw
754.1	Congenital torticollis (see also 723.5 and 767.8)
754.2	Congenital curvature of spine
754.30-754.35	Congenital dislocation of hip
754.40	Congenital genu recurvatum



754.41

754.43

754.50-754.59

754.60-754.69

754.70-754.79

754.89

755.00-755.02

755.10-755.14

755.20-755.4

755.50-755.69

756.0

756.10-756.19

756.4

756.50-756.59

**Other Conditions Originating in the Perinatal Period**

767.8

**Injury**

839.00-839.08, 839.10-839.18

839.20-839.21, 839.30-839.31,

839.41-839.42, 839.51-839.52

885.0-887.7

895.0-897.7

**Late Effects of Injuries, Poisonings, Toxic Effects, and other External Causes**

905.0

905.1

905.2

905.3

905.4

905.5

Congenital knee dislocation (with genu recurvatum)

Congenital bowing of tibia and fibula

Varus deformities of feet

Valgus deformities of feet

Other congenital foot deformities

Other specified nonteratogenic anomalies

Polydactyly

Syndactyly

Reduction deformities of limbs

Congenital anomalies of limbs

Anomalies of skull and face bones

Anomalies of spine

Chondrodystrophy

Osteodystrophies

Other specified birth trauma - (torticollis only) see also 723.5 and 754.1

Dislocation of cervical vertebra(e) - closed and open

Dislocation of vertebra(e) - thoracic, lumbar, sacral and coccyx

Traumatic amputation of thumb, fingers, or arm and hand

Traumatic amputation of toes, foot, or legs

Late effect of fracture of skull and face bones

Late effect of fracture of spine and trunk without mention of spinal cord lesion

Late effect of fracture of upper extremities

Late effect of fracture of neck of femur

Late effect of fracture of lower extremities

Late effect of fracture of multiple and unspecified bones

905.6	Late effect of dislocation
905.8	Late effect of tendon injury
905.9	Late effect of traumatic amputation
906.4	Late effect of crushing
907.0	Late effect of intracranial injury without mention of skull fracture
907.1	Late effect of injury to cranial nerve
907.2	Late effect of spinal cord injury
907.3	Late effect of injury to nerve root(s), spinal plexus(es) and other nerves of trunk
907.4	Late effect of injury to peripheral nerve of shoulder girdle and upper limb
907.5	Late effect of injury to peripheral nerve of pelvic girdle and lower limb
907.9	Late effect of injury to other and unspecified nerve

### BURNS

#### Late Effects of Injuries, Poisoning, Toxic Effects, and other External Causes

906.5-906.9	Late effects of burn (second and third degree)
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#### Burns

940.0-940.9	Burns confined to eye and adnexa
941.30-941.59	Burn of face, head and neck
942.30-942.59	Burn of trunk
943.30-943.59	Burn of upper limb, except wrist and hand
944.30-944.58	Burn of wrist(s) and hand(s)
945.30-945.59	Burn of lower limb(s)
946.3-946.5	Burns of multiple specified sites
947.0-947.9	Burns of internal organs
948.11	Burns classified according to extent of body surface involved
948.21-948.22, 948.31-948.33, 948.41-948.44, 948.51-948.55, 948.61-948.66, 948.71-948.77, 948.81-948.88, 948.91-948.99	
(5th digit must be specified - it indicates percent of 3rd degree burn)	
949.3-949.5	Burn, unspecified

### OTHER ACQUIRED OR CONGENITAL ANOMALIES

744.83  
749.00-749.25

Macrostomia (congenital)  
Cleft palate and cleft lip

----- Conditional Diagnoses -----

528.9	Velopharyngeal incompetence, acquired (only)
738.0	Acquired deformity of nose (medical review required - documentation of the extent of deformity and necessity of repair required)
738.1	Other acquired deformity of head (medical review required - documentation of the extent of deformity and necessity of repair required)
750.26	Congenital short palate (only)
750.29	Velopharyngeal incompetence, congenital (only)

## PRIORITY LISTING FOR ADDING MEDICAL CONDITIONS

The following priority listing of medical conditions may be used to guide the program in piloting medical condition coverage. Upon program recommendation and Board of Health action the conditions contained in priority listings will become part of the program's regular medical eligibility criteria. It is recognized that the conditions in this section may be costly and that program payment limitations will need to be instituted.

493.00-439.91

390

777.5

770.7

362.21

277.5

279.2

759.5 .

Asthma (reactive airway disease)

Rheumatic fever - without mention  
of heart involvement

Necrotizing enterocolitis - in fetus or  
newborn (chronic complication only)

Bronchopulmonary dysplasia

Retrolental fibroplasia

Mucopolysaccharidosis - (Types 1-6)

Severe combined immune deficiency;

X-linked agammaglobulinemia

Tuberous sclerosis

(2)-(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 November 30, 1992.

TRD-9215938

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

Effective date: December 21, 1992

Proposal publication date: October 6, 1992

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

### Chapter 141. Massage Therapists

- 25 TAC §§141.3, 141.5, 141.6, 141.10, 141.11, 141.14, 141.15, 141.19

The Texas Department of Health (department) adopts amendments to §§141.3, 141.5, 141.6, 141.10, 141.11, 141.14, 141.15, and 141.19, concerning the regulation of massage therapists, massage schools, massage therapy instructors, and massage establishments. Section 141.15 is adopted with changes to the proposed text as published in the September 1, 1992, *Texas Register* (17 Texas Register 5995). The other sections are adopted without changes and will not be republished.

The amendments establish fees for review of examination results; waive the five year time limit on education for certain licensed professionals and instructors; establish a procedure for reviewing examination results; require individuals who practice under assumed names to register as massage establishments; exempt massage therapy schools, as massage establishments; and include various minor changes which clarify meaning without substantial change, improve grammar and style, and clarify inconsistencies in the rules.

No comments were received, however changes recommended by the Texas Board of Health were incorporated in §141.15.

The amendments are adopted under Texas Civil Statutes, Article 4512k, §7, which provides the Texas Board of Health with the authority to adopt rules concerning the regulation and registration of massage therapists, massage instructors, massage schools, and massage establishments; and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

#### §141.15. Massage Establishment Registration and Renewal.

(a) -(1) (No change.)

(m) Exempt organizations and exemption procedures are as follows.

(1) The following establishments are specifically exempt from the provisions of the Act regulating massage establishments:

(A) (No change.)

(B) a registered massage therapist who practices as a solo practitioner in that therapist's legal name, not an assumed name;

(C)-(G) (No change.)

(H) an establishment owned or operated by the federal government, the state, a political subdivision of the state or a municipality;

(I) an establishment which is operational for a period of time of no more than 24 hours in a calendar year and in which the provision of massage therapy services is incidental to the primary athletic, fund raising, or other purpose of the event sponsored by the establishment; or

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

(n)-(p) (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 November 30, 1992.

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

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Proposal publication date: September 1, 1992

For further information, please call: (512) 834-6601

### Chapter 143. Medical Radiologic Technologists

The Texas Department of Health (department) adopts amendments to existing §143.3, §143.10 and §143.11; the repeal of existing §143.14; and new §143.14, concerning medical radiologic technologists. Section §143.11 is adopted with changes to the proposed text as published in the September 1, 1992, issue of the *Texas Register* (17 TexReg 5997). Sections §§143.3, §143.10 and §143.14 are adopted without changes and will not be republished.

The amendments elaborate and clarify existing procedures and provide for additional administrative procedures. The repeal of

existing §143.14 and adoption of new §143.14 provide a new section which has been expanded, rewritten, reorganized, and clarified.

The summary of comments received and the agency's responses are as follows.

COMMENT: In §143.3(d)(10), a commenter felt that it was unnecessary for the rules to prescribe the composition and titles of various committees.

RESPONSE: The department's response is that the advisory board believes that the establishment of committees by rule ensures that medical radiologic technologists would always be represented on each committee. Further, it is important for technologists to know that there are standing committees where their concerns, questions, and comments can be heard. The committees provide needed continuity and structure to the advisory board.

COMMENT: Regarding §143.3(d)(10), another commenter expressed a concern that a majority of committee members should be medical radiologic technologists.

RESPONSE: The department made no changes regarding committee membership and feels that the percentage of technologists on the committees under the amended rule, which ranges from 50% to 67%, is adequate.

COMMENT: Concerning §143.11(b)(2), an individual questioned why a medical radiologic technologist must complete 24 hours of continuing education during a biennial renewal period when registered nurses are required to complete only 20 hours.

RESPONSE: The department made no changes as the number of hours required has been in place since 1988 and the department did not propose to amend the hours; therefore, the comment is not accepted for rule change.

COMMENT: An individual remarked that instructor-directed continuing education activities required in §143.11(b)(5) are a financial burden on the medical radiologic technologist.

RESPONSE: The department made no change because continuing education opportunities exist which are provided at little or no cost to the technologist such as: speakers at monthly society/association meetings and inservice education offered by hospitals which are Joint Commission-Accredited or Medicare Certified.

COMMENT: Concerning §143.11(c)(1), an individual requested that the 50% requirement for continuing education directly related to the application of ionizing radiation be dropped after the medical radiologic technologist's first mandatory reporting period. The commenter requested that technologists be able to earn all the hours in their specialty areas.

RESPONSE: The department does not accept the comment for a rule change because the purpose of the Medical Radiologic Technologist Certification Act is to protect the citizens of Texas from the hazards of ionizing radiation and no specialty certificates are authorized by the Act. Under the amendment

set out in §143.11(j)(2), a technologist who only performs radiologic procedures which utilize non-ionizing forms of radiation (ultrasound, magnetic resonance imaging) may request an exemption from the continuing education requirements.

COMMENT: Regarding §143.11(e)(1), a commenter asked why only three (3) hours of continuing education credit is allowed for a medical radiologic technologist who successfully completes an Advanced Cardiac Life Support (ACLS) course. The commenter remarked that registered nurses earn 14.6 hours and are not required to pass the course.

RESPONSE: The department made no changes as the number of credits for ACLS that a technologist may earn has been in place since 1988 and the department did not propose to amend the credits.

COMMENT: One commenter asked that the term "related" not be replaced by the word "germane" in §143.11(e)(2).

RESPONSE: The department agrees and has retained the original language.

COMMENT: Regarding §143.11(h)(6), a commenter questioned the wording of the amendment, as subsection (b)(2) and (3) of the section does not speak to a limit. The commenter asked if the reference should be to subsection (c)(3) and if the limit should be 25%.

RESPONSE: The department agrees with the commenter's concerns and questions and has made a correction.

COMMENT: Regarding §143.11, two commenters asked that continuing education credit be given to a technologist who passes an advanced level examination or examination(s) in a second or third discipline of radiologic technology.

RESPONSE: The department agrees with the comment. A new paragraph (7) has been added in §143.11(j) exempting a technologist from the continuing education requirements for passing an examination during a continuing education period. The examination must be in an area pertaining to ionizing forms of radiation and must be approved by the Department.

COMMENT: Regarding §143.14(g), a commenter asked why the department proposed charging the medical radiologic technologist with a Class B misdemeanor instead of revoking a certificate for failure to complete the continuing education requirements.

RESPONSE: The department's response is that the penalty is statutory and applies to a person who continues to administer a radiologic procedure to another person after the technologist's certificate expires or is revoked due to non-compliance with the continuing education requirements.

All commenters were individuals who were neither for or against the proposed amendments and new section in their entirety; however, they had questions and concerns and offered suggestions regarding changes.

• 25 TAC §§143.3, 143.10, 143.11

The amendments are adopted under Texas Civil Statutes, Article 4512m, §2.05, which provide the Texas Board of Health with the authority to adopt rules establishing the minimum standards for the certification of medical radiologic technologists; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

#### §143.11 Continuing Education Requirements.

(a) (No change.)

(b) General. Continuing education requirements for recertification shall be fulfilled during each biennial renewal period beginning on the first day of the month following each MRT's or LMRT's birth month and ending on the last day of each MRT's or LMRT's birth month two years hence.

(1) The initial continuing education period shall begin on the first day of the MRT's or LMRT's first biennial renewal period. Each subsequent period shall begin on the first day of the next biennial renewal period.

(2) An MRT must complete 24 contact hours of continuing education acceptable to the department during each biennial renewal period. A contact hour shall be defined as 50 minutes of attendance and participation.

(3) An LMRT must complete 12 contact hours of continuing education acceptable to the department during each biennial renewal period. A contact hour shall be defined as 50 minutes of attendance and participation. The continuing education activities must be general radiation health and safety topics or germane to the categories of limited certificate held.

(4) (No change.)

(5) At least 50% of the required number of hours shall be satisfied by attendance and participation in instructor-directed activities.

(6) No more than 50% of the required number of hours may be satisfied through verifiable independent self-study. These activities include reading materials, audio materials, audiovisual materials or a combination thereof which meet the requirements set out in subsection (d) of this section.

(7) An MRT or LMRT who also holds a current Texas license/registration/certification in another health profession may satisfy the continuing education requirement for renewal of the MRT or LMRT with hours counted toward renewal of the other license, registration, or certifi-

cation provided the hours meet all the requirements of this section.

(8) Persons who hold temporary certificates, either general or limited, are not subject to these continuing education requirements.

(c) Content. All continuing education activities should provide for the professional growth of the technologist.

(1) At least 50% of the required number of hours must be activities which are directly related to the use and application of ionizing forms of radiation to human beings for medical purposes.

(2) No more than 50% of the required number of hours may be satisfied by completing or participating in learning activities which are related to the use and application of non-ionizing forms of radiation for medical purposes.

(3) No more than 25% of the required number of hours may be satisfied by completing or participating in learning activities which are indirectly related to radiologic technology. For the purposes of this section, indirectly related topics include, but are not limited to, computer science, computer literacy, introduction to computers or computer software, physics, human behavioral sciences, mathematics, communication skills, public speaking, technical writing, management, administration, accounting, ethics, adult education, medical sciences, and health sciences. Other courses may be accepted for credit provided there is a demonstrated benefit to patient care.

(d) Types of acceptable continuing education. Continuing education shall be acceptable if the experience or activity is at least 30 consecutive minutes in length and;

(1) is offered for semester hour or quarter hour credit by an institution accredited by a regional accrediting organization such as the Southern Association of Colleges and Schools and is directly or indirectly related to the disciplines of radiologic technology as specified in subsection (b) of this section; or

(2) is offered for continuing education credit by an institution accredited by the Committee on Allied Health Education and Accreditation (CAHEA) or the Commission on Dental Accreditation of the American Dental Association or the Council on Chiropractic Education (CCE) and is directly or indirectly related to the disciplines of radiologic technology; or

(3) is an educational activity which meets the following criteria:

(A) the content applies directly or indirectly to the disciplines of radiologic technology or is specific to the

category of the limited certificate held by the LMRT; and

(B) is approved, recognized, accepted, or assigned continuing education credits by professional organizations or associations, or offered by a federal, state, or local governmental entity. A list is available from the department upon request.

(e) Additional acceptable activities. The additional activities for which continuing education credit will be awarded are as follows:

(1) successful completion or recertification in a cardiopulmonary resuscitation course, basic cardiac life support course or advanced cardiac life support course during the continuing education period. Such successful completion or recertification shall be limited to not more than three hours credit during a renewal period;

(2) attendance and participation in inservice education and training offered or sponsored by Joint Commission on Accreditation of Healthcare Organizations (JCAHO) -accredited or Medicare certified hospitals, provided the education/training is properly documented and is related to the profession of radiologic technology;

(3) teaching in a program described in subsection (d) of this section which shall be limited to one contact hour of credit for each hour of instruction per topic item once during the continuing education period for up to a total of five hours; or

(4) developing and publishing a manuscript related to radiologic technology which shall be limited to five contact hours of credit during a continuing education period. Upon audit by the department the MRT must submit a letter from the publisher indicating acceptance of the manuscript for publication or a copy of the published work.

(f) Reporting of continuing education. Each MRT or LMRT is responsible for and shall complete and file with the department at the time of renewal a continuing education report form approved by the department for each activity for which credit is claimed.

(1) Following each renewal month, the department will select a random sample from the list of technologists renewing that month to verify compliance with the continuing education requirements. The technologists selected in the random sample shall submit within 30 days following notification from the department:

(A) documentation of participation in and completion of continuing education acceptable to the department; and

(B) any additional information or documentation deemed necessary by the department to verify the technologist's compliance with the continuing education requirements.

(2) The department shall notify the technologist of the results of the verification process.

(3) If the department determines that the technologist failed to successfully complete the continuing education requirements, the technologist shall be granted a 120-day extension period in which to complete the continuing education hours needed to fulfill the requirements.

(g) Determination of contact hour credits. The department shall credit continuing education experiences and activities as follows.

(1) Semester hour or quarter hour credits as set in subsection (d)(1) of this section shall be credited on the basis of 15 contact hour credits for each semester hour and 10 contact hour credits for each quarter hour successfully completed with a grade of "C" or better, evidenced by an official transcript.

(2) Activities or experiences as set out in subsection (d)(2) and (3) of this section shall be credited on a one-for-one basis with one contact hour credit for each contact hour of attendance and participation.

(h) Activities unacceptable as continuing education. The department shall not grant credit for:

(1) education incidental to the regular professional activities of an MRT or LMRT such as learning from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional association, society, or other organization;

(3) any activities completed before or after the two-year continuing education period for which the credit is submitted;

(4) verifiable independent study activities which have no post-test or other measurement or evaluation instrument provided;

(5) verifiable independent study activities which exceed 50% of the clock hour requirements as set out in subsection (b)(2) and (3) of this section;

(6) learning activities indirectly related to radiological technology which exceed 25% of the contact hour requirement as set out in subsection (c)(3) of this section;

(7) learning activities which are related to non-ionizing forms of radiation in excess of the 50% of the contact hour requirements as set out in subsection (b)(2) and (3) of this section;

(8) any activities or experiences which do not meet the criteria set out in subsection (d)(e) of this section;

(9) activities in accordance with subsection (e)(1) of this section which are repeated during the renewal period or hours in excess of three hours per renewal period;

(10) activities in accordance with subsection (e)(3) of this section in excess of the one time credit per topic of instruction or in excess of a total of five contact hours during a continuing education period; or

(11) activities in accordance with subsection (e)(4) of this section in excess of five contact hours during a continuing education period.

(i) Failure to complete the required continuing education.

(1) An MRT or LMRT who has failed to complete the requirements for continuing education may be granted a 120-day certificate as described in §143.10(e)(8) of this title (relating to Certificates, Renewals, and Late Renewals). The 120-day extension is the maximum that shall be granted and there will be no exceptions, nor may an additional extension period be granted.

(2) The next continuing education reporting period shall commence on the day following the completion of continuing education credits to correct the deficiency and shall end two years from the date the previous renewal period ended. In other words, the extension period is borrowed from the next reporting period.

(3) An MRT or LMRT who has not corrected the deficiency by the expiration date of the 120-day certificate shall be considered as non-compliant with the renewal requirements.

(j) Exemptions. The department will consider granting an exemption from the continuing education requirement on a case-by-case basis if:

(1) a technologist completes and forwards to the department a sworn affidavit indicating retirement status for the entire renewal period for which the exemption is requested. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours missed as a result of the exemption, subject to a maximum of 24 hours. These hours shall be accrued during the six-month period immediately following the

technologist's return to performing radiologic procedures;

(2) a technologist completes and forwards to the department a sworn affidavit indicating that the technologist is employed but does not perform radiologic procedures for the entire renewal period. A technologist who has been granted this exemption and who desires to resume performing radiologic procedures shall be required to accrue continuing education hours missed as a result of the exemption, subject to a maximum of 24 hours. These hours shall be accrued during the six-month period immediately following the technologist's return to performing radiologic procedures;

(3) a technologist is a nonresident of Texas for the entire renewal period and submits a sworn statement that the continuing education requirements of the resident state or country have been met;

(4) a technologist shows reasons of health, certified by a licensed physician, that prevent compliance with the continuing education requirement for the entire renewal period. The technologist must complete and forward to the department a sworn affidavit and provide documentation that clearly establishes the period of disability and resulting physical limitations;

(5) a technologist submits a sworn statement and shows reason which prevents compliance and the reason is acceptable to the department; or

(6) a technologist is called to or on active duty with the armed forces of the United States for the entire renewal period and so long as the technologist does not administer a radiologic procedure in a setting outside of the active duty responsibilities during the time on active duty. The technologist must file a copy of orders to active military duty with the department; or

(7) a technologist submits proof of successful completion of an advanced level examination or an entry level examination in another discipline of radiologic technology administered by or for the ARRT during the renewal period. All examinations shall be topics dealing with ionizing forms of radiation administered to human beings for medical purposes.

(k) Denial of request for exemption. A technologist whose request for exemption is denied by the department may be granted a 120-day extension to complete the continuing education requirements and may request a hearing on the denial within 30 days after the date the department notified the technologist of the denied exemption. If no hearing is requested in writing within 30 days, the opportunity for hearing shall be waived.

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 November 25, 1992.

TRD-9215935

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

Effective date: December 21, 1992

Proposal publication date: September 1, 1992

For further information, please call: (512) 834-6817

◆ ◆ ◆  
• 25 TAC §143.14

The repeal is adopted under Texas Civil Statutes, Article 4512m, §2.05, which provide the Texas Board of Health with the authority to adopt rules establishing the minimum standards for the certification of medical radiologic technologist; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§143.14. *Violations and Subsequent Actions.*

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

Issued in Austin, Texas, on November 25, 1992.

TRD-9215937

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

Effective date: December 21, 1992

Proposal publication date: September 1, 1992

For further information, please call: (512) 834-6817

◆ ◆ ◆  
The new section is adopted under Texas Civil Statutes, Article 4512m, §2.05, which provide the Texas Board of Health with the authority to adopt rules establishing the minimum standards for the certification of medical radiologic technologist; and the Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

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

Issued in Austin, Texas, on November 25, 1992.

TRD-9215936

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

Effective date: December 21, 1992

Proposal publication date: September 1, 1992

For further information, please call: (512) 834-6817

◆ ◆ ◆  
Chapter 169. Veterinary Public Health

Transporting Dead Animals

The Texas Department of Health (department) adopts new §169.2 and §169.13, concerning Veterinary Public Health, without changes to the text as published in the September 4, 1992 (17 TexReg 6090).

Specifically, the new sections establish the criteria and procedures for the Commissioner of Health to assess an administrative penalty when a person violates the Health and Safety Code, Chapter 144 (Texas Renderers' Licensing Act), or when a person violates Chapter 433 (Texas Meat and Poultry Inspection Act), Texas Board of Health rules adopted under either chapter, or an order or license issued under either chapter. The new sections are being adopted in order to implement the provisions of House Bill 2224, 72nd Legislature, 1991.

There were no comments received concerning the proposed new sections.

• 25 TAC §169.2

The new section is adopted under the Health and Safety Code, §144.081 concerning the assessment of administrative penalties; §144.074 which provides the Texas Board of Health with authority to adopt rules to implement Chapter 144 of the Code; and §12.001 which provides the Texas Board of Health with authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health.

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

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

TRD-9215940

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

Effective date: December 21, 1992

Proposal publication date: September 4, 1992

For further information, please call: (512) 458-7422

◆ ◆ ◆  
Meat and Poultry Inspection

• 25 TAC §169.13

The new section is adopted under the Health and Safety Code, §433.094 concerning the assessment of administrative penalties and §433.008 which provides the Texas Board of



Health with authority to adopt rules to implement Chapter 433 of the Code; and §12.001 which provides the Texas Board of Health with authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health.

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

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

TRD-9215941

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

Effective date: December 21, 1992

Proposal publication date: September 4, 1992

For further information, please call: (512) 458-7422

## Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 401. System Administration

#### Subchapter B. Interagency Agreements

##### • 25 TAC §401.53

The Texas Department of Mental Health and Mental Retardation adopts amendments to Exhibit J, which is adopted by reference in §401.53, without revisions to the text as proposed in the August 28, 1992, issue of *Texas Register* (17 TexReg 5930).

The amendments expand the plan to incorporate a projected need for 30 beds for individuals with a related condition (RC). The expansion of the bed plan was approved by the Interagency Council on ICF/MR Facilities at its August 4, 1992 meeting.

No comments were received regarding adoption of the amendment.

The amendments to the exhibit are adopted under Title 7 of the Health and Safety Code, §533.062, which requires the bed plan to be adopted by rule, and §532.015 which provides the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

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 December 1, 1992.

TRD-9215995

Ann Utley  
Chairman, Texas Board of  
Mental Health and  
Mental Retardation  
Texas Department of  
Mental Health and  
Mental Retardation

Effective date: December 22, 1992

Proposal publication date: August 28, 1992

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

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 7. Corporate and Financial Regulation

##### Subchapter D. Risk-Based Ca- pital and Surplus

##### • 28 TAC §7.401

The State Board of Insurance of the Texas Department of Insurance adopts new §7.401 concerning the regulation of risk-based capital and surplus requirements for life insurance companies, fraternal benefit societies, mutual life insurance companies, and stipulated premium companies. Section 7.401 is adopted with changes to the proposed text as published in the July 28, 1992, issue of the *Texas Register* (17 TexReg 5262).

Section 7.401 concerns the minimum risk-based capital and surplus requirements for all life insurance companies, fraternal benefit societies, mutual life insurance companies, and stipulated premium companies. The new section requires a minimum level of capital and surplus to absorb the financial, underwriting, and investment risks assumed by an insurer. It also sets forth the formulas which the agency will use in calculating the risk-based capital and surplus of an insurer. The adoption includes several changes to the proposed text for the reasons stated in this paragraph. This adoption includes the addition of the terms "accidental death and dismemberment", "affiliated", "dental", "disability income", "hospital indemnity", "medicare supplement", "noncancellable", and "usual and customary medical and hospitalization" to subsection (a) to clarify the use of the terms throughout the section and the following paragraphs were renumbered accordingly. Changes were made to §7.401(a)(2), (4), and (7) by renumbering to paragraphs (4), (6), and (12) respectively and to clarify that the board may periodically adopt various changes and definitions suggested by the NAIC. Changes were made to subsection (c) to clarify when AVR and IMR will be used in determining the adequacy of an insurer's capital and surplus. The term "enumeration" was changed in subsection (d)(2) to "product". Changes were made to subsection (d)(2)(A) by adding two options as clauses (i) and (ii) for calculation of affiliate investments. Changes were made to subsection (d)(2)(C) to clarify which form it applied to and to add clauses (i) and (ii) which are options for calculation of the business risk. A new subsection (d)(2)(D) was added to explain the application of Formula 3 to Form RBC/FMAT and to add two options as clauses (i) and (ii) for calculation of the business risk for fraternal. The remaining subparagraphs were renumbered appropriately. A new subsection (d)(2)(J) was added to clarify the Board's ability to adopt amendments to the section if the NAIC promulgates a model act on risk-

based capital and surplus for life, health and accident insurers. Changes were made to subsections (e) and (f) to include the annual statement date, the company name, and the NAIC number. Changes were made in the description line to change the "amount" column to "factor". Changes were made to the factors used in subsections (e) and (f), Formula #1-Asset Value Risk, 1a Bonds, by changing the factors to the NAIC factors. Changes were made to subsections (e) and (f), Formula #1-Asset Value Risk, 1b Preferred Stocks, to include Option 1 and Option 2. Changes were made to subsections (e) and (f), Formula #1-Asset Value Risk, 1b, Preferred Stocks, option 1(ii), Unaffiliated, to correct the annual statement source from page 48 to page 47. The factors used were also changed to use the NAIC factors. Option 2 was added to incorporate the NAIC formula for affiliated and unaffiliated preferred stocks. Notes were added to subsections (e) and (f), Formula #1-Asset Value Risk, 1b Preferred Stocks, to include the use of the minimum risk-based capital calculated in accordance with 28 TAC §7.401 and 28 TAC §7.410 for affiliated U.S life and P/C insurers. Changes were made to subsections (e) and (f), Formula #1-Asset Value Risk, 1c, Mortgage Loans by updating the formula to resemble the NAIC risk-based formula for mortgage loans. The Texas risk-based formulas for mortgage loans were segregated into residential, farm, and commercial mortgage loans with appropriate factors applied. Changes were made to subsections (e) and (f), Formula #1-Asset Value Risk, 1d Common Stocks, to include Option 1 and Option 2. Changes were made to subsections (e) and (f), Formula #1-Asset Value Risk, 1d, Common Stocks, Option 1(ii), Unaffiliated, to correct the annual statement source to include lines 44 and 48. Option 2 was added to incorporate the NAIC formula for affiliated and unaffiliated common stocks. Notes were added to subsections (e) and (f), Formula #1-Asset Value Risk, 1d, Common Stocks, to include the use of the minimum risk-based capital calculated in accordance with 28 TAC §7.401 and 28 TAC §7.410 for affiliated United States life and P/C insurers. Changes were made to subsections (e) and (f), Formula #3, Business Risk to include Option 1 and Option 2. Option 1 remains the same formula as proposed with an addition to Option 1 of 3a to incorporate Net A&H premiums written. Option 2 was added to incorporate risk-based capital and surplus formulas for net accident and health premiums earned as prescribed by the NAIC's risk-based capital and surplus formula.

Section 7.401 requires a minimum level of capital and surplus appropriate to the underwriting, financial and investment risks of an insurer and provides the formulas which the agency will use in calculating the risk-based capital and surplus of an insurer. The section will permit the agency to perform calculations of the risk-based capital and surplus of insurers to allow more effective regulation.

General Commentors claim there is no rationale or justification for various factors used in the formulas and that the formulas appear arbitrary, questionable, excessive and unsubstantiated. Requests have been made that the rationale for the factors used in the formu-

las be disclosed. It is believed that the industry should have an opportunity to comment on the rationale for the factors used. The claim was made that there is no justification for excluding from the scope of the proposed section those companies that never insure a risk greater than \$10,000. The agency responds that the justification and rationale for the formulas used is based on the risk-based formulas used by Moodys, Standard and Poor, and the NAIC. minimum risk-based capital- Commentors claim there is no explanation or distinction between the use of amounts calculated as risk-based capital and minimum risk-based capital. Concern was expressed over the use of the term minimum. It was explained that it is difficult to accept the calculations if one doesn't know how the calculations are to be used. The agency responds that the distinction between risk-based capital and surplus and the minimum risk-based capital and surplus is an insurer must maintain at least 75% of the calculated risk-based capital and surplus. NAIC-Commentors suggested that since the NAIC has been developing a risk-based capital formula that the proposed section should permit a Texas insurer to comply with the lesser of the Texas or the NAIC risk-based capital calculations. It was suggested that some alternative use of either the Texas rule or the NAIC rule should be developed. Commentors suggested that Texas adopt the NAIC risk-based capital and surplus model after it is adopted by the NAIC as a uniform standard or alternatively that Texas modify the proposed section in the areas of affiliates and health coverages to use the NAIC proposal as it currently exists. It was suggested that guidelines are more appropriate for Texas domiciled insurers rather than extraterritorial insurers licensed to do business in Texas and preference has been expressed that the NAIC guidelines be used as the standard for all states. Concern has been expressed over the difference between the Texas proposal and the NAIC's most current version. The contention has been made that if Texas has different requirements from the NAIC standards this will result in conflicting and overly burdensome regulation in the area of capital and surplus requirements for life insurers doing business in Texas and elsewhere. The suggested better course is to have nationally uniform risk-based capital requirements for life insurers. It has also been suggested that Texas adopt the risk-based capital and surplus requirements ultimately adopted by NAIC and refrain from implementing conflicting interim regulations. Waiting for the NAIC version would avoid the expense and confusion that would result in nonuniformity of requirements from state to state. The contention has been made that the NAIC will adopt the risk-based capital formula, specifications for regulatory actions for companies that do not meet the formula requirements, and legislative and regulatory language to implement the requirements at the December 1992 meeting. It was suggested that Texas should seek implementation of the NAIC standards in the 1993 Regular Legislative Session. It was felt that this approach would lend uniformity and greater certainty to the implementation of such an important solvency protection mechanism. A commentor recommended that Texas postpone action until the

NAIC guidelines are fully exposed, discussed, and finalized and then consider the applicability of those guidelines. It was claimed that the proposed section was inappropriately developed and will create competitive disadvantage for companies licensed in Texas compared to other companies in the country. It was felt that the proposed NAIC guidelines are more adequate and appropriate and all states should adhere to a common standard. Some commentors were unclear as to why Texas is developing a different formula before the NAIC process is complete. The claim was made that a Texas company which competes in a state which adopts the NAIC guidelines and applies it to all licensed companies will have to meet the higher of the two standards. Commentors suggested that Texas policyholders will be better served and insurance company compliance facilitated if Texas continues to work with the NAIC on a formula to be uniformly applied. Another commentor believed that the NAIC formula is more sensitive to the measurement of risk than the Texas formula and the use of one formula approved by the NAIC is the best approach. Standardization of the risk-based capital formula was related by one commentor to the NAIC standardization of the Annual Statement for acceptability for all states. A commentor presented exhibits comparing results of calculations using the Texas and NAIC requirements. The agency responds that statutory authority is in place for adoption of risk-based capital and surplus requirements and the agency does not feel that it is necessary to wait for action by the NAIC. It is within the board's discretion to adopt the section. In addition, discussion and testing is still ongoing by the NAIC. In the event that a model act is adopted at the NAIC level, the Board may consider appropriate revisions to the section at that time. While this is implicit in the board's authority, language to that effect has been added to the section. The agency responds that changes were made based on comments received to incorporate the factors used by the NAIC where applicable. Additional options were incorporated into the formula for affiliated preferred and common stocks and accident and health business. These options resemble the NAIC formula.

Competitive problem-Commentors claimed that the Texas proposal will place a company licensed in Texas at a clear disadvantage to a company not licensed in Texas for business in another state and that this would result in increased costs to the policyholders because of the higher standard required in the Texas proposal. The agency responds that the section will not put companies licensed in Texas at a competitive disadvantage to a company not licensed in Texas. The section will allow the public to distinguish between well capitalized companies and poorly capitalized companies.

Factors and formula-Commentors felt that the Texas formula is a straight addition approach assuming total independence of risks and events whereas the NAIC formula takes more of a risk theory approach, making adjustments for volume and risks. It is believed that the actuarial theory and risk theory will prove the appropriateness and desirability of risk-based capital varying according to the volume of business involved. Also, it was felt that it

was too liberal for term insurance and doesn't take into account the net amount of risk. It was suggested that the imposition of a 4% interest rate factor for group annuities is too conservative. A commentor felt that the interest rate risk is appropriate for highly interest sensitive liabilities such as GICs but not for stable liabilities such as those held for dividend accumulations and premium deposit funds. Commentors suggested that the factor for reserves is too simplistic and doesn't take into consideration mortality risk or varying methods of computing reserves. The agency responds that it has incorporated the NAIC formula for accident and health premiums earned. Factors for reserves were based upon factors derived from Moody's and Standard and Poor's risk-based capital and surplus calculations. Section 8.3(14) requires a life insurer to maintain capital and surplus equal to or in excess of 5.0% of reserves. The factors used in the risk-based capital and surplus rules are less than the factor for reserves used in the 28 TAC §8.3(14). Mortality risk for individual life policies, group life policies, and industrial life policies issued has been taken into account in the aggregate reserves as set forth in the Texas Insurance Code, Article 3.28, §3. Mortality risk for credit life policies issued has been taken into account in the aggregate reserves as set forth in the Texas Insurance Code, Article 3.28, §3. Section 7.401(a)(2), (4), and (7)-A commentor claimed that the section inappropriately delegates the board's rule making authority to the NAIC and the board's rule making authority can not be passed on by the board to the NAIC. It was suggested that the phrase "and as adopted from time to time by the State Board of Insurance under the Texas Administrative Code, Title 28, Chapter 7" be added to these paragraphs. The agency has added the suggested language.

Subsection (d)(2)-A commentor suggested changing the word "enumeration" in this subparagraph to "product" as enumeration is an inappropriate word as used in this subparagraph. The agency concurs with the comment and has made the suggested change.

Affiliated companies-(d)(2)(A)-Commentors believe an additional risk penalty is being imposed on companies for ownership of affiliate common stock. It is felt that if the formula is to have a stock risk factor then it should be a general common stock risk factor and applied the same for affiliate and all other common stocks because legislative standards in the Texas Insurance Code, Article 21.49-1, already compensate for the risk element in affiliate common stock ownership. Commentors believe the increasing factors are unreasonable and the affiliate investments have been specifically approved by the Commissioner and the insurer's surplus has been determined to be adequate and reasonable under the Holding Company Act. It was suggested that the factor for affiliated common stocks should never exceed the factor for unaffiliated common stocks. Another commentor felt the formula is unrealistically severe and imposes requirements in excess of the NAIC and the Texas formula holds at risk 100% of the investment value of an affiliate. It is believed that the insurance subsidiary appropriate measure of risk is the risk-

based capital of the subsidiary. Commentors claimed the proposed section's treatment of all affiliates the same is punitive and onerous. It was suggested that the NAIC proposal is a more appropriate measurement of risk associated with affiliated investments. It was claimed that the requirement creates a significant increase in risk-based capital even though the risk associated with the companies has not changed. Commentors suggested that consideration should be given to the nature of the affiliated organization. It was believed that the minimum risk-based capital and surplus for the parent should not be in excess of the risk-based capital and surplus required of a regulated affiliate. Commentors recommended that the factor for affiliated stocks is inappropriate. It should be the percentage of ownership interest multiplied by the affiliated insurer's required risk-based capital. The agency responds that it has incorporated the option to use the NAIC risk-based capital and surplus formula for affiliated preferred and common stocks. Subsection (e) Form RBC/LIFE Formula 1, line 11-A commentor expressed concern that "Other Invested Assets" often include GNMA 'pass through' securities which are backed by the full faith and credit of the United States Government and have no risk in the same manner as United States government bonds. An explanation was requested for excluding the amount of the GNMA securities from Other Invested Assets. The agency responds that the NAIC Annual Statement Instructions are adopted from time to time by the State Board of Insurance under the Texas Administrative code, Title 28, Chapter 7. The NAIC Annual Statement Instructions include all other long-term investments in Schedule BA. Schedule BA would include United States government "pass throughs" since they are not reported in any other schedule. Subsection (e) FORM RBC/LIFE Formula 3, line 3a-Commentors objected to the use of a single entry for all types of accident and health premiums since there are many different types of health insurance policies, coverages and risks and these differences should be recognized. The insurance risk factor of 25% of premiums fails to grade the important risk differences between group and individual health insurance and between high and low volume insurers. It was suggested that the Texas health insurers who write business nationwide will be penalized compared to insurers domiciled in other states. Commentors claimed the 25% factor is too high, unreasonable and punitive. Commentors claim that the Texas proposal would put companies at a significant competitive disadvantage since less capital is required in relation to investment risk and more in relation to insurance risk. There is a problem with the same requirement being placed on all lines of A&H coverage regardless of the risks inherent in the business. It is appropriate to recognize the difference in risk rather than assume all A&H business has the same risk. It was suggested that the percentage of premium vary with the risk associated with the various categories of A&H business. A commentor suggested that proper recognition of A&H reserve adequacy in the RBC formula is imperative. The agency responds that it has incorporated the option to use the NAIC risk-based capital and surplus formula for accident and health premiums earned.

Additional reserves, avr, and imr - A commentor was concerned that the proposed section requires the computation of additional reserves, asset valuation reserve and interest maintenance reserve. It was claimed that Texas has no authority to require additional reserves such as AVR or IMR. The commentor has no problem with those companies doing business in other states which required the maintenance of AVR and IMR to receive credit for these reserves in the risk-based capital and surplus formula. The agency has made changes to the section based on the comments by including the phrase "in determining the adequacy of an insurer's capital and surplus, an insurer that establishes AVR and IMR, as defined in this section, will be allowed credit for these reserves".

Formula 1, 1a, Bonds -A commentor suggested that the proposed section is not a very sophisticated or accurate predictor of asset risk. The factors for Class 1-4 bonds should be the same as the NAIC which makes more appropriate adjustments for investment grade bonds and for the default risk associated with Class 3 and 4 bonds. A commentor expressed concern that there are some risks present in Class 1 and 2 bonds, yet a risk component is not allocated. The agency responds that it has incorporated the NAIC factors for class 3, 4, and 5 bonds. The risk factors associated with Class 1 and 2 bonds are not material to the overall risk-based capital and surplus formula.

Formula 6(b)-Commentors contend that the formula is too simplistic, should exclude separate account assets and liabilities and the AVR. IMR is a legitimate reserve but should not be included in adjusted surplus in this formula. The suggestion was made to delete this limitation as it will serve to allow companies with greater risks to maintain less than adequate capital and surplus requirements. The agency responds that AVR is established to protect an insurer's assets from declining values. IMR is established to protect interest rate fluctuations on assets sold before their maturity date. The IMR reserve is established at one hundred percent of net capital gains to be amortized over the remaining life of the assets sold. The IMR reserve is for the benefit of the policyholders to offset future investment income shortfalls. A commentor contends that the proposed section weights mortgage loans more heavily than the NAIC version, thus there is a disadvantage to have mortgage loans in a portfolio. It was expressed that careful management and selection of mortgage loans can produce beneficial results to policyholders. The agency responds that it changed Formula #1, line 1c, to resemble the NAIC risk-based capital and surplus formula for residential, farm, commercial loans in good standing, 90 days past due, and insured and guaranteed mortgage loans. A commentor disagrees that the proposed formula doesn't allow addition of any of next year's provision for dividends payable to policyholders. The agency responds that this amount is not material to the overall concept of risk-based capital and surplus.

Subsection (j)-Commentors suggested that the current capital and surplus requirements be replaced with the risk-based capital and

surplus requirements which would be tailored to the needs of each individual life insurance company. The agency disagrees with the comment and believes that the use of the NAIC formulas and the formulas developed by the department will present the best information for the agency. A commentor recommended elimination of some reporting requirements for companies that maintain a specified percentage in excess of its risk-based capital and surplus requirements. The agency does not believe that it is feasible at this early date to eliminate other reporting requirements until it is shown that the other reporting requirements are not necessary for use by the agency.

Extraterritorial-A commentor claimed that the Texas proposed application to all companies licensed to do business in the state is an extraterritorial application of the proposed section and inappropriate. The opinion was expressed that the state of domicile of a company should establish the risk-based capital requirement for its companies. The agency responds that the statute provides the agency the authority to apply risk-based capital and surplus requirements to all companies licensed in Texas and the use of the NAIC formulas developed to date lend uniformity to the requirements. The agency believes that the section should be applied equally to domestic and foreign insurers licensed in Texas and does not believe adoption of the section at this time will be disruptive to the market because very few active companies are affected in the first year.

Texas Legal Reserve Officials Association, Anthem Life Insurance Company of Texas, Primerica Life Insurance Company, Texas Farmers Companies, American General Corporation, American Council of Life Insurance, Primerica Insurance Company, Blue Cross and Blue Shield of Texas, Inc., Government Personnel Mutual Life Insurance Company, Life of America, and Provident American Insurance Company-against. National Farm Life Insurance Company-for.

The new section is adopted under the Insurance Code, Articles 3.02, 22.13, and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Articles 3.02 and 22.13 provide that the Texas Department of Insurance may adopt rules to require an insurer to maintain capital and surplus levels in excess of the statutory minimum. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency. The new section affects the regulation of the capital and surplus requirement of life, accident, and health insurers under the Insurance Code, Articles 3.02 and 22.13.

*§7.401. Minimum Risk-Based Capital and Surplus Requirements for Life, Accident and Health Insurers.*

(a) Definitions. The following words and terms, when used in this section,

shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Accidental death and dismemberment (AD&D)**—Policies that are issued for the purpose of providing an insured coverage in the event of accidental death or dismemberment as set forth in the policy.

(2) **Affiliated—Investments** in parent, subsidiaries, and affiliated entities, as described in the NAIC annual statement under the category of parent, subsidiary, and affiliates in Schedule D, Part 2, §1 and §2.

(3) **Annual statement**—The annual statement (association edition) to be used by life insurance companies, as promulgated by the National Association of Insurance Commissioners (NAIC) and as adopted by the State Board of Insurance under the Texas Administrative Code, Title 28, Chapter 7 or any other annual statement blank adopted by the State Board of Insurance or requested to be filed by the Texas Department of Insurance.

(4) **Asset valuation reserve (AVR)**—A reserve applied to the specific risk characteristics of all the invested asset categories except cash, policy loans, premium notes, collateral loans, and income receivables. Asset valuation reserves shall be calculated as prescribed by the NAIC and adopted from time to time by the State Board of Insurance under the Texas Administrative Code, Title 28, Chapter 7.

(5) **Asset value risk**—The amount of risk based on the quality and liquidity of the investment portfolio for an insurance company.

(6) **Asset class**—The classification for investment grade or non-investment grade preferred stocks and bonds as defined by the NAIC's Securities Valuation Office (SVO) and adopted from time to time by the State Board of Insurance under the Texas Administrative Code, Title 28, Chapter 7.

(7) **Board**—The State Board of Insurance of the State of Texas.

(8) **Commissioner**—The commissioner of insurance of the Texas Department of Insurance, appointed under the Insurance Code, Article 1.09.

(9) **Dental**—Policies that provide supplemental coverage for dental expenses and are issued only to the in force policies on an individual or group basis through a dental service organization subscriber contract.

(10) **Disability Income**—A policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or accident or a combination thereof and set forth in 28

TAC §3. 3075, pertaining to minimum standards for disability income protection.

(11) **Hospital indemnity**—Policies of accident and sickness insurance providing the types of coverage set forth in 28 TAC §3. 3073, pertaining to minimum standards for hospital confinement indemnity coverage.

(12) **Interest maintenance reserve (IMR)**—A reserve applied to realized capital gains and losses on short-term and long-term fixed investments. These gains and losses are from the disposal of investments as reported in Schedule D, part 1—Bonds, or Schedule B—Mortgage Loans of the current annual statement. The reserve captures the realized capital gains and losses resulting from changes in the general level of interest rates as prescribed by the NAIC and adopted from time to time by the State Board of Insurance under the Texas Administrative Code, Title 28, Chapter 7.

(13) **Limited benefits (limited ben)**—Policies of accident and sickness insurance providing the types of coverage set forth in 28 TAC §3.3079, pertaining to minimum standards for limited benefit coverage.

(14) **Medicare Supplement (medicare Supp)**—Policies that provide benefits on an expense incurred basis and are issued to a person eligible for such benefits under Medicare and provide the types of coverage set forth in 28 TAC §3.3078, pertaining to minimum standards for medicare supplement expense coverage.

(15) **Noncancellable**—Policies under which the insured has the right to continue coverage by the timely payment of premiums and the insurer may not unilaterally make any changes in any provision while the policy is in force.

(16) **Usual and customary major medical and hospitalization (Usual and Cust Maj Med & Hosp)**—Policies of accident and sickness insurance that provide hospital, medical, and surgical expense coverage set forth in 28 TAC §3.3074, pertaining to minimum standards for major medical expense coverage.

(b) **Scope**. This section applies to any insurer authorized to do business in Texas as an insurance company that writes or assumes life insurance, annuity contracts or liability on, or indemnifies any one person for, any risk under a health, accident, sickness, or hospitalization policy, or any combination of those policies, in an amount in excess of \$10,000 including: capital stock companies, mutual life companies, fraternal benefit societies, and stipulated premium companies.

(c) **Purpose**. The purpose of implementing a risk-based capital and surplus provision is to require a minimum level of capital and surplus to absorb the financial,

underwriting, and investment risks assumed by an insurer. In determining the adequacy of its capital and surplus, an insurer that establishes AVR and IMR, as defined in this section, will be allowed credit for these reserves.

(d) **Application of Form RBC/LIFE or Form RBC/FRAT**. In determining the minimum risk-based capital and surplus, the department will utilize the form entitled Minimum Risk-Based Capital and Surplus Requirements for Life Insurance Companies and Stipulated Premium Companies Licensed in Texas, hereinafter referred to as Form RBC/LIFE, and the form entitled Minimum Risk-Based Capital and Surplus Requirements for Fraternal Benefit Societies Licensed in Texas, hereinafter referred to as Form RBC/FRAT. Each insurer may use such form as appropriate to its operation, but no insurer is required to file a completed form with the department, unless specifically requested to do so by the department.

(1) Insurers will be evaluated in accordance with the formulas in Form RBC/LIFE or Form RBC/FRAT to determine the adequacy of capital and surplus.

(2) Form RBC/LIFE and Form RBC/FRAT provide for the calculation of six formulas. For formulas 1, 2, 3, 4, and 6a, each described line item is multiplied by the indicated factor to derive a product. The products are then summed to obtain the total for each formula.

(A) Formula 1 determines the asset value risk of invested assets based on the total quality of bonds, stocks, mortgage loans, real estate, collateral loans, certificate loans or liens, other invested assets, and separate accounts.

(B) Formulas 1b and 1d determine the value risk of preferred stocks and common stocks. The value of preferred stocks and common stocks shall be determined by one of the following two methods at the option of the insurer.

(i) Option 1 distinguishes between investments in affiliated preferred and common stocks and investments in unaffiliated preferred and common stocks and applies factors to each. For affiliated preferred and common stocks, the factor shall be 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 1995, and 1.00 for 1996 and subsequent years, applied to the total amount (or statement value) of such investments. For unaffiliated preferred stocks, the factor shall be based on the designated NAIC asset class, applied to the statement value of the preferred stocks owned. For unaffiliated common stock, the factor of 0.25 shall be applied to the book value of common stocks owned.

(ii) Option 2 distinguishes between investments in affiliated United States insurers, investments in affiliated Canadian and alien insurers, investments in other affiliates, and investments in unaffiliated common and preferred stocks and applies factors to each of these types of investments. For investments in affiliated United States life insurers, a factor of one shall be applied to the minimum risk-based capital and surplus of those affiliated life insurers, calculated in accordance with this section, multiplied by the percentage of ownership. For affiliated United States stock property/casualty insurers, a factor of one shall be applied to the minimum risk-based capital and surplus of those affiliated stock property/casualty insurers, calculated in accordance with §7.410 of this title (relating to minimum risk-based capital and surplus for stock property/casualty insurers), multiplied by the percentage of ownership. For affiliated Canadian and alien insurers, a factor of one shall be applied to the statement value of preferred stocks and to the book value of common stocks. For unaffiliated preferred stock the factors shall be based on the designated NAIC asset class as defined in this section applied to the statement value. For unaffiliated common stocks a factor of 0.25 shall be applied to the book value.

(C) Formula 2 determines the insurance interest rate risks associated with individual annuity products, group annuity products, and guaranteed investment contracts.

(D) Formula 3 of the Form RBC/LIFE determines the business risk calculated by one of the following two methods at the option of the insurer:

(i) Option 1 distinguishes between the business risk for net accident and health premiums written, limited to a minimum of zero; individual life reserves;

group life reserves; and credit life reserves by using the factors referenced in Form RBC/LIFE.

(ii) Option 2 distinguishes between the business risk for net accident and health premiums written, limited to a minimum of zero; individual life reserves; group life reserves; and credit life reserves by using the factors referenced in Form RBC/LIFE. Net accident and health premiums earned are categorized by medical care and disability income, which are further categorized by individual morbidity and group and credit morbidity. Factors shall be applied to the earned premiums as referenced in Form RBC/LIFE.

(E) Formula 3 of the Form RBC/FRAT determines the business risk calculated by one of the following two methods at the option of the insurer:

(i) Option 1 distinguishes between the risk for net accident and health premiums written, limited to a minimum of zero, and life reserves by using the factors referenced in Form RBC/FRAT.

(ii) Option 2 distinguishes between the business risk for net accident and health premiums earned, limited to a minimum of zero, and life reserves by using the factors referenced in Form RBC/FRAT. Net accident and health premiums earned are categorized by medical care and disability income, which are further categorized by individual morbidity and group and credit morbidity. Factors shall be applied to the earned premiums as referenced in Form RBC/FRAT.

(F) Formula 4 determines the risk associated with reinsurance including paid and unpaid losses recoverable; life, accident and health reserve credits ceded; unauthorized reinsurance funds withheld; and unauthorized reinsurance letters of credit associated with reinsurance with affiliated and unaffiliated reinsurers.

(G) Formula 5 determines the total risk-based capital and surplus by the summation of formulas 1, 2, 3, and 4.

(H) Formula 6a determines the minimum risk-based capital and surplus requirements for an insurer based on 75% of the total risk-based capital and surplus calculated in accordance with Formula 5.

(I) Formula 6b determines the statutory limitations for required increases in capital and surplus. The minimum risk-based capital and surplus requirements shall be for the protection of policyholders, but may not, according to the dates specified below, require that the total admitted assets of a company exceed the following percentages of its total liabilities:

- (i) as of December 31, 1992, 103%;
- (ii) as of December 31, 1993, 103%;
- (iii) as of December 31, 1994, 103%;
- (iv) as of December 31, 1995, 104%;
- (v) as of December 31, 1996, 105%; and
- (vi) as of December 31, 1997, 106%;

(J) In the event that a risk-based capital and surplus model act for life, health and accident insurers is promulgated by the NAIC subsequent to adoption of this section, nothing in this section shall preclude the Board from considering any formula(s) to replace formula(s) contained in Form RBC/Life or Form RBC/Frat.

(e) Form RBC/LIFE, to be utilized by the department in calculating risk-based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

**FORM RBC/LIFE**  
**MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS**  
**FOR LIFE INSURANCE COMPANIES AND STIPULATED PREMIUM COMPANIES**  
**LICENSED IN TEXAS**

Annual Statement Date As Of December 31, 199\_\_

Company Name \_\_\_\_\_

NAIC Number \_\_\_\_\_

Description	Annual Statement Source	Amount	Statement Factor	RBC
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(References are to 1992 Annual Statement Blank)

(P = Page; C = Column; L = Line)

**Formula #1 - Asset Value Risk**

**1a Bonds**

(i) Class 3	Sch D - Part 1A, C7, L7.3	_____	0.04	_____
(ii) Class 4	Sch D - Part 1A, C7, L7.4	_____	0.09	_____
(iii) Class 5	Sch D - Part 1A, C7, L7.5	_____	0.20	_____
(iv) Class 6	Sch D - Part 1A, C7, L7.6	_____	0.30	_____

**1b Preferred Stocks**

**Option 1 - Affiliated and Unaffiliated:**

(i) Affiliated	Sch D - Summary By Country C2, L39	_____	0.20*	_____
(ii) Unaffiliated				

(a) Class 3	P47, C1, L11	_____ 0.06 _____
(b) Class 4	P47, C1, L12	_____ 0.11 _____
(c) Class 5	P47, C1, L13	_____ 0.22 _____
(d) Class 6	P47, C1, L14	_____ 0.30 _____

\* 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, 1.00 for 1996 and subsequent years

Option 2:

(i) Affiliated U.S. Life Insurers \* Minimum risk-based capital and surplus of (i) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_

(ii) Affiliated U.S. P/C Insurers \*\* Minimum risk-based capital and surplus of (ii) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_

(iii) Affiliated Insurers Canadian & Alien Sch D - Part 2, Sec 1, Col. 6, appropriate line(s) \_\_\_\_\_ 1.00 \_\_\_\_\_

(iv) Other Affiliates Sch D - Part 2, Sec 1, Col. 6, appropriate line(s) \_\_\_\_\_ 0.30 \_\_\_\_\_

(v) Unaffiliated

(a) Class 3	P47, C1, L11	_____ 0.06 _____
(b) Class 4	P47, C1, L12	_____ 0.11 _____
(c) Class 5	P47, C1, L13	_____ 0.22 _____
(d) Class 6	P47, C1, L14	_____ 0.30 _____

\* For parent, subsidiary, and affiliated U.S. Life insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.401

\*\* For parent, subsidiary, and affiliated P/C insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.410

1c Mortgage Loans

(i) Residential

In good standing	Sch B - Part 2, Sec 1A, C5, L049999 + L059999	_____ 0.02 _____
90 days past due	Sch B - Part 2, Sec 2, C5, L049999 + L059999	_____ 0.04 _____

(ii) Farm

In good standing	Sch B - Part 2, Sec 1A, C5, L019999 + L029999	_____ 0.05 _____
90 days past due	Sch B - Part 2, Sec 2, C5, L019999 + L029999	_____ 0.10 _____

(iii) Commercial

In good standing	Sch B - Part 2, Sec 1A, C5, L079999 + L089999	_____ 0.03 _____
90 days past due	Sch B - Part 2, Sec 2, C5, L079999 + L089999	_____ 0.06 _____

(iv) Mortgages that are insured or guaranteed

In good standing	Sch B - Part 2, Sec 1A, C5, L039999 + L069999	_____ 0.001 _____
90 days past due	Sch B - Part 2, Sec 2, C5, L039999 + L069999	_____ 0.002 _____

(v) In process of foreclosure

Sch B - Part 2, Sec 3, C5, L999999	_____ 0.2 _____
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1d Common Stocks

Option 1:

(i) Affiliated

Sch D - Summary By Country C2, L53	_____ 0.20* _____
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(ii) Unaffiliated

Sch D - Summary By  
Country C2, L44+L48+L52 \_\_\_\_\_ 0.25 \_\_\_\_\_

\* 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, 1.00 for 1996 and subsequent years

Option 2:

(i) Affiliated U.S. Life  
Insurers

\* Minimum risk-based  
capital and surplus  
of (i) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_

(ii) Affiliated U.S. P/C  
Insurers

\*\* Minimum risk-based  
capital and surplus  
of (ii) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_

(iii)  
Insurers

Canadian & Alien Affil Sch D - Part 2, Sec 2,  
Col. 3, appropriate line(s) \_\_\_\_\_ 1.00 \_\_\_\_\_

(iv) Other Affiliates

Sch D - Part 2, Sec 2,  
Col. 3, appropriate line(s) \_\_\_\_\_ 0.30 \_\_\_\_\_

(v) Unaffiliated

Sch D - Part 2, Sec 2,  
Col. 3, appropriate line(s) \_\_\_\_\_ 0.25 \_\_\_\_\_

\* For parent, subsidiary, and affiliated U.S. Life insurers,  
use the minimum risk-based capital calculated in  
accordance with 28 TAC §7.401

\*\* For parent, subsidiary, and affiliated P/C insurers,  
use the minimum risk-based capital calculated in  
accordance with 28 TAC §7.410

1e Real Estate

(i) Acquired in satisfaction of debt P2, C1, L4.2 \_\_\_\_\_ 0.15 \_\_\_\_\_

(ii) Occupied by company P2, C1, L4.1 \_\_\_\_\_ 0.1 \_\_\_\_\_

(iii) Investment real estate P2, C1, L4.3 \_\_\_\_\_ 0.1 \_\_\_\_\_

If Other Invested Assets

P2, C1, L9 \_\_\_\_\_ 0.2 \_\_\_\_\_

1g Aggregate Write-Ins for  
Invested Assets

P2, C1, L10 \_\_\_\_\_ 0.2 \_\_\_\_\_

1h Collateral Loans	P2, C1, L7	_____	0.2	_____
1i Separate Accounts				
(i) Assets in separate accounts	P2, C1, L23	_____	0.1	_____
(ii) Liabilities in separate accounts	P3, C1, L27	_____	-0.1	_____
<b>Total Formula #1</b>	(Sum of 1a through 1i)		(1)	_____

**Formula #2 - Interest Rate Risk**

2a Individual Annuity Reserves	P7, C4, L15, PART A	_____	0.03	_____
2b Group Annuity	P7, C8, L15, PART A	_____	0.04	_____
2c Guaranteed Interest Contracts	P7, C1, L8, PART B	_____	0.04	_____
<b>Total Formula #2</b>	(Sum of 2a through 2c)		(2)	_____

**Formula #3 - Business Risk**

Option 1:

3a Net A&H Premiums Written (Limited to a Minimum of Zero)	P6, C9 + C10 + C11, L1	_____	0.25	_____
3b Individual Life Reserves	P7, C2 + C3 + C5, L15	_____	0.03	_____
3c Group Life Reserves	P7, C7, L15	_____	0.03	_____
3d Credit Life Reserves	P7, C6, L15	_____	0.03	_____
3e A&H Claim Reserves	* Sch. H, Part 3, C1, L 3c + Exh. 9, Part B, C2 +C3, L6	_____	0.05	_____

**\* If net amount is less than zero, then use zero for amount.**

Option 2:

3a Net A&H Premiums Earned

(i) Medical Care

**Individual Morbidity**

(a)	Usual and cust maj med & hosp	Earned prem (Sch H, L2 in part) first \$25 mil	_____ 0.25 _____
	Earned prem (Sch H, L2 in part) over \$25 mil		_____ 0.15 _____
*	(b) Medicare supp, dental, & other limited ben plans anticipating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.12 _____
**	(c) Hospital indemnity, AD&D, & other limited ben plans not antic- ipating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.08 _____

**Group and Credit Morbidity**

(a)	Usual and cust maj med & hosp	Earned prem (Sch H, L2 in part) first \$50 mil	_____ 0.15 _____
		Earned prem (Sch H, L2 in part) over \$50 mil	_____ 0.07 _____
(b)	Stop Loss & Min Prem	Earned prem (Sch H, L2 in part)	_____ 0.25 _____
*	(c) Medicare supp, dental, & other limited ben plans anticipating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.12 _____
**	(d) Hospital indemnity, AD&D, & other limited ben plans not antici- pating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.08 _____

**(ii) Disability Income Premium**

**Individual Morbidity**

(a)	Noncancellable Dis	Earned prem (Sch H, L2
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Income	in part) first \$50 mil	_____	0.35	_____
	Earned prem (Sch H, L2 in part) over \$50 mil	_____	0.15	_____
(b) Other Disability Income	Earned prem (Sch H, L2 in part) first \$50 mil	_____	0.25	_____
	Earned prem (Sch H, L2 in part) over \$50 mil	_____	0.15	_____
Group and Credit Morbidity				
(a) Disability Income	Earned prem (Sch H, L2 in part) first \$50 mil	_____	0.25	_____
	Earned prem (Sch H, L2 in part) over \$50 mil	_____	0.15	_____

**NOTE: Total earned premiums should agree to  
Schedule H, line (2), column (1)**

**\* Policies that the insurer has the right  
to increase premium rates during the term  
of the policy.**

**\*\* Policies that the insurer cannot unilaterally  
change the premium rates during the term  
of the policy.**

3b Individual Life Reserves	P7, C2 + C3 + C5, L15	_____	0.03	_____
3c Group Life Reserves	P7, C7, L15	_____	0.03	_____
3d Credit Life Reserves	P7, C6, L15	_____	0.03	_____
3e A&H Claim Reserves	*** Sch. H, Part.3, C1, L 3c + Exh. 9 , Part B, C2 +C3, L6	_____	0.05	_____

**\*\*\* If net amount is less than zero, then use zero for amount.**

**Total Formula #3** (Sum of 3a through 3e) (3) \_\_\_\_\_

**Formula #4 - Reinsurance Risk**

4a Affiliated Paid and Unpaid Losses Recoverable	Sch S - Part 1, C3 + C4, L019999 + L049999	_____ 0.01 _____
4b Non-Affiliated Paid and Unpaid Losses Recoverable	Sch S - Part 1, C3 + C4, L029999 + L059999	_____ 0.01 _____
4c Affiliated A&H Reserve Credits	Sch S - Part 2, C5 + C6, L019999	_____ 0.01 _____
4d Non-Affiliated A&H Reserve Credits	Sch S - Part 2, C5 + C6, L029999	_____ 0.01 _____
4e Affiliated Life Reserve Credits	Sch S - Part 3A, C5a, L019999	_____ 0.01 _____
4f Non-Affiliated Life Reserve Credits	Sch S - Part 3A, C5a, L029999	_____ 0.01 _____
4g Unauthorized Reinsurance Funds Withheld	Sch S - Part 3B, C5c, L079999	_____ 0.01 _____
4h Unauthorized Reinsurance Letters of Credit	Sch S - Part 3B, C5a, L079999	_____ 0.01 _____
<b>Total Formula #4</b>	(Sum of 4a through 4h)	(4) _____

**Formula #5 - Total Risk-Based Capital and Surplus**

5a Total Risk-Based Capital and Surplus	Sum Total of Formulas 1, 2, 3 and 4	(5) _____
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**Formula #6 - Minimum Risk-Based Capital and Surplus Requirements**

**Note:** In determining the adequacy of an insurer's capital and surplus, credit will be allowed for asset valuation reserves (AVR) and interest maintenance reserves (IMR) as defined in this section. The adequacy of an insurer's capital and surplus will therefore be determined by a comparison of minimum capital and surplus requirements as calculated under Formula #6 with the total of an insurer's capital, surplus, AVR, and IMR.

6a Calculated Minimum Risk-Based Capital and Surplus	Total Risk-Based Capital and Surplus ((5) of this form) _____	0.75(6a) _____
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**6b STATUTORY LIMITATIONS:**

(i) Assets	P2, C1, L24	_____	—
(ii) Liabilities	P3, C1, L28	_____	—
Total Formula (6b) ((i) / (ii) x 100)			(6b) _____

If Total Formula (6b) is equal to or greater than the following limitations for the annual statement year ended,

December 31, 1992	103%;
December 31, 1993	103%;
December 31, 1994	103%;
December 31, 1995	104%;
December 31, 1996	105%;
December 31, 1997	106%;

then no additional capital and surplus is required by this section. However, if a company is found to be in hazardous financial condition under the Insurance Code, Article 1.32, these limitations may not apply.

(f) Form RBC/FRAT, to be utilized by the department in calculating risk based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

(f) Form RBC/FRAT, to be utilized by the department in calculating risk-based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

**FORM RBC/FRAT**  
**MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS**  
**FOR FRATERNAL BENEFIT SOCIETIES LICENSED IN TEXAS**

Annual Statement Date As Of December 31, 199\_\_

Company Name \_\_\_\_\_

NAIC Number \_\_\_\_\_

Description	Annual Statement Source	Amount	Statement Factor	RBC
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(References are to 1992 Annual Statement Blank)

(P = Page; C = Column; L = Line)

**Formula #1 - Asset Value Risk**

**1a Bonds**

(i) Class 3	Sch D - Part 1A, C7, L7.3	_____	0.04	_____
(ii) Class 4	Sch D - Part 1A, C7, L7.4	_____	0.09	_____
(iii) Class 5	Sch D - Part 1A, C7, L7.5	_____	0.20	_____
(iv) Class 6	Sch D - Part 1A, C7, L7.6	_____	0.30	_____

**1b Preferred Stocks**

**Option 1 - Affiliated and Unaffiliated:**

(i) Affiliated	Sch D - Summary By Country C2, L39	_____	0.20*	_____
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(ii) Unaffiliated

(a) Class 3	P35B, C1, L11	_____	0.06	_____
(b) Class 4	P35B, C1, L12	_____	0.11	_____
(c) Class 5	P35B, C1, L13	_____	0.22	_____
(d) Class 6	P35B, C1, L14	_____	0.30	_____

**\*\* 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, 1.00 for 1996 and subsequent years**

Option 2:

- (i) Affiliated U.S. Life Insurers      \* Minimum risk-based capital and surplus of (i) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_
- (ii) Affiliated U.S. P/C Insurers      \*\* Minimum risk-based capital and surplus of (ii) multiplied by % owned \_\_\_\_\_ 1.00 \_\_\_\_\_
- (iii) Insurers      Canadian & Alien Affil      Sch D - Part 2, Sec 2, Col. 6, appropriate line(s)      \_\_\_\_\_ 1.00 \_\_\_\_\_
- (iv) Other Affiliates      Sch D - Part 2, Sec 2, Col. 6, appropriate line(s)      \_\_\_\_\_ 0.30 \_\_\_\_\_
- (v) Unaffiliated

(a) Class 3	P35B, C1, L11	_____	0.06	_____
(b) Class 4	P35B, C1, L12	_____	0.11	_____
(c) Class 5	P35B, C1, L13	_____	0.22	_____
(d) Class 6	P35B, C1, L14	_____	0.30	_____

**\* For parent, subsidiary, and affiliated U.S. Life insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.401**

**\*\* For parent, subsidiary, and affiliated P/C insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.410**

1c Mortgage Loans



(i) Residential

In good standing	Sch B - Part 2, Sec 1A, C5, L049999 + L059999	_____ 0.02	_____
90 days past due	Sch B - Part 2, Sec 2, C5, L049999 + L059999	_____ 0.04	_____

(ii) Farm

In good standing	Sch B - Part 2, Sec 1A, C5, L019999 + L029999	_____ 0.05	_____
90 days past due	Sch B - Part 2, Sec 2, C5, L019999 + L029999	_____ 0.10	_____

(iii)

Commercial

In good standing	Sch B - Part 2, Sec 1A, C5, L079999 + L089999	_____ 0.03	_____
90 days past due	Sch B - Part 2, Sec 2, C5, L079999 + L089999	_____ 0.06	_____

(iv) Mortgages that are insured or guaranteed

In good standing	Sch B - Part 2, Sec 1A, C5, L039999 + L069999	_____ 0.001	_____
90 days past due	Sch B - Part 2, Sec 2, C5, L039999 + L069999	_____ 0.002	_____

(v) In process of foreclosure

Sch B - Part 2, Sec 3, C5, L999999	_____ 0.2	_____
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1d Common Stocks

Option 1:

(i) Affiliated	Sch D - Summary By Country C2, L53	_____ 0.20**	_____
(ii) Unaffiliated	Sch D - Summary By Country C2, L44+L48+L52	_____ 0.25	_____

**\*\* 0.20 for 1992, 0.40 for 1993, 0.60 for 1994, 0.80 for 1995, 1.00 for 1996 and subsequent years**

Option 2:

(i) Affiliated U.S. Life Insurers	*Minimum risk-based capital and surplus of (ii) multiplied by % owned _____	1.00	_____
(ii) Affiliated U.S. P/C Insurers	**Minimum risk-based capital and surplus of (i) multiplied by % owned _____	1.00	_____
(iii) Canadian & Alien Affil Insurers	Sch D - Part 2, Sec 2, Col. 3, appropriate line(s) _____	1.00	_____
(iv) Other Affiliates	Sch D - Part 2, Sec 2, Col. 3, appropriate line(s) _____	0.30	_____
(v) Unaffiliated	Sch D - Part 2, Sec 2, Col. 3, appropriate line(s) _____	0.25	_____

**\* For parent, subsidiary, and affiliated U.S. Life insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.401**

**\*\* For parent, subsidiary, and affiliated P/C insurers, use the minimum risk-based capital calculated in accordance with 28 TAC §7.410**

1e Real Estate

(i) Acquired in satisfaction of debt	P2, C1, L4.2	_____	0.15	_____
(ii) Occupied by company	P2, C1, L4.1	_____	0.1	_____
(iii) Investment real estate	P2, C1, L4.3	_____	0.1	_____

1f Other Invested Assets P2, C1, L9 \_\_\_\_\_ 0.2 \_\_\_\_\_

1g Aggregate Write-Ins for Invested Assets P2, C1, L10 \_\_\_\_\_ 0.2 \_\_\_\_\_

1h Collateral Loans P2, C1, L6 \_\_\_\_\_ 0.2 \_\_\_\_\_

**Total Formula #1** (Sum of 1a through 1h) (1) \_\_\_\_\_

**Formula #2 - Interest Rate Risk**

2a Annuity Reserves Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C3, L15 \_\_\_\_\_ 0.04 \_\_\_\_\_

2b Supplemental Contracts Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C4, L15 \_\_\_\_\_ 0.04 \_\_\_\_\_

**Total Formula #2** (Sum of 2a and 2b) (2) \_\_\_\_\_

**Formula #3 - Business Risk**

Option 1:

3a Net A&H Premiums Written (Limited to a Minimum of Zero) Analysis of Operations by Lines of Business C3, L1 \_\_\_\_\_ 0.25 \_\_\_\_\_

3b Life Reserves Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C2, L15 \_\_\_\_\_ 0.03 \_\_\_\_\_

3c A&H Claim Reserves \* Sch. H, Part 3, C1, L 3c + Exh. 9 , Part B, C2 +C3, L6 \_\_\_\_\_ 0.05 \_\_\_\_\_

**\* If net amount is less than zero, then use zero for amount.**

Option 2:

3a Net A&H Premiums Earned

(i) Medical Care

Individual Morbidity

(a) Usual and Cust Maj Med & Hosp Earned prem (Sch H, L2 in part) first \$25 mil \_\_\_\_\_ 0.25 \_\_\_\_\_

Earned prem (Sch H, L2 in part) over \$25 mil \_\_\_\_\_ 0.15 \_\_\_\_\_

*	(b) Medicare supp, dental, & other limited ben plans anticipating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.12	_____
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**	(c) Hospital indemnity, AD&D, & other limited ben plans not antici- pating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.08	_____
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Group and Credit Morbidity

(a)	Usual and Cust Maj Med & Hosp	Earned prem (Sch H, L2 in part) first \$50 mil	_____ 0.15	_____
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		Earned prem (Sch H, L2 in part) over \$50 mil	_____ 0.07	_____
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(b)	Stop Loss & Min Prem	Earned prem (Sch H, L2 in part)	_____ 0.25	_____
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*	(c) Medicare supp, dental, & other limited ben plans anticipating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.12	_____
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**	(d) Hospital indemnity, AD&D, & other limited ben plans not antici- pating rate increases	Earned prem (Sch H, L2 in part)	_____ 0.08	_____
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(ii) Disability Income Premium

Individual Morbidity

(a)	Noncancellable Dis Income	Earned prem (Sch H, L2 in part) first \$50 mil	_____ 0.35	_____
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		Earned prem (Sch H, L2 in part) over \$50 mil	_____ 0.15	_____
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(b)	Other Disability Income	Earned prem (Sch H, L2 in part) first \$50 mil	_____ 0.25	_____
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	Earned prem (Sch H, L2 in part) over \$50 mil	_____	0.15	_____
Group and Credit Morbidity				
(a) Disability Income	Earned prem (Sch H, L2 in part) first \$50 mil	_____	0.25	_____
	Earned prem (Sch H, L2 in part) over \$50 mil	_____	0.15	_____

**NOTE: Total earned premiums should agree to  
Schedule H, line (2), column (1)**

**\* Policies that the insurer has the right  
to increase premium rates during the term  
of the policy.**

**\*\* Policies that the insurer cannot unilaterally  
change the premium rates during the term  
of the policy.**

3b Life Reserves	Analysis of Increase in Reserves and Fund Deposits During the Year - Part A, C2, L15	_____	0.03	_____
3c A&H Claim Reserves	*** Sch. H, Part 3, C1, L 3c + Exh. 9 , Part B, C2 +C3, L6	_____	0.05	_____

**\*\*\* If net amount is less than zero, then use zero for amount.**

**Total Formula #3** (Sum of 3a and 3c) (3) \_\_\_\_\_

**Formula #4 - Reinsurance Risk**

4a Paid and Unpaid Losses Recoverable	Sch S - Part 1, C3 + C4, L079999	_____	0.01	_____
4b A&H Reserve Credits	Sch S - Part 2, C4 + C5 L039999	_____	0.01	_____
4c Life Reserve Credits	Sch S - Part 3A, C5a, L039999	_____	0.01	_____

4d Unauthorized Reinsurance Funds Withheld	Sch S - Part 3B, C5c, L079999_____	0.01_____
4e Unauthorized Reinsurance Letters of Credit	Sch S - Part 3B, C5a, L079999_____	0.01_____
<b>Total Formula #4</b>	(Sum of 4a through 4e)	(4) _____

**Formula #5 - Total Risk-Based Capital and Surplus**

5a Total Risk-Based Capital and Surplus	Sum Total of Formulas 1, 2, 3 and 4	(5) _____
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**Formula #6 - Minimum Risk-Based Capital and Surplus Requirements**

**Note:** In determining the adequacy of an insurer's capital and surplus, credit will be allowed for asset valuation reserves (AVR) and interest maintenance reserves (IMR) as defined in this section. The adequacy of an insurer's capital and surplus will therefore be determined by a comparison of minimum capital and surplus requirements as calculated under Formula #6 with the total of an insurer's capital, surplus, AVR, and IMR.

6a Calculated Minimum Risk-Based Capital and Surplus	Total Risk-Based Capital and Surplus ((5) of this form)_____	0.75 (6a)_____
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**6b STATUTORY LIMITATIONS:**

- (i) Assets P2, C1, L21 \_\_\_\_\_
- (ii) Liabilities P3, C1, L24 \_\_\_\_\_

Total Formula (6b) ((i) / (ii) x 100) (6b)\_\_\_\_\_

If Total Formula (6b) is equal to or greater than the following limitations for the annual statement year ended,

- December 31, 1992 103%;
- December 31, 1993 103%;
- December 31, 1994 103%;
- December 31, 1995 104%;
- December 31, 1996 105%;
- December 31, 1997 106%;

then no additional capital and surplus is required by this section. However, if a company is found to be in hazardous financial condition the Insurance Code, Article 1.32, these limitations may not apply.

(g) Calculation using forms. After the end of each calendar year, or more frequently if the commissioner deems it necessary, the formulas contained in Form RBC/LIFE or RBC/FRAT shall be used to calculate the minimum risk-based capital and surplus requirements based on specified financial information as filed with the NAIC or as available through the examination or financial analysis process. Financial information required to complete calculations in Form RBC/LIFE and RBC/FRAT shall include the same information for 1992 and subsequent years, regardless of changes in page, line, or column number of the association statement blanks adopted by the board or otherwise requested by the department.

(h) Actions of commissioner. The commissioner of insurance may take the following actions against an insurer who fails to maintain, at a minimum, capital and surplus equivalent to the amount calculated in accordance with Form RBC/LIFE or Form RBC/FRAT:

(1) place the insurer in supervision or conservation;

(2) determine the insurer to be in hazardous financial condition as provided by the Insurance Code, Article 1.32 and 28 TAC §8.3 (relating to Hazardous Conditions) regardless of percentage of assets in excess of liabilities;

(3) determine the insurer to be impaired as provided by the Insurance Code, Article 3.60; or

(4) subject the insurer to any other applicable sanctions provided by the Insurance Code or Texas Administrative Code, Title 28.

(i) Limitations. In no event shall the requirements of this section reduce the amount of capital and surplus otherwise required by provisions of the Insurance Code or the Texas Administrative Code, or by authority of the commissioner of insurance.

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

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

TRD-9216017 Linda K. von Quintus-Dom  
Chief Clerk  
Texas Department of  
Insurance

Effective date: December 31, 1992

Proposal publication date: July 26, 1992

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

## • 28 TAC §7.410

The State Board of Insurance of the Texas Department of Insurance adopts new §7.410, concerning the regulation of risk-based capital and surplus requirements for certain capital stock property and casualty insurers subject to the provisions of the Texas Insurance Code, Articles 2.02, 2.20, and 21.44, with changes to the proposed text as published in the July 28, 1992, issue of the *Texas Register* (17 TexReg 5271).

Section 7.410 concerns the minimum risk-based capital and surplus requirements for all stock property and casualty insurers except those authorized to write mortgage guaranty insurance only. The new section requires a minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks of a capital stock property/casualty insurer. It also sets forth the formulas which the agency will use in calculating the risk-based capital and surplus of an insurer. The adoption includes several changes to the proposed text for the reasons stated in this paragraph. This adoption includes a change to §7.410(a)(2) to distinguish between industry average and individual insurers and, by adding subparagraphs (A) and (B), to provide two options when an insurer has investments in affiliates. A change was made to paragraph (a)(7) to allow for adjustments in the calculation. A change was made to paragraph (a)(8) to delete the reference to the Securities Valuation Office of the National Association of Insurance Commissioners (NAIC). Changes were made to paragraphs (a)(9) and (a)(10), and subsection (b) to delete references to non-stock companies and clarify that the section applies only to certain capital stock property and casualty insurers. References to Form RBC/PC(S) were changed throughout the section to refer to Form RBC/PC since there will not be a Form RBC/PC(NS). A change was made to paragraph (d) (1) for clarification. Changes were made to subparagraphs (d)(2)(A) and (d)(2)(C) to clarify how a company's liabilities and policyholders' surplus will be adjusted. Changes were made to clause (d)(4)(A)(i) to clarify the use of certain discounts carried forward and to limit certain discounts to those used prior to January 1, 1992. Changes were made to clauses (d)(4)(B)(i) and (d)(4)(B)(ii) to clarify adjustments made. A change was made to clause (d)(4)(B)(iv) to clarify the use of reinsurance by state pools. Paragraph (d)(5) was added to acknowledge the Board's ability to adopt the NAIC model act to replace portions of the adopted section. Changes were made to subsection (e), FORM RBC/PC(S). The title of the form was changed from FORM RBC/PC(S) to FORM RBC/PC since the application of the section to non-stock companies has been deleted and only one form is now included. Lines were added to FORM RBC/PC to provide company name, NAIC number, and the period-ending date. Footnotes were added to Ratios 1 and 3 to include adjustments provided in clause (d)(4)(A)(i). Ratio 1 was changed to provide companies a choice of two options to calculate affiliated investments and to clarify the calculation of the industry average. The applicable percentage of affil-

ated stock investments was changed in the new option 1 of Ratio 1 to delete the reference to 20% for 1992 and to add the reference to subparagraph (a)(2)(A). A change was made to Calculations 4b and 4c of the form to correct the title of the ratio to "Adjusted Actual Risk-Based Capital and Surplus to Adjusted Minimum Risk-Based Capital and Surplus." Changes were also made to Calculation 4 to include the options provided in Ratio 1. Subsections (f) and (g) were deleted from the section since the section will apply to capital stock companies and not to non-stock companies and the following subsections were renumbered appropriately. Changes were made to now subsection (f), formerly (h), to delete references to the non-stock company form. Changes were made to subsection (g), formerly (i), to provide a timeframe by which companies will be expected to have demonstrated compliance with the risk-based capital and surplus requirements.

Section 7.410 requires a minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks of a stock property/casualty insurer and provides the formulas which the agency will use in calculating the risk-based capital and surplus of an insurer. The section will permit the agency to perform calculations of the risk-based capital and surplus of insurers to allow more effective regulation to assure the financial solvency of insurers for the protection of policyholders.

NAIC-Commentors suggested that adoption of the proposed section be deferred until the NAIC has adopted a uniform country-wide standard. Commentors contend that Texas is under no compulsion to adopt rules but should take a more cautious approach. Other states with risk-based capital statutes are awaiting the NAIC's completion of a uniform standard, and Texas should follow suit. Commentors claim that adoption could adversely impact Texas receiving certification under the NAIC solvency program. Concern was expressed that there would be duplicative effort on the part of the Texas Department of Insurance and the NAIC and the probability of a non-uniform approach occurring with Texas having a rule different from the NAIC. It was suggested that if Texas adopts the proposed section that at least a sunset clause be included to coincide with implementation of the NAIC risk-based capital requirements. If the Board adopts the proposal, it is recommended that the section be done away with and the NAIC standard adopted as soon as it becomes available. It was recommended that if the Board adopts the section at this time that it should apply only to Texas domestic insurers to lessen any market disruption which might occur. Commentors believe that the implementation of the proposed section at this time would create confusion and redundancy and lessen competition in Texas. Commentors feel the proposed section needs input from industry to be reasonable from a compliance standpoint and still attain the desired goals. It was recommended that a date certain be stated in the section for application of the section rather than applying the section to the annual statement for the year ending December 31,

1992. Commentors believe the requirement of compliance by 1992 is unreasonable since it doesn't provide sufficient time for an insurer to perform the necessary scrutiny of its investments and other financial components to prevent unnecessary hardship. Commentors also said that the NAIC was in the testing phase, that they were not aware of any testing Texas had done, and that the proposed section did not address adequacy of reserves. The agency responds that statutory authority is in place for adoption of risk-based capital and surplus requirements and the agency does not feel that it is necessary to wait for action by the NAIC. It is within the Board's discretion to adopt the section. In addition, discussion and testing is still ongoing by the NAIC, and there is no definite date at which a model act will be adopted by the NAIC. In the event that a model act is adopted at the NAIC level, the Board may consider appropriate revisions to the section at that time. While this is implicit in the Board's authority, language to that effect has been added to the section. The agency believes that the section should be applied equally to domestic and foreign insurers licensed in Texas and does not believe adoption of the section at this time will be disruptive to the market because a relatively small number of active companies are affected in the first year. Because of the length of time since publication of the proposed section, the relatively few companies adversely affected by the section in the first year, and, based on industry comments, the addition of options for affiliated investments, the agency feels that the effective date of December 31, 1992 is appropriate. However, language has been added to the section to provide additional time after December 31 for companies to correct deficiencies before formal action is pursued by the agency. The department has performed testing of the proposed formulas. Adequacy of reserves was one of several factors that statute provided the Board could, but was not required to, consider in developing risk-based capital and surplus requirements.

**MORTGAGE GUARANTY INSURERS**—Requests were made that mortgage guaranty insurers be exempt from application of the proposed section. Mortgage guaranty insurers are already subject to statutory liability limitations in the Insurance Code, Article 21.50, §6. Mortgage guaranty insurers can only write new business when the risk-to-capital/surplus/contingency reserve ratio declines below 25/1. The capital and surplus requirements for mortgage guaranty insurers are tied to the risk outstanding rather than to levels of premium written. Commentors contend the analysis in the proposed section, Form RBC/PC(S) and Form RBC/PC(NS), distorts the true risk outstanding for mortgage insurers and thus distorts the capital and surplus requirements. Claims were made that A. M. Best recognizes that its property/casualty rating procedures are inappropriate for mortgage guaranty insurers. The rating agencies have developed special stress tests that recognize the different nature of the risk and the unique reserve and financial structure of these types of companies. It is believed that the proposed section does not measure the relative potential for loss on a risk and thus cannot correctly or adequately

measure the risk of a mortgage guaranty insurer. Mortgage guaranty insurers are required to establish a contingency reserve equal to 50% of earned premiums each year and hold the funds for 10 years. The contention was made that the risk-based capital and surplus requirements do not take contingency reserves into the calculations so there will be an enormous distortion as relates to mortgage guaranty insurers. Mortgage guaranty insurance has a volatile nature, is exempt from the property/casualty guaranty funds, and limited to that line of insurance (monoline). The NAIC Property/Casualty Risk-Based Capital Working Group of the Examination Oversight (EX4) Task Force has tentatively decided to exempt mortgage guaranty, financial guaranty, and a few other areas from the NAIC risk-based capital rules. The commentor also claimed that the existing liability to capital/surplus/contingency reserve requirements to mortgage guaranty insurers in Article 21.50 limits the risk and achieves the solvency protection for mortgage guaranty insurers and their policyholders that the proposed risk-based capital requirements do for property/casualty insurers. It was suggested that different standards to calculate capital and surplus requirements for mortgage guaranty insurers be consistent with the capital/risk ratio currently used by the industry. A commentor felt that the formula fails to take into account some significant areas of risk. The nature and type of the risks insured and the adequacy of company's reserves are not taken into account. Concern was expressed that the formula may encourage inadequate rates and reserves since it may lower the needed amount of surplus. The agency responds that, based on comments received, mortgage guaranty insurers have been excluded from the risk-based capital and surplus requirements of the section. **STOCK verses NON-STOCK**—Commentors expressed concern that the risk-based surplus requirements were not similarly applied to stock and non-stock companies and that the legal organization of companies should not be determinate of its risk-based capital and surplus requirements. Commentors suggested that the department wait and rely on the NAIC model act rather than adopt a Texas rule on risk-based capital and surplus. It was suggested that the better way to enhance solvency is to support a mechanism that provides assurance that companies will have the assets necessary to pay claims by requiring each insurer to establish a custodial account in the amount of reserves for losses and loss adjustment expenses, or in the amount of discounted reserves. This account would remain the insurer's property and could not be drawn down without regulatory approval. A suggestion was made that if the Board decides to go forward with the proposed section now that it adopt the statutory requirement for non-stock companies for all companies. Commentors believe that a completely objective methodology is inappropriate and that an objective criteria should only be an element of an overall determination that includes an evaluation of all facts and circumstances applicable to a particular insurer. The claim was made that the formulas are arbitrarily applied to stock or non-stock companies. Commentors see no rationale for

different formulas based on the ownership structure and believe the section will require less surplus of stock companies than non-stock companies, thus requiring mutual and reciprocal insurers to maintain higher levels of surplus than stock company counterparts. It is claimed that this would create a competitive disadvantage for mutual and reciprocal insurers in Texas resulting in an increase in insurance costs. The claim was also made that the proposed section would encourage manipulation of financial data. Confusion was expressed as to whether the Insurance Code, Article 2.20(f), still applies to non-stock companies or whether this section take priority. It was suggested that county mutuals, lloyds, and reciprocals should be exempt from the proposed section as the section conflicts with Article 2.20(f). The agency responds that statute distinguishes between stock and non-stock companies and precludes the application of similar risk-based capital and surplus requirements to both types of companies, unless those requirements are the statutory requirements for non-stock companies. The agency responds that the risk-based capital and surplus requirements of this section provide more reasonable measures of a company's underwriting, financial, and investment risks than a premium to surplus ratio or the establishment of a custodial account for reserves. Statute contemplates disparate treatment of stock and non-stock insurers. Since the requirements for non-stock companies is already set by statute and inclusion of those requirements in the section have caused confusion, application of the section to non-stock companies has been deleted. The agency further responds that objective methodology has been tested and gives reasonable consideration to each insurer's underwriting, financial, and investment conditions, and each insurer has been given the opportunity to apply its own criteria to Ratio 1 by the addition of options for calculating affiliated investments. Section 7.410 is not intended to be an all-inclusive determination of solvency, and the agency will continue to apply other statutes and rules to preclude inappropriate manipulation of financial data. **AFFILIATES**—Commentors claimed the formula penalizes insurers for reinsurance ceded to other than affiliates 100% of the amount above the industry average and will cause an understatement of loss reserves since the formula measures premiums, plus liabilities, divided by surplus and understating reserves reduces total liabilities and increases surplus simultaneously. It was suggested that one could execute a loss portfolio transfer reinsurance to manipulate the calculations of risk-based capital and surplus. Commentors felt that the minimum risk-based capital and surplus requirements are more appropriately developed on a national basis than a state-by-state basis. Commentors opposed the manner in which affiliated stock investments are to be discounted. The claim was made that no consideration has been given to the real value of a subsidiary's assets and thus companies that hold stock in successful subsidiaries are penalized for the success of that subsidiary under the proposed formula. Concern was expressed that this treatment will cause market disruptions in Texas. Subsection (a)(2)—Adjusted policy-



holders' surplus-Commentors believe the definition could lead companies to different ownership structures to avoid the "investment in affiliate" charge. One commentor felt that the deduction of affiliated stock investments from policyholders' surplus is punitive. It is believed that this position presumes investments are worthless. The position was taken that the relative strength of the affiliate should be taken into account. Subsection (d)(2)-Commentors believe consideration should be given to the different lines of business since different lines of business require different amounts of loss reserves with different durations. The suggestion was made that an evaluation of the types of liabilities in relation to policyholder surplus as well as the relative size of the company should occur and consideration should be given to different asset qualities as well as weighing all investments, including government/state obligations, and grouping of real estate with common stocks does not give appropriate recognition to the potential risks present in each investment. It was suggested that the final NAIC model could serve as a model for the states to adopt, including Texas. Concern was expressed that the proposed formulas will only serve as a rough measure and only target the most egregious companies. It was felt that ratio 3 presumes all investments other than class 1 and 2 bonds are risky and not desirable and would unduly penalize some companies with very strong investment portfolios. Concern was expressed that too little benefit will be achieved for the cost of the proposed section and it was suggested that reliance on other more effective solvency regulation tools be used. Concern was expressed that companies with inadequate reserves would do better than well-reserved companies in Ratio 1, that Ratio 2 did not consider business ceded to pools as risk-free, that the section was not clear on substitutions provided in Ratio 2, and that Ratio 3 bonds that had not been valued by the NAIC were classified as "medium or high risk." Further, commentors stated that there was no rationale for using industry averages in determining the level of capital and surplus, that the section was too simplistic, and that components of the model were not on the same basis. The agency responds that insurers have the opportunity to offset any penalty for ceded reinsurance with lower than industry average risks in Ratios 1 and 3. The reduction to policyholders' surplus for affiliated investments eliminates double-counting of surplus to support underwriting risks. Changes were made based on industry comments to allow companies the choice of two options to calculate affiliate investments. In some cases, it may be appropriate for groups of companies to redistribute capital and surplus, but the number of companies affected will not cause significant market disruptions. Consideration is given to different types of liabilities in Ratio 1 and to different types of investments in Ratio 3. Ratio 3 does not penalize investments in other than class 1 and 2 bonds to the extent that such investments of an insurer, in combination with other risks, do not exceed industry averages. The section is not intended to be an all-inclusive determination of solvency, and the agency will continue to apply other statutes and rules

to preclude inappropriate manipulation of financial data. It is noted that the section does make provision for business reinsured by certain pools and that clarification has been made to the section for investments that have not been valued by the NAIC. Substitutions for calculating company ratios do not affect the calculation of industry averages which will continue to be calculated without substitution. In developing the formulas in the section, the agency attempted to create a simple, yet reasonable measure of insurers' risks, recognizing that components had different bases, and felt that industry averages were appropriate measures by which to compare insurers. DISCOUNTING-Concern was expressed that the formulas require adjustments for non-tabular reserve discount which is inconsistent with industry averages. Comments were made that since some companies have historically discounted reserves, it was unreasonable to disallow the discounting so abruptly, and it was suggested that the adjustment to policyholders' surplus for discounting be phased in. Another comment or stated that liabilities should be discounted, and surplus increased for discounting, to provide for companies writing long-tail lines of business. The agency responds that, while discounting may be material to an individual insurer, it is very immaterial to the calculation of industry averages. Based on industry comments, the section has been changed to provide a five-year phase-out of certain loss reserve discounts. Nothing in the comments supports the contention that premiums plus discounted liabilities to surplus is a better measure of risk than the premium plus liabilities to surplus contained in Ratio 1.

National Association of Independent Insurers, Reinsurance Association of America, Verex Assurance, Inc., State Farm Insurance Companies, Texas Farmers Companies, Hanover Insurance, CNA Insurance Companies, American Insurance Association, Alliance of American Insurers, Voyager Insurance Group, and Association of Fire & Casualty Companies in Texas-against Texas County Mutual Association, Texas Association of Independent Lloyds, the Texas Citrus & Vegetable Insurance Exchange, and MGIC Investment Corporation-request exemption from the proposed section. Columbia Lloyds Insurance Company, Gulf Insurance Group, and National Association of Mutual Insurance Companies-expressed no position either for or against the proposed section.

The new section is adopted under the Insurance Code, Articles 2.01, 2.02, 2.20, 1.10, and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Articles 2.01, 2.02, and 2.20, provides that the Texas Department of Insurance may adopt rules to require an insurer to maintain capital and surplus levels in excess of statutory levels to assure the financial solvency of insurers for the protection of policyholders. Article 1.10, §5, addresses the duties of the board when a company's surplus is impaired. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth

the nature and requirement of available procedures and prescribe the procedures for adoption of rules by a state administrative agency. The new section affects the regulation of the capital and surplus requirements of stock property and casualty insurers under the Insurance Code, Article 2.20.

#### *§7.410. Minimum Risk-Based Capital and Surplus Requirements for Stock Property/Casualty Insurers.*

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

(1) Adjusted gross written premium-The total direct and assumed written premiums of any insurer:

(A) after adjustment for additional or return premiums; and

(B) after deduction of those premiums ceded to affiliates of the insurer. No deduction shall be made for premiums ceded to non-affiliates except as provided in subsection (d)(4)(B)(iv) of this section.

(2) Adjusted policyholders' surplus-For industry average purposes, the consolidated industry total capital and surplus, reduced by 100% of the consolidated industry total of all affiliated common and preferred stock investments. For individual insurers, the total capital and surplus of the insurer, reduced by investments in affiliate common and preferred stocks determined by one of the following two methods at the option of the insurer.

(A) Option 1 may be used to calculate investments in affiliate common and preferred stocks by applying the applicable percentage to the total amount of such investments. The applicable percentage shall be 20% for 1992, 40% for 1993, 60% for 1994, 80% for 1995, and 100% for 1996 and subsequent years.

(B) Option 2 may be used to calculate investments in affiliate common and preferred stocks as the total of risk-based capital and surplus of U.S. insurance company affiliates, calculated in accordance with this section for property/casualty insurance company affiliates and in accordance with §7.401 of this title (relating to Minimum Risk-Based Capital and Surplus for Life Insurers) for life insurance company affiliates, multiplied by the percentage of ownership in each affiliate. The calculation using this option shall include U.S. non-insurance affiliates at the lesser of 100% of admitted statement value or 30% of the total of the affiliates' stocks, mortgage loans, real estate, bonds equivalent to mid/low in-

vestment quality bonds as defined in this section, and collateral loans. The calculation using this option shall include non-U.S. affiliates at 100% of the admitted statement value.

(3) Annual statement—The annual statement (association edition) to be used by fire and casualty (property/casualty) insurance companies, as promulgated by the National Association of Insurance Commissioners (NAIC) and as adopted by the State Board of Insurance under 28 Texas Administrative Code, Chapter 7 any other annual statement blank adopted by the State Board of Insurance or requested to be filed by the Texas Department of Insurance.

(4) Best's Aggregates & Averages—The most recent edition by A.M. Best Company of the publication entitled Best's Aggregates & Averages Property-Casualty.

(5) Board—The State Board of Insurance of the State of Texas.

(6) Commissioner—The commissioner of insurance of the Texas Department of Insurance, appointed under the Insurance Code, Article 1.09.

(7) Industry average—The number calculated using consolidated industry totals for each annual statement amount referenced in Form RBC/PC of this section, excluding adjustments provided in subsection (d)(4)(A)(i) of this subsection and, for Ratio 1, using adjusted policyholders' surplus as defined in paragraph (a)(2) of this section. The consolidated industry totals shall be obtained from Best's Aggregates & Averages for all property-casualty organizations or, at such time as they may be available, from aggregate industry financial information determined by the NAIC.

(8) Mid/low investment quality bonds—All bonds designated as Class 3, 4, 5, or 6 and properly reported as such on Schedule D-Part 1A of the association blank.

(9) Policyholders' surplus—The total capital and surplus of a stock property/casualty insurer.

(10) Stock property/casualty insurers—All insurance companies or other entities admitted to do business in this state, authorized to write property or casualty insurance in this state, and required by any state to have capital stock issued and outstanding.

(b) Scope. This section applies to all domestic, foreign, and alien stock property/casualty companies subject to the provisions of the Insurance Code, Articles 2.02, 2.20, and 21.44, excluding those insurers that are only authorized to write mortgage guaranty insurance in all states in which they are licensed.

(c) Purpose. The purpose of implementing this risk-based capital and surplus provision is to require a minimum level of

policyholders' surplus appropriate to the underwriting, financial, and investment risks assumed by an insurer.

(d) Application of Form RBC/PC. In determining the minimum risk-based capital and surplus, the department will utilize the form entitled "Minimum Risk-Based Capital and Surplus Requirements for Capital Stock Property and Casualty Companies Licensed in Texas," hereinafter referred to as Form RBC/PC. Each insurer may use the form, but no insurer is required to file a completed form with the department, unless specifically requested to do so by the department.

(1) A calculation of the minimum level of policyholders' surplus appropriate to the underwriting, financial, and investment risks assumed by a capital stock insurer subject to this section shall be made by the Texas Department of Insurance in accordance with Form RBC/PC.

(2) Form RBC/PC provides for the calculation of three ratios and for the comparison of the insurer's results of those ratios with those of the industry averages as defined in this section.

(A) Ratio 1 determines the percentage of net written premium (limited to a minimum of zero) plus total liabilities (limited to a minimum of zero) to adjusted policyholders' surplus as defined in this section. Each company's liabilities and policyholders' surplus shall be adjusted as provided in paragraph (4)(A)(i) of this subsection.

(B) Ratio 2 determines the percentage of adjusted gross written premium, as defined in this section, to net written premium.

(C) Ratio 3 determines the percentage of the total of stocks, mortgage loans, real estate, mid/low investment quality bonds, as defined in subsection (a)(8) of this section, collateral loans, and other invested assets to policyholders' surplus.

(3) Calculations in Form RBC/PC determine required policyholders' surplus to the extent that the sum of the insurer's results for ratios 1, 2, and 3 exceed the sum of:

(A) twice the industry average, as defined in this section, for ratio 1, limited to a maximum of 14.00;

(B) the industry average, as defined in this section, for ratio 2; and

(C) the industry average, as defined in this section, for ratio 3.

(4) Exceptions to the calculations in Form RBC/PC may apply in the following situations.

(A) Ratio 1.

(i) When loss reserve discounts, other than as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims for which specific segregated investments have been established, have reduced liabilities as of December 31, 1991, any such discounts carried forward to 1992 or subsequent years shall be added back to the company's total liabilities and shall be deducted from the company's policyholders' surplus at the applicable percentage for purposes of the calculation. The applicable percentage of such discounts shall be 20% for 1992, 40% for 1993, 60% for 1994, 80% for 1995, and 100% for 1996 and subsequent years. In no event shall an insurer's liabilities be reduced, and policyholders' surplus increased, for discounts on loss reserves established on or after January 1, 1992, except as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims, and in no event shall the dollar amount of discounts that reduced liabilities and increased policyholders' surplus as of December 31, 1991, be increased on or after January 1, 1992. The commissioner shall have the authority to determine the appropriateness of, and may disapprove, discounts taken as respects fixed and determinable payments such as those emanating from workers' compensation tabular indemnity reserves and long-term disability claims.

(ii) When a company's result for Ratio 1 is zero, a ratio of .01 shall be used in completing FORM RBC/PC.

(B) Ratio 2.

(i) When net written premium is zero or negative, the company's ratio 2 will be the ratio of adjusted gross written premium, as defined in subsection (a)(1) of this section, to policyholders' surplus adjusted as provided in subparagraph (d)(4)(A)(i) of this paragraph.

(ii) When net written premium is less than policyholders' surplus, adjusted as provided in subparagraph (A)(i) of this paragraph, the company's ratio 2 will be the ratio of adjusted gross written premium, as defined in subsection (a)(1) of this section, to policyholders' surplus, adjusted as provided in subparagraph (A)(i) of this paragraph.

(iii) When adjusted gross written premium, as defined in subsection

(a)(1) of this section, is zero or negative, the company's ratio 2 will be zero.

(iv) When ratio 2 is critical to the determination of whether a company meets its minimum risk-based capital and surplus requirement, the ratio may be reduced, subject to the commissioner's approval, by reducing direct written premiums

by the portion of crop insurance premiums 100% reinsured by the Federal Crop Insurance Corporation, by the portion of flood premiums 100% reinsured by the Federal Emergency Management Act, or by the portion of premiums reinsured by pools to the extent that participation is mandated by a state.

(5) In the event that a risk-based capital and surplus model act for property/casualty insurers is promulgated by the NAIC subsequent to adoption of this section, nothing in this section shall preclude the Board from considering any formulas in that act to replace formulas contained in Form RBC/PC.

**FORM RBC/PC**

**MINIMUM RISK-BASED CAPITAL AND SURPLUS REQUIREMENTS**

**FOR CAPITAL STOCK PROPERTY AND CASUALTY COMPANIES LICENSED IN TEXAS**

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
NAIC Number

\_\_\_\_\_  
For the Period Ending

<u>Description</u>	<u>Annual Statement Source</u>	<u>Value</u>	<u>Statement</u>
--------------------	--------------------------------	--------------	------------------

(References are to 1992 Annual Statement Blank)  
(P = Page; C = Column; L = Line)

**Ratio 1:**

1a	Net Written Premium P8 - Part 2B, C4, L32 (limited to minimum of zero)	_____	
----	---	-------	--

1b	Total Liabilities* P3, C1, L22 (limited to minimum of zero)	_____	
----	--	-------	--

1c	Policyholders' Surplus* P3, C1, L26	_____	
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**Option 1: Affiliated Investments**

1d	Affiliated Stock Investments P20, C1, L34 + L35	_____	
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1e	Option 1: Affiliated Stock Investments (1d multiplied by Applicable % defined in 28 TAC §7.410(a)(2)(A))	_____	
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**Option 2: Affiliated Investments**

- 1f Total of risk-based capital and surplus, calculated in accordance with 28 TAC §7.401 or 28 TAC §7.410, of U.S. insurance company affiliates included in P20, C1, L34 + L35, multiplied by % of ownership of each affiliate \_\_\_\_\_
- 1g Total statement value of U.S. non-insurance affiliates included in P20, C1, L34 + L35 \_\_\_\_\_
- 1h Total of stocks, mortgage loans, real estate, bonds equivalent to mid/low investment quality as defined in 28 TAC §7.410(a)(8), and collateral loans of U.S. non-insurance affiliates, multiplied by 30% \_\_\_\_\_
- 1i Total non-U.S. affiliated stock investments included in P20, C1, L34 + L35 \_\_\_\_\_
- 1j Option 2: Affiliated Investments (1f + (the lesser of 1g or 1h) + 1i) \_\_\_\_\_
- 1k Adjusted policyholders' surplus (1c - the Company's choice of 1e or 1j) \_\_\_\_\_
- 1l Company Ratio 1: (1a + 1b) divided by 1k (limited to a minimum of .01) \_ \_ \_ . \_ \_
- 1m Industry Average Ratio 1 (calculated from Best's Aggregates & Averages, using adjusted policyholders' surplus as defined in 28 TAC 7.410(a)(7) (limited to maximum of 7.00) \_ \_ \_ . \_ \_

\*Company's liabilities and policyholders' surplus to be adjusted as provided in 28 TAC §7.410(d)(4)(A)(i)

**Ratio 2:**

- 2a Direct Written Premium P8 - Part 2B, C1, L 32 \_\_\_\_\_
- 2b Assumed Written Premium P8 - Part 2B, C2a + C2b, L32 \_\_\_\_\_
- 2c Reinsurance Ceded to Affiliates P8 - Part 2B, C3a, L32 \_\_\_\_\_
- 2d Adjusted Gross Written Premium: (2a + 2b - 2c) \_\_\_\_\_
- 2e Net Written Premium P8 - Part 2B, C4, L32 \_\_\_\_\_
- 2f Company Ratio 2: (2d divided by 2e) \_ \_ \_ . \_ \_
- 2g Industry Average Ratio 2 (calculated from Best's Aggregates & Averages) \_ \_ \_ . \_ \_

**Ratio 3:**

- 3a Class 3, 4, 5, & 6 Bonds P31, C7, L7.3 thru L7.6 \_\_\_\_\_
- 3b Preferred Stocks P2, C1, L2.1 \_\_\_\_\_
- 3c Common Stocks P2, C1, L2.2 \_\_\_\_\_
- 3d Mortgage Loans P2, C1, L3 \_\_\_\_\_
- 3e Real Estate P2, C1, L4.1 + L4.2 \_\_\_\_\_
- 3f Collateral Loans P2, C1, L5 \_\_\_\_\_
- 3g Other Invested Assets P2, C1, L7 + L8 \_\_\_\_\_
- 3h Total of (3a through 3g) \_\_\_\_\_
- 3i Policyholders' Surplus P3, C1, L26 \_\_\_\_\_
- 3j Company Ratio 3: (3h divided by 3i) -----
- 3k Industry Average for Ratio 3 (calculated from Best's Aggregates & Averages) -----

**Calculation 4 - Minimum Risk-Based Capital and Surplus Requirement:**

- 4a Maximum Allowable Company Ratio 1:
  - (i) Industry Average for Ratio 1 (1m of this form) multiplied by 2, limited to maximum of 14.00 -----
  - (ii) Plus: Industry Average for Ratio 2 (2g of this form) -----
  - (iii) Plus: Industry Average for Ratio 3 (3k of this form) -----
  - (iv) Less: Company Ratio 2 (2f of this form) -----
  - (v) Less: Company Ratio 3 (3j of this form) -----
  - (vi) Equals: Maximum Allowable Company Ratio 1 ((i) + (ii) + (iii) - (iv) - (v)) -----

**NOTE:** In some extreme cases the above calculation will produce a negative result for 4a(vi). If this occurs, the company's capital and surplus is not sufficient to meet risk-based capital and surplus requirements, and other manual calculations are required to determine the amount of the deficiency.

**4b Ratio of Adjusted Actual Capital and Surplus to Adjusted Minimum Risk-Based Capital and Surplus:**

(i) Max. Allow. Company Ratio 1 (4a(vi)) divided by Company Ratio 1 (11 of this form) \_\_\_\_ . \_\_\_\_

**NOTE:** In some extreme cases the calculation for Ratio 1 will produce a negative result. If this occurs, the company's capital and surplus is not sufficient to meet risk-based capital and surplus requirements, and other manual calculations are required to determine the amount of the deficiency.

**4c Adjusted Minimum Risk-Based Capital and Surplus:**

(i) Policyholders' Surplus, adjusted as provided in 28 TAC §7.410(d)(4)(A)(i) (1c of this form); \_\_\_\_\_

(ii) minus: affiliated stock investments as used to calculate Ratio 1 (1e or 1j of this form) \_\_\_\_\_

(iii) divided by: the ratio of Adjusted Actual Capital and Surplus to Adjusted Minimum Risk-Based Capital and Surplus (4b(i) of this form) \_\_\_\_ . \_\_\_\_

(iv) equals: Adjusted Minimum Risk-Based Capital and Surplus \_\_\_\_\_

**4d Minimum Risk-Based Capital and Surplus Requirement:**

Adjusted Minimum Risk-Based Capital and Surplus excluding  
Affiliated Stock Investments (4c(iv)) \_\_\_\_\_

Add: Affiliated Stock Investments (4c(ii) of this form) \_\_\_\_\_

Minimum Risk-Based Capital and Surplus Requirement \_\_\_\_\_



10-27

Name: Esther Feng  
Grade: 12  
School: Plano Senior High School, Plano ISD

(e) Form RBC/PC, to be utilized by the department in calculating risk-based capital and surplus requirements and described in subsection (d) of this section, contains the provisions set forth as follows:

(f) Calculation using form. After the end of each calendar year, or more frequently if the commissioner deems it necessary, the formulas contained in Form RBC/PC shall be used to calculate minimum policyholders' surplus based on the specified financial information as filed with the NAIC or as available through the examination or financial analysis process. Financial information required to complete calculations in Form RBC/PC shall include the same information for 1992 and subsequent years, regardless of changes in page, line, or column number of the association statement blanks adopted by the board or otherwise requested by the department.

(g) Actions of Commissioner. The commissioner may take the following actions against an insurer who fails to maintain, at a minimum, policyholders' surplus equivalent to the amount calculated in accordance with Form RBC/PC:

- (1) order the insurer to cease writing new business;
- (2) place the insurer in supervision or conservation;
- (3) determine the insurer to be in hazardous financial condition as provided by the Insurance Code, Article 1.32 and §8.3 of this title (relating to Hazardous Conditions);
- (4) determine the insurer to be impaired as provided by the Insurance Code, Article 1.10, §5; or

(5) apply any other sanctions provided by the Texas Insurance Code or 28 Texas Administrative Code.

(h) Effectiveness. For any insurer failing to have the minimum risk-based capital and surplus calculated in accordance with this section as of December 31, 1992, such insurer shall have until June 30, 1993 to demonstrate to the Commissioner's satisfaction that any such deficiency has been corrected, and the previous actions shall not be taken prior to June 30, 1993, unless the insurer is otherwise found to be in hazardous financial condition by the Commissioner.

(i) Limitations. In no event shall the requirements of this section reduce the amount of capital and surplus otherwise required by provisions of the Texas Insurance Code or the Texas Administrative Code, or by authority of the commissioner of insurance.

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

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

TRD-9216016

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

Effective date: December 31, 1992

Proposal publication date: July 28, 1992

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



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 48. Community Care for Aged and Disabled

##### Case Management

###### • 40 TAC §48.3906

The Texas Department of Human Services (DHS) adopts new §48.3906, concerning case management, without changes to the proposed text as published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7655).

The justification for the new section is to allow adult foster care clients to keep money for personal needs and medical expenses. In addition, clients must also be allowed to keep at least one-half of any cost-of-living adjustment received on or after January 1, 1993.

The new section will function by ensuring that adult foster care clients have sufficient funds for their monthly personal needs and medical expenses.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on December 2, 1992.

TRD-9216044

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

Effective date: January 1, 1993

Proposal publication date: October 30, 1992

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





# 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 at the Office of the Secretary of State in lobby of 221 East 11th Street, 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 Commission on Alcohol and Drug Abuse

**Tuesday, December 15, 1992, 8:30 a.m.** The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet at the Eighth Floor Conference Room, Perry Brooks Building, 720 Brazos Street, Suite 800, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of the September 15, 1992 minutes; act on final approval of counselor licensure rules; act on disadvantaged business enterprise/historically underutilized business plan; act on proposed treatment alternatives to incarceration program certification rules; appointment of advisory council members; act on advisory council bylaws revision; legislative required financial and performance reports: fiscal year 1992 year end financial report; report on first quarter operating budget expenditures; report on fiscal year 1992 year end key performance targets; update on criminal justice initiative; hear public comments; executive director's report; chairman's report; and adjourn.

**Contact:** David Tatum or Becky Davis, 720 Brazos Street, #403, Austin, Texas 78701, (512) 867-8700.

**Filed:** December 1, 1992, 1:54 p.m.

TRD-9216009

## Texas Antiquities Committee

**Friday, December 18, 1992, 9:30 a.m.** The Texas Antiquities Committee will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the committee will listen to the reorganization plan for permitting

responsibilities of Historic Structures; discuss approval of the minutes of previous meeting of September 18, 1992; discuss approval of adoption of amendments to Rules of Practice and Procedure, Chapter 41; designate State Archeological Landmarks (SAL) in Brazos, Dallas, Denton, El Paso, and Wharton Counties; nominate SALs in Galveston, Harris, Hudspeth, Somervell, and Travis Counties, listen to an activities summary for fiscal year 1992; hear report from the State Marine Archeologist; listen to public comments; hear staff reports; and break into executive session to hear an update on litigation regarding the Georgetown Railroad Produce Depot.

**Contact:** Kathleen McLaughlin-Neyland, P.O. Box 12276, Austin, Texas 78711, (512) 463-6096.

**Filed:** December 2, 1992, 9:22 a.m.

TRD-9216037

## State Bar of Texas

**Thursday-Friday, December 10-11, 1992, 10 a.m. and 8:30 a.m. respectively.** The Texas Commission for Lawyer Discipline of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado, Room 204, Austin. According to the agenda summary, the commission will call the meeting to order; introduce visitors; discuss adoption of the minutes; review statistical reports of pending cases; review commission's compliance with provisions of State Bar Act, Texas Rules of Disciplinary Procedure and orders of the Supreme Court of Texas; discuss general counsel's budget and organization; discuss selection of Chief Disciplinary Counsel; discuss Grievance Committees; discuss special counsel recruitment; review

commission's budget and duties; presentation by TYLA President; report on definition of "restoration of civil liberties" in reinstatement cases; discuss acceptance or rejection of litigation matters during closed executive session (pursuant to Article 6252-17(2)(e)); discuss acceptance or rejection of offers before evidentiary panels of grievance committees; discuss assignment of special counsel to cases; discuss personnel matters; authorize general counsel to make, accept, or reject offers of litigation matters; authorize general counsel to make, accept, or reject offers of grievance committees; consider assignment of special counsel; discuss future meeting dates; discuss other appropriate matters before commission; receive public comment; and adjourn.

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

**Filed:** December 2, 1992, 2:26 p.m.

TRD-9216077

## Texas Bond Review Board

**Tuesday, December 8, 1992, 1:30 p.m.** The Staff of the Texas Bond Review Board will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the emergency revised agenda summary, the staff will discuss Veterans Land Board amendment of application for Veterans Land Bonds, Series 1992. The emergency status was necessary to allow timely consideration of application for amendment that was timely filed by the Veterans Land Board.

**Contact:** Tom K. Pollard, 300 West 15th Street, Clements Building, Suite 409,

Austin, Texas 78701, (512) 463-1741.

Filed: December 1, 1992, 12:10 p.m.

TRD-9216006

**Thursday, December 10, 1992, 8 a.m.** The Texas Bond Review Board will meet at the Sam Houston Building, Room 710, 201 East 14th Street, Austin. According to the complete agenda, the board will call the meeting to order; announcement of executive session; interview selected applicants for position of Executive Director of Texas Bond Review Board; and adjourn.

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

Filed: December 1, 1992, 3:20 p.m.

TRD-9216020

### ◆ ◆ ◆ Interagency Council on Early Childhood Intervention

**Wednesday, December 16, 1992, 9 a.m.** The Interagency Council on Early Childhood Intervention will meet in Room T-607, Texas Department of Health, 1100 West 49th Street, Austin. According to the complete agenda, the council will receive public comments; discuss approval of the minutes of November 4, 1992, meeting; and discuss and possibly act on: advisory committee report including assignment of council members to attend advisory committee meetings; funding methodology for contract amendments; adoption of proposed rule changes to Title 22, Texas Administrative Code, §§621.22-621.24, 621.46, 621.62, and 621.63; posting of proposed amendments to Title 22 TAC, §§621.22, 621.23, 621.31, 621.41, 621.42, 621.44, and 621.46; negotiations with the United States Department of Education regarding the federal application; Texas Department of Mental Health and Mental Retardation's written recommendation on Fort Worth State School issue; implementation of the three year monitoring cycle; scheduling of council meetings for 1993; fiscal year 1993 technical assistance and training plan; and executive director update.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673. For ADA assistance, call Richard Butler, (512) 458-7488 or T.D. D., (512) 458-7708 at least two days prior to the meeting.

Filed: December 2, 1992, 3:23 p.m.

TRD-9216084

### ◆ ◆ ◆ Texas Education Agency

**Thursday-Friday, December 10-11, 1992,**

**1 p.m. and 8:30 a.m. respectively.** The Apprenticeship and Training Advisory Committee (ATAC) of the Texas Education Agency will meet at the Hobby Airport Hilton Hotel, 8181 Airport Boulevard, Houston. According to the agenda summary, on Thursday, the committee will welcome and introduce: greetings from the City of Houston Mayor's Office; hear comments from ATAC chairperson; discuss approval of minutes of September 10-11, 1992, meeting; hear presentation on "Apprenticeship at Houston Community College"; hear reports from the Bureau of Apprenticeship and Training; discuss overview of Tech-Prep from the Texas Education Agency; hear panel presentation on "History of Apprenticeship in Houston"; discuss update on Apprenticeship Program; update on Texas Education Agency Equipment Guidelines; Subcommittee meetings; and Tour of Apprenticeship Programs. On Friday, the committee will hear presentation on "Safety in the Workplace"; discuss overview of the Workforce Development Project of the Senate Committee on State Affairs; and hear reports from Subcommittees.

Contact: Toni M. Dean, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: December 1, 1992, 3:43 p.m.

TRD-9216024

**Thursday, December 10, 1992, 4 p.m.** The Apprenticeship and Training Advisory Committee-Joint Meeting of the Planning Subcommittee and the Finance and Budget Subcommittee of the Texas Education Agency will meet at the Hobby Airport Hilton Hotel, 8181 Airport Boulevard, Houston. According to the complete agenda, the subcommittees will discuss additions or inclusions to the State Plan for Apprenticeship Training.

Contact: Toni M. Dean, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: December 1, 1992, 3:43 p.m.

TRD-9216025

### ◆ ◆ ◆ Advisory Commission on State Emergency Commu- nications

**Wednesday, December 9, 1992, 10 a.m.** The Executive Committee of the Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 San Jacinto Boulevard, Austin. According to the agenda summary, the committee will call the meeting to order; discuss process for implementation of strategic plan and related five-year plan; update on executive development workshop scheduled for Feb-

ruary 2-3; discuss ACSEC Commission committees and roles; discuss legislative issues; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: December 1, 1992, 3:38 p.m.

TRD-9216023

**Wednesday, December 9, 1992, 1:30 p.m.** The Call Box Task Force of the Advisory Commission on State Emergency Communications will meet at the Omni Hotel, 700 San Jacinto Boulevard, Austin. According to the agenda summary, the task force will call the meeting to order; recognize guests; report and discuss analysis of technical applications and cost of call box programs; discuss and consider placement of call boxes related to highway traffic data; review and consider proposed sites for call box access; discuss and consider project time lines; statewide call box recommendations; and adjourn. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two work days prior to the meeting.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: December 1, 1992, 3:38 p.m.

TRD-9216022

### ◆ ◆ ◆ Texas State Board of Regis- tration for Professional Engineers

**Friday, December 11, 1992, 9 a.m.** The Texas State Board of Registration for Professional Engineers will meet at 1917 IH-35 South, Board Room, Austin. According to the agenda summary, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and other related business.

Contact: Charles E. Nemir, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: December 2, 1992, 1:56 p.m.

TRD-9216059

### ◆ ◆ ◆ Texas Ethics Commission

**Thursday, December 10, 1992, 9:30 a.m.** The Texas Ethics Commission will meet in Room 235, 1101 Camino La Costa, Austin.

According to the agenda summary, the commission will take roll call; comments and communications; discuss approval of minutes; will have briefing, discuss and possibly act on regarding studies mandated by Vernon's Texas Civil Statutes, Article 6252.9d.1, §§1.301, 1.302, and 1.303; advisory opinions; recommend statutory changes; response to requests to waive fines against late filers; proposed rule, Chapter 10, Practice and Procedure §§10.1-10.43; discuss and possibly act on AOR's 96, 101, 137, 113, 120, 122, 79, 83, 86, 87, 92, 94, 97, 106, 115, 117, 118, 125, 132, 73A, 73B, 59, 60, 61, 27, 33, 72, 98, 126, and 78. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Margie Castellanos at (512) 463-5800 or (800) 325-8506 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: December 2, 1992, 3:01 p.m.

TRD-9216080

## Office of the Governor

Friday, December 11, 1992, 11 a.m. The Committee on People with Disabilities of the Office of the Governor will meet at the Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will hold a discussion and possibly approval of the committee report on ADA compliance, the Long Range State Plan, and the Annual Report.

Contact: Virginia Roberts, 201 East 14th Street, Austin, Texas 78711, (512) 463-5739.

Filed: December 2, 1992, 3:54 p.m.

TRD-9216091

## Texas Department of Health

Thursday, December 10, 1992, 10 a.m. The Advisory Committee on Nursing Facility Affairs of the Texas Department of Health will meet at the Texas Department of Health, Room T-607, 1100 West 49th Street, Austin. According to the complete agenda, the committee will hear update by Commissioner of Health and Chief of Bureau of Long Term Care; hear voice information demonstration; discuss and possibly act on: proposed revisions to nursing facility licensure rules (review of Administrative Subcommittee recommendations and review

of additional public comments); standing subcommittee assignments; Requirement Coordination Subcommittee report including adoption of final federal rules and proposed technical amendments to combined standards; information on Texas Department of Human Services final remedies rules; Texas Dental Association resolutions on dental care in nursing facilities; and hear announcements and comments.

Contact: Janice Caldwell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7709. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Contact: December 2, 1992, 11:41 a.m.

TRD-9216051

Friday, December 11, 1992, 10 a.m. The Hospital Licensing Advisory Council of the Texas Department of Health will meet in Room S-400, the Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the council discuss approval of the minutes of previous meeting; elect officers; and discuss and possibly act on: final rules concerning special licensing standards governing the provision of mental health services in hospitals; final rules concerning the reference in the Hospital Licensing Standards to the National Fire Protection Association's 1991 edition of the Life Safety Code; request for waiver by a hospital under §4-2.2. Hospital Licensing Standards: rules concerning rehabilitation services in hospitals licensed by the department; reports of emergency medical conditions in rehabilitation hospitals; activities concerning the upcoming legislative session; and hear open discussion of subject matter for next council meeting.

Contact: Maurice Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6645. For ADA assistance, call Richard Butler at (512) 458-7488 or T.D.D., (512) 458-7708 at least two days prior to the meeting.

Contact: December 2, 1992, 3:23 p.m.

TRD-9216083

## Texas Department of Housing and Community Affairs

Monday, December 7, 1992, 1:30 p.m. The Board of Directors of the Texas Department of Housing and Community Affairs met at 811 Barton Springs Road, Suite 300, Austin. According to the emergency revised agenda summary, the board acted to adjust the income limits for the multifamily program under VI., report from program committee; and pursuant to Article

6252-17, §2(g), the board convened in executive session to discuss personnel matters (under XI. Executive Session); and no action was taken. The emergency status was necessary to increase the availability of decent, safe, and sanitary housing for low-income residents of Texas. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Susan J. Leigh, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3932.

Filed: December 3, 1992, 8:34 a.m.

TRD-9216097

## Texas Incentive and Productivity Commission

Tuesday, December 15, 1992, 9 a.m. The Texas Incentive and Productivity Commission will meet at One Capitol Square, 15th and Lavaca Street, Room 202, Austin. According to the complete agenda, the commission will hold a work session to discuss possible changes to Article 6252-29a. A quorum may or may not be present, and no votes will be taken.

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: December 3, 1992, 9:28 a.m.

TRD-9216112

Tuesday, December 15, 1992, 10:30 a.m. The Texas Incentive and Productivity Commission will meet at One Capitol Square, 15th and Lavaca Street, Room 202, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call; discuss approval of minutes of previous meeting; consider: employee suggestions; agency application for productivity bonus program bonuses; 1993 productivity plans; recommendations made from workshop concerning legislature changes; agency report to 73rd Legislature; report on administrative matters; and adjourn.

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 475-2393.

Filed: December 3, 1992, 9:28 a.m.

TRD-9216113

## Texas Department of Insurance

Thursday, December 3, 1992, 10 a.m. The

State Board of Insurance of the Texas Department of Insurance held an emergency meeting at the William P. Hobby Building, Room 100, 333 Guadalupe Street, Austin. According to the complete agenda, the board held a public hearing under Docket Number 1962 to consider a request for stay and appeal from Commissioner's Order Number 92-1134 dated November 24, 1992, filed on behalf of Reliance Title Company placing Reliance Title Company into a state of conservation. The emergency status was necessary due to an unforeseeable situation requiring immediate review by the board in accordance with Texas Civil Statutes, Article 6252-17, Section 3A, and Article 21.28, Section 7.

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

Filed: December 2, 1992, 3:33 p.m.

TRD-9216088

### Judicial Districts Board

Thursday, December 10, 1992, 10 a.m. (Revised agenda). The Judicial Districts Board will meet at the Texas Law Center, Rooms 206-207, 1414 Colorado Street, Austin. According to the revised agenda summary, the board will meet in executive session\* to consult with legal counsel with respect to pending litigation.

Contact: C. Raymond Judice, 1414 Colorado Street, Suite 602, Austin, Texas 78701, (512) 463-1625.

Filed: December 1, 1992, 4:23 p.m.

TRD-9216027

### Texas Board of Professional Land Surveying

Friday-Saturday, December 11-12, 1992, 9 a.m. The board of the Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will meet to discuss approval of the minutes of previous meeting; hear presentation of complaints; hear committee reports; discuss continuing education and surveyor intern requirements; discuss correspondence; discuss old business and discussion of standards from November correspondence; and consider new business. 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 Sandy Smith at (512) 452-9427 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: December 2, 1992, 9:20 a.m.

TRD-9216036

### Texas Board of Pardons and Paroles

Friday, December 11, 1992, 9 a.m. The Executive Committee of the Texas Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will discuss approval of the minutes of the December 11, 1992 meeting; selection criteria for inmates reviewed for parole; criteria for inmates released on parole; criteria for withdrawal of parole; victim information; special needs parole; mandatory supervision; F13, F14, and F15; criteria for nonreporting status, annual report, other options (times) and issuance of warrants; research application in parole; review of Article 42.18 for recommended changes; Comptroller's Sharp's report; board training; TDCJ-ID unit opening schedule; review of parole consultants and the handling of the material submitted with reference to fee affidavits.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5408.

Filed: December 1, 1992, 4:07 p.m.

TRD-9216026

### Texas Department of Protective and Regulatory Services

Friday-Saturday, December 11-12, 1992, 8 a.m. The Texas Board of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the board will consider minutes; excused absences; public testimony; current efforts and potential options for increasing PRS revenue through fines and fees; staff recommendations for policy or legislative amendments to streamline procedures or to narrow scope of responsibility within all PRS program areas in accordance with Fiscal Year 1994-1995 budget; maximizing PRS receipt of federal funds; PRS LAR revisions and action regarding the HHS consolidated budget. The board will meet in closed executive session to evaluate and consider the duties of personnel serving in exempt positions; the 30 administrative support functional categories, including salary group classifications; filling the position of executive director; PRS caseworker career ladder; and

recommendations for implementation of community partnerships in all program areas. The board will reconvene in open session to take action, if necessary, resulting from discussion in executive session. On Saturday, the board meeting will continue with regular agenda.

Contact: Sherry Wilkie, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030, (512) 450-4890.

Filed: December 2, 1992, 3:01 p.m.

TRD-9216079

### Texas Department of Public Safety

Monday, December 14, 1992, noon. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters, Commission Room, 5805 North Lamar Boulevard, Austin. According to the complete agenda, the commission will discuss approval of minutes; discuss budget matters; internal audit report; approval of revision to vehicle inspection rules pertaining to light transmission, *Texas Register* rules, 37 TAC §23.7 and §23.42; discuss personnel matters; pending and contemplated litigation; real estate matters; miscellaneous and other unfinished business.

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: December 3, 1992, 8:06 a.m.

TRD-9216096

### Public Utility Commission of Texas

Wednesday, December 9, 1992, 9 a.m. The Public Utility Commission of Texas will meet at the UT Balcones Research Center, 10100 Burnet Road, Commons Building, Room 1.122, Austin. According to the complete agenda, the commission will hold a workshop on distance learning and telecommunications infrastructure.

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

Filed: December 1, 1992, 3:07 p.m.

TRD-9216015

Monday, December 14, 1992, 10 a.m. (Rescheduled from Monday, December 7, 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 11109-request

of Southwestern Bell Telephone Company to obsolete and grandfather Centrex Services and joint application of the parties to determine if the restrictions, terms, and conditions associated with the sharing of Centrex and Plexar Services are unreasonable as a matter of regulatory policy or in violation of any law.

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

Filed: December 2, 1992, 3:40 p.m.

TRD-9216090

Wednesday, December 16, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the commission will hold a public hearing in Project Number 11205 to discuss the commission's draft biennial report to the Legislature on the scope and impact of competition in regulated telecommunications markets, as required by Section 18(k) and (p) of the Public Utility Regulatory Act, Texas Revised Civil Statutes, Article 1446c (Vernon Supplement 1992).

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

Filed: December 3, 1992, 8:40 a.m.

TRD-9216099

Thursday, February 11, 1993, 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 11571-application of Fayette Electric Cooperative, Inc. for authority to change rates.

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

Filed: December 2, 1992, 3:39 p.m.

TRD-9216089

### Texas Savings and Loan Department

Monday, December 14, 1992, 10 a.m. The Texas Savings and Loan Department will meet at 300 West 15th Street, Room 408 (State Office of Administrative Hearings), Austin. According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of Mercantile Banc and Trust, A Savings Association, Dallas, Dallas County, Texas, to relocate the home office from 5757 Alpha Road, Suite 100, Dallas, Texas, to 6116 North Central Expressway, Dallas, Texas, from which record

the commissioner will determine whether to grant or deny the application.

Contact: Shirley T. Burton, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1350.

Filed: December 2, 1992, 1:07 p.m.

TRD-9216053

Monday, December 14, 1992, 10:30 a.m. The Texas Savings and Loan Department will meet at 300 West 15th Street, Room 408 (State Office of Administrative Hearings), Austin. According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of Mercantile Banc and Trust, A Savings Association, Dallas, Dallas County, Texas, for a branch office at 5757 Alpha Road, Suite 100, Dallas, Texas, from which record the commissioner will determine whether to grant or deny the application.

Contact: Shirley T. Burton, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1350.

Filed: December 2, 1992, 1:07 p.m.

TRD-9216055

Wednesday, December 16, 1992, 1 p.m. The Texas Savings and Loan Department will meet at 300 West 15th Street, Room 408 (State Office of Administrative Hearings), Austin. According to the agenda summary, the purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of Beal Savings Banc, A Savings Association, Carrollton, Dallas County, Texas, to change its name to Beal Banc, Savings Association, from which record the commissioner will determine whether to grant or deny the application.

Contact: Shirley T. Burton, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1350.

Filed: December 2, 1992, 1:07 p.m.

TRD-9216054

### State Securities Board

Friday, December 18, 1992, 9 a.m. (Rescheduled from November 17, 1992, 9 a.m.). The Enforcement Division of the State Securities Board will meet at the State Office for Administrative Hearings, 300 West 15th Street, Fourth Floor, Room 408, Austin. According to the agenda summary, the division will hold a hearing to determine whether the registration of Dinah Parker Fonseca as a securities agent should be revoked.

Contact: John Morgan, 221 West Sixth Street, Austin, Texas 78701, (512)

474-2233.

Filed: December 1, 1992, 12:50 p.m.

TRD-9216008

### Interagency Council on Sex Offender Treatment

Friday, December 11, 1992, 11 a.m. (Revised agenda). The Board of the Interagency Council on Sex Offender Treatment will meet at the Texas Juvenile Probation Commission, 2015 South IH-35, Austin. According to the complete revised agenda, the board will meet in closed session with Assistant Attorney General to seek legal advice pursuant to Texas Revised Civil Statutes Annotated, Article 6252-17, §2(e).

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711-2546, (512) 454-1314.

Filed: December 3, 1992, 9:23 a.m.

TRD-9216108

### Texas Guaranteed Student Loan Corporation

Thursday, December 10, 1992, 8:30 a.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at the University of Texas at El Paso, U.T. El Paso Union Templeton West, El Paso. According to the complete agenda, the board will discuss approval of minutes; legislative agenda; corporate update; reauthorization update; future meeting dates; meet in executive session: litigation update; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78753, (512) 835-1900.

Filed: December 2, 1992, 3:23 p.m.

TRD-9216087

Thursday, December 10, 1992, 10:30 a.m. The Policy and Planning Committee of the Texas Guaranteed Student Loan Corporation will meet at the University of Texas at El Paso, U.T. El Paso Union Templeton West, El Paso. According to the complete agenda, the committee will discuss approval of minutes; long range plan; management audit policy changes, if necessary; and security policy.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78753, (512) 835-1900.

Filed: December 2, 1992, 3:23 p.m.

TRD-9216086

### Sunset Advisory Commission

**Thursday-Friday, December 10-11, 1992, 9 a.m.** The Sunset Advisory Commission will meet at the House Chamber, State Capitol Building, Austin. According to the complete agenda, on Thursday, the commission will call the meeting to order; discuss approval of the minutes; and will make decision on General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas. On Friday, the commission will continue decisions on General Services Commission, Employees Retirement System of Texas, and Teacher Retirement System of Texas; discuss other business; and next meeting date (proposed January 13 and 14, 1993).

Contact: Susan Kinney, 1400 Congress Avenue, Capitol Extension, Suite B2.002, Austin, Texas 78701, (512) 463-1300.

Filed: December 2, 1992, 1:18 p.m.

TRD-9216056

### Teacher Retirement System of Texas

**Thursday, December 10, 1992, 9 a.m.** The Investment Advisory Committee of the Teacher Retirement System of Texas will meet at 1000 Red River, Fifth Floor Board Room, Austin. According to the agenda summary, the committee will discuss approval of the minutes of the September 10, 1992, meeting; review International Fixed Income Portfolio; Investment Outlook and Market Conditions; consider recommended Allocation of Cash Flow for current quarter; review investments; consider changes to approved common stock lists; review portfolio performance; and report Real Estate Finance Committee. (A quorum of the Board of Trustees may attend and enter into discussions, but no official board action will take place.)

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: December 2, 1992, 4:19 p.m.

TRD-9216092

### The Texas A&M University System, Board of Regents

**Monday, December 7-11, 14-18, 21-23, 28-30, 1992, 8:30 a.m.** The Pricing Committee of the Board of Regents of The Texas A&M University System will hold telephonic meetings at the Board of Regents Meeting Room, College Station. According to the agenda summary, the committee will consider and act upon any lawful subject which may come before it, including, among others to consider a "Resolution Authorizing the Issuance, Sale and Delivery of Board of Regents of The Texas A&M Uni-

versity System Revenue Financing System Refunding Bonds, Series 1992, in the maximum aggregate principal amount of \$48,000,000, and approving and authorizing instruments and procedures relating thereto"; and authorizing purchase contracts and other actions necessary in connection with the sale and delivery of the bonds. The meeting or meetings will be held at such time on one or more of such days upon finalization of the terms of sale of the bonds by the underwriters. Financial market conditions make it impossible to know the exact date the board may be sold on the most advantageous terms to the system.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: December 1, 1992, 10:18 a.m.

TRD-9216005

### Texas Woman's University, Board of Regents

**Wednesday, December 9, 1992, 9 a.m.** The Finance Committee of the Board of Regents of Texas Woman's University will meet at the Administration and Conference Tower, 14th Floor, Denton Campus, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of September 11, 1992; consider recommending: approval of personnel additions and changes; acceptance of gifts and grants; approval of contracts and agreements; acceptance of federal funds; approval of renewal and extension of insurance; approval of Certificates of Substantial Completion of the CFO Classroom Renovation Project (Architect's Project Number 92/111) and the Thermal and Moisture Repairs Project at the Mary Evelyn Blagg Huey Library; and report of the committee chair.

Contact: Dr. Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 2, 1992, 1:58 p.m.

TRD-9216060

**Wednesday, December 9, 1992, 9:45 a.m.** The Student Affairs Committee of the Board of Regents of Texas Woman's University will meet at the Administration and Conference Tower, 14th Floor, Denton Campus, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of September 11, 1992; reports on Student Center renovation update; the Student Center brochure; Campus Access guide; the AAUW award to family housing; the Marriott food service; other pertinent student affairs issues; report on pro bono clinic; and report of the committee chair.

Contact: Dr. Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 2, 1992, 1:58 p.m.

TRD-9216061

**Wednesday, December 9, 1992, 10:15 a.m.** The Academic Affairs Committee of the Board of Regents of Texas Woman's University will meet at the Administration and Conference Tower, 14th Floor, Denton Campus, Denton. According to the complete agenda, the committee will consider approval of the minutes of the September 11, 1992 meeting; consider recommending approval of: the Faculty Search Procedures Policy; the Summer School Employment Policy; the Faculty Development Policy; the Small Class Report; report of SACS visit; and report of the committee chair.

Contact: Dr. Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 2, 1992, 1:58 p.m.

TRD-9216062

**Wednesday, December 9, 1992, 10:45 a.m.** The Committee on Institutional Advancement of the Board of Regents of Texas Woman's University will meet at the Administration and Conference Tower, 14th Floor, Denton Campus, Denton. According to the complete agenda, the committee will consider approval of the minutes of the meeting of September 11, 1992; report on alumnae relations, development, and public information activities of the Office of Institutional Advancement; and report of the committee chair.

Contact: Dr. Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.

Filed: December 2, 1992, 1:59 p.m.

TRD-9216063

**Wednesday, December 9, 1992, 1:30 p.m.** The Board of Regents of Texas Woman's University will meet at the Administration and Conference Tower, 14th Floor, Denton Campus, Denton. According to the agenda summary, the board will meet in executive session to discuss legal, personnel, and real estate matters; consider approval of minutes of meeting of September 11, 1992; personnel additions and changes, gifts and grants, contracts and agreements, federal funds, renewal and extension of insurance; certificates of substantial completion; faculty search procedures policy; summer school employment policy; faculty development policy; small class report; reports of the committee chairs; and report from the president.

Contact: Dr. Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3201.



Filed: December 2, 1992, 1:59 p.m.

TRD-9216064

### Texas Turnpike Authority

**Thursday, December 10, 1992, 10 a.m.** The Board of Directors of the Texas Turnpike Authority will meet at the Dallas Marriott Quorum, 14901 Dallas Parkway, Dallas. According to the agenda summary, the board will consider approval of minutes of prior board and committee meetings; discuss Dallas North Tollway Extension Phase III; meet in executive session to discuss transfer of TTA operating projects to Harris and Dallas Counties; feasibility study of turnpike in Mexico; final approval of 1993 operating budgets; salary and wage increase; with respect to the Dallas North Tollway project, acquisition of right-of-way, transfer of capital from Tollway Capital Improvement Fund; contract for acquisition of AVI system; agreement acquisition of fiber optic communication network; purchase of a new multi-purpose mainframe computer, and construction progress report on Phase II; and reports from committee chairman and other board members and executive director's report.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: December 2, 1992, 4:36 p.m.

TRD-9216095

### University of Houston

**Wednesday, December 9, 1992, 3 p.m. (Revised agenda).** The Committees of the Board of Regents of the University of Houston will meet at Conference Room One, 1600 Smith, 34th Floor, University of Houston System Offices, Houston. According to the complete revised agenda, the committees will discuss and/or act upon the following: meet in executive session to discuss informational reports from employees; refinancing of installment purchase agreement for telecommunications projects at the University of Houston, UH-Clear Lake and UH-Downtown; facilities planning and building committee will discuss design of the proposed athletic/alumni facility and revised music building project program guide; finance and audit committee will review summary of the fiscal year 1992 financial report; and schedule for issuing of the Consolidated Revenue Bonds, Series 1993.

Contact: Peggy Cervenka, 1600 Smith, 34th Floor, Houston, Texas 77002, (713) 754-7442.

Filed: December 2, 1992, 2 p.m.

TRD-9216065

### University of Texas System, M.D. Anderson Cancer Center

**Tuesday, July 21, 1992, 9 a.m.** The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center met at 1515 Holcombe Boulevard, M.D. Anderson Cancer Center, Conference Room AW7.707, Seventh Floor, Houston. According to the agenda summary, the committee reviewed protocols of animal care and use and modifications thereof.

Contact: Anthony Mastromarino, 1515 Holcombe Boulevard, Houston, Texas 77030, (713) 792-3991.

Filed: July 16, 1992, 3:10 p.m.

TRD-9209797

### Texas Water Commission

**Wednesday, December 9, 1992, 9 a.m. (Revised agenda).** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the revised agenda summary, the commission will consider an application by Hudspeth County Conservation and Reclamation District Number One for an extension of time of approval of the \$2,250,000 bond issue approved August 19, 1991.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: December 1, 1992, 10:10 a.m.

TRD-9216004

**Friday, December 11, 1992, 9 a.m.** The Water Utilities-Irrigators Advisory Council of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 618, Austin. According to the agenda summary, the commission will report on appointments to council; review and discuss future programs; consider approval of the minutes; discuss possible new city ordinances in Dallas; discuss council's permanent rules; discuss Senate Bill 2, Chapter 34; recess into executive session; and report on items of interest.

Contact: Joyce Watson, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990.

Filed: December 2, 1992, 3:18 p.m.

TRD-9216082

### Regional Meetings

Meetings Filed December 1,

1992

The Central Appraisal District of Taylor County Board of Directors will meet at 1534 South Treadaway, Abilene, December 9, 1992, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9216019.

The Middle Rio Grande Development Foundation, Inc. Board of Directors will meet at the Holiday Inn, Sage Room, 920 East Main, Uvalde, December 8, 1992, at 5:30 p.m. Information may be obtained from Michael Patterson, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9216007.

The Tyler County Appraisal District Board of Directors will meet at 806 West Bluff, Woodville, December 8, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9216010.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, December 15, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9216011.

### Meetings Filed December 2, 1992

The Alamo Area Council of Governments Management Committee met at 118 Broadway, Suite 420, San Antonio, December 7, 1992, at 10 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9216043.

The Alamo Area Council of Governments Board of Directors will meet at the San Antonio Marriott Rivercenter, 101 Bowie Street, San Antonio, December 8, 1992, at 4 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9216058.

The Angelina and Neches River Authority Pineywoods Solid Waste Agency Board of Directors met at the Jasper Municipal Building (City Hall), Council Chambers, 274 East Lamar Street, Jasper, December 7, 1992, at 10 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795 or Fax: (409) 632-2564. TRD-9216038.

The Aqua Water Supply Corporation met at 305 Eskew, Aqua Office, Bastrop, December 7, 1992, at 7:30 p.m. Information may be obtained from Adlinie Rathman,

P.O. Box P, Bastrop, Texas 78602, (512) 321-3943. TRD-9216042.

**The Austin Transportation Study Policy Advisory Committee** will meet at the Joe C. Thompson Conference Center, Room 2.102, 26th and Red River, Austin, December 8, 1992, at 6 p.m. Information may be obtained from Michael Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9216078.

**The Bi-County Water Supply Corporation** will meet at the Bi-County WSC Office, FM Road 2254, Pittsburg, December 8, 1992, at 7 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9216039.

**The Brazos Valley Development Council Personnel Committee** will meet at the Executive Director's Office, 3006 East 29th Street, Suite 7, Bryan, December 9, 1992, at noon. Information may be obtained from Glenn J. Cook, P. O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9216071.

**The Brazos Valley Development Council Board of Directors** will meet at the Council Offices, 3006 East 29th Street, Suite 2, Bryan, December 9, 1992, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 776-2277. TRD-9216070.

**The Central Texas Mental Health and Mental Retardation Center Board of Trustees** will meet at 408 Mulberry Drive, Brownwood, December 7, 1992, at 5 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102. TRD-9216034.

**The Coryell County Appraisal District Board of Directors** will meet at the CCAD Office, 113 North Seventh Street, Gatesville, December 10, 1992, at 5:30 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9216072.

**The Education Service Center, Region Two Board of Directors** will meet at 209 North Water Street, Board Room, Corpus Christi, December 8, 1992, at 6:30 p.m. Information may be obtained from Dr. Ernest Zamora, 209 North Water Street,

Corpus Christi, Texas 78401, (512) 883-9288. TRD-9216052.

**The Education Service Center, Region VI Board of Directors** will meet at the Education Service Center, Region VI, Huntsville, December 10, 1992, at 5 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340 TRD-9216069.

**The Gillespie Central Appraisal District Board of Directors** will meet at the Gillespie County Courthouse Basement Room B-104C, Fredericksburg, December 10, 1992, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9216073.

**The Golden Crescent Service Delivery Area Executive Committee Private Industry Council, Inc.** held an emergency revised agenda at 2401 Houston Highway, Victoria, December 3, 1992, at 6 p.m. The emergency status was necessary due to all executive members could not attend at the earlier time. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9216093.

**The Gulf Bend MHMR Center Board of Trustees** will meet at the Gulf Bend Center, 1404 Village Drive, Victoria, December 10, 1992, at noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9216085.

**The Region 14 Education Service Center Board of Directors** will meet at the Region 14 ESC, 1850 Highway 351, Abilene, December 17, 1992, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8600. TRD-9216066.

**The South Franklin Water Supply Corporation Board of Directors** will meet at the SFWSC Office, Highway 115 South of Mount Vernon, December 8, 1992, at 7 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9216041.

**The Texas Association of Regional Councils Board of Directors** will meet at the Ballroom, Omni Hotel, Austin, December 11, 1992, at 10:30 a.m. Information may be

obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD-9216094.

**The Texas Panhandle Mental Health Authority Board of Trustees** will meet at 7120 I-40 West, Suite 150, Amarillo, December 10, 1992, at 10:30 a.m. Information may be obtained from Mellisa Talley, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-3699. TRD-9216057.

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**Meetings Filed December 3, 1992**

**The Brown County Appraisal District Board of Directors** met at 403 Fisk Avenue, Brownwood, December 7, 1992, at 7 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9216101.

**The Erath County Appraisal District Board of Directors** will meet in the Board Room, 1390 Harbin Drive, Stephenville, December 10, 1992, at 7 a. m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9216103.

**The South Plains Association of Governments Executive Committee** will meet at 1323 58th Street, Lubbock, December 8, 1992, at 9 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9216105.

**The South Plains Association of Governments Board of Directors** will meet at 1323 58th Street, Lubbock, December 8, 1992, at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9216106.

**The Swisher County Appraisal District Appraisal Review Board** will meet at 130 North Armstrong, Tulia, December 10, 1992, at 9 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118. TRD-9216104.

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# 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.

## State Banking Board

### Notice of Hearing Cancellation

As no opposition has been noted in the application for the First National Bank of Azle, Azle, Texas, to convert to a state charter under the name of First Bank of Azle, the hearing previously scheduled for Monday, December 7, 1992, has been cancelled.

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

TRD-9216012 William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: December 1, 1992

## Texas Bond Review Board

### Bi-Weekly Report on the 1992 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of November 14, 1992-November 27, 1992.

On September 1, 1992, any amounts of state ceiling which remained in any subceiling were combined into one ceiling. The applications which had not received a reservation prior to that date were placed on one list in an order determined by a lot number, and for those applications without a lot number, by date of receipt of the application.

Total amount of the \$867,450,000 state ceiling remaining unreserved as of November 27, 1992: \$0.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from November 14, 1992-November 27, 1992: Brazos River Authority, Texas Utilities Electric Company, \$4,000,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from November 14, 1992-November 27, 1992: Orange County Port and Navigation District IDC, Horsehead Resource, \$7,100,000.

Following is a comprehensive listing of applications which were either withdrawn or cancelled pursuant to the Act from November 14, 1992-November 27, 1992: None.

Following is a comprehensive listing of application which released a portion or their reserved amount pursuant to the Act from November 14, 1992-November 27, 1992: Gulf Coast Waste Disposal Authority, Champion International, \$4,000,000.

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

TRD-9215999 Tom K. Pollard  
Executive Director  
Texas Bond Review Board

Filed: December 1, 1992

## Texas Department of Health Correction of Error

The Texas Department of Health submitted a Notice of Availability of Funds for Fiscal Year 1993 to Support HIV Early Intervention Project. The notice was published in the November 13, 1992, *Texas Register* (17 TexReg 8067).

Due to an error in the department's submission, the time period for available funds was incorrect. In the paragraph titled "Available Funds" the first sentence should read as follows: "The department will allocate \$500,000 in state funds for the purposes of these grants for the period beginning March 1, 1993, through August 31, 1993."

## Texas Department of Protective and Regulatory Services Request for Proposal

The Texas Department of Protective and Regulatory Services is inviting offers for request for proposals (RFP) to conduct an annual training conference, entitled "Texas Families Today and Tomorrow," for social work professionals and foster and adoptive parents.

**Description:** The purpose of the conference is to provide strategies necessary for preventing maltreatment of children and for addressing the needs of children who have been abused and/or neglected. The conference will be held during the Summer of 1993.

**Eligible Applicants:** Eligible offerors include government entities, private non-profit and profit agencies, and individuals, particularly offerors who have multiple sources of funding and are educational institutions offering social work curriculum. Historically underutilized businesses are encouraged to submit proposals.

**Limitations:** Funding of the selected proposal will be dependent upon available federal and/or state appropriations. The department reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the department.

**Term and Total Value:** The effective dates of any contract awarded under this RFP will be March 1, 1993, through August 31, 1993. A maximum amount of \$25,000 is available to fund the conference.

**Offerors' Conference:** An offerors' conference is scheduled to be held on December 18, 1992. All respondents to this RFP will be notified of the offerors' conference location and time.

**Deadlines:** All proposals to be considered for funding through this RFP must be received by 4 p.m., January 15, 1993. Proposals received after this deadline will be accepted only if postmarked no later than January 14, 1993. Modifications to the original proposal must also be received prior to the closing date of January 15, 1993.

**Evaluation and Selection:** A panel of program and administrative staff from the department will rank and score the proposals. The evaluation method and criteria will be specified in advance. Considerations are service description, previous relevant experience, and budget information.

**Contact Person:** To obtain a complete copy of the RFP, please contact Deborah Williams, Contract Manager, Protective Services for Families and Children, Texas Department of Protective and Regulatory Services (MC W-413), P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3367.

Issued in Austin, Texas, on December 2, 1992.

TRD-9216003 Nancy Murphy  
Agency Liaison, Policy and Document  
Support  
Texas Department of Protective and  
Regulatory Services

Filed: December 2, 1992

## Texas Low-Level Radioactive Waste Disposal Authority

### Request for Proposals to Lease

The Texas Low-Level Radioactive Waste Disposal Authority requests written proposals for leasing and managing 23 sections (14,700 acres more or less) five miles east-southeast of Sierra Blanca in Hudspeth County, Texas. The lease includes both grazing and recreational surface use rights for a period of five years, beginning March 1, 1993, with an option to renew. The property known locally as the Faskin Ranch, is located in PSL survey blocks 60 1/2 and 69 1/2. Access to the ranch is through the headquarters entrance on the south side of IH-10.

Proposers should, at a minimum, address the following points: grazing use: class of animals, number of animals, drought plans, grazing system; hunting use; other recreational uses if any; and price bid for the lease.

Proposals will be evaluated by the Authority's technical staff. Negotiation with the top proposer(s) will be used to consummate the final terms of the lease agreement for approval by the Authority's board of directors at the February 1993 quarterly meeting.

Additional information about the property can be obtained at the Authority's Sierra Blanca field office, including viewing of topographic sheets and aerial photographs. The field office is located at 203 FM 1111 South, Sierra Blanca, Texas 79851. To arrange for inspection of the property, contact Jackie Hillin, field office supervisor, at (915) 369-3391. Further information concerning this invitation for proposals can be obtained from William J. Bowmer at the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, or calling (512) 451-5292.

This request for proposals will close on January 5, 1993, at 5 p.m. C.S.T.

The Authority reserves the right to reject any and all proposals and will, during the negotiation process, estab-

lish with the lessee the maximum stocking limits and other conditions. The Authority will give preference, if reasonable and practicable, to proposals from persons who reside within or adjacent to the area of Hudspeth County designated as the Authority's disposal site area by the Health and Safety Code, §402.0921.

Proposals should be sent by mail, or delivered in person and addressed to William J. Bowmer, Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals should be received at the address not later than 5 p.m. C.S.T., January 5, 1993. The proposal should be typed, preferably double spaced, and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

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

TRD-9216003 Lee H. Mathews  
Deputy General Manager and General  
Counsel  
Texas Low-Level Radioactive Waste  
Disposal Authority

Filed: December 1, 1992

## Texas Water Commission

### Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of November 16, 1992-November 25, 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.

Amerada Hess Corporation; a petroleum products storage terminal; the plant site is at 15001 Moore Road in the Community of Channelview in Harris County; renewal; 02578.

Austin Rehabilitation Center, Inc.; the wastewater treatment facility will serve a rehabilitation center; the wastewater treatment facility, effluent storage pond and irrigation site are approximately 3.3 miles east of the intersection of Interstate Highway 35 and FM Road 1327,

and approximately 1.4 miles south of the intersection of FM Road 1327 and Wright Road in Travis County; new; 13635-01.

BCD Services, Inc.; the Steam Boat Springs Subdivision Wastewater Treatment Plant; the plant site is approximately 1,500 feet south of U.S. Highway 90, on the eastern bank of Cedar Bayou in Liberty County; renewal; 12344-01.

City of Center; the Mill Creek Surface Water Plant; the plant site is north of Lake Center, approximately three miles south-southeast of the intersection of U.S. Highway 96 and State Highway Spur 500 in Shelby County; renewal; 10063-04.

Central Power and Light Company; a steam electric station; the plant site is at 4301 Waldron Road; the plant site is bounded on the east by Laguna Madre and on the west by Oso Creek and on the south by the southern city limits of the City of Corpus Christi in Nueces County; renewal; 01490.

City of Fulshear; the wastewater treatment facilities; are on a tract of land bounded by FM Road 1093 and Santa Fe Pacific Railroad, approximately 1,000 feet west southwest of the intersection of FM Road 1093 and FM Road 359, in the City of Fulshear in Fort Bend County; renewal; 13314-01.

City of Ganado; the Ganado Wastewater Treatment Facilities; are approximately 800 feet southwest of the Ganado City limits and approximately 1,900 feet west of the intersection of Baker Street and State Highway 172 at the end of Baker Street in Jackson County; renewal; 10010-01.

HCH Utility Company, Inc.; the Happy Country Homes Wastewater Treatment Facilities; the plant site is approximately 400 feet south of the Rockwall Lake Dam and approximately 400 feet northwest of the point where FM Road 3097 crosses Buffalo Creek in Rockwall County; renewal; 11974-01.

Harris County Water Control and Improvements District Number 133; the wastewater treatment facilities are at 7415 Smiling Wood Lane and the intersection of Bauerlein Drive in Harris County; renewal; 11153-01.

Houston Lighting and Power Company, W.A. Parish Steam Electric Station; the plant site is south of and adjacent to Smithers Lake and Dry Creek, southwest of the Town of Thompsons, Fort Bend County; renewal; 01038.

City of Midlothian; the wastewater treatment facilities; are 1.5 miles northwest of the City of Midlothian on a county road which is an extension of the northern end of Overlook Drive in Ellis County; renewal; 10348-01.

Stan Trans, Inc.; the Central Tank Farm of the Stan Trans bulk liquid petroleum storage facility; the plant site is west of the south slip of the Texas City Harbor in the City of Texas City in Galveston County; renewal; 02564.

Southern Pacific Transportation Company; its Englewood Yard; the plant site is between the 6000-8000 blocks of Liberty Road and Wallisville Road in the City of Houston in Harris County; renewal; 01180.

Tapia Brothers, Inc.; a dairy; the dairy is on the north side of FM Road 1692, approximately six miles southwest of

the intersection of FM Road 1692 and FM Road 1929 in Tom Green County; new; 03486.

Trendmaker, Inc.; the Ten Plaza West Wastewater Treatment Facilities; are approximately 400 feet south of Interstate Highway 10 (Katy Freeway) at a point 1.1 miles west of State Highway 6 and 1.3 miles east of Barker-Cypress Road in Harris County; renewal; 12406-01.

United States Department of the Air Force; Reese Air Force Base; the plant site is on FM Road 2255 west of and adjacent to the City of Lubbock, Lubbock County; renewal; 02768.

Vaquero Cattle Feeders, Inc.; a cattle feedlot; the feedlot is on the north side of FM Road 539, approximately five miles southwest of the intersection of FM Road 539 and U.S. Highway 87 in Wilson County; new; 03498.

Quantum Tech, Inc.; the research, development and demonstration facility; is located on a 2.00 acre tract of land at the intersection of Moers Road and Scranton Street in the City of Houston, Harris County; renewal; HW50259-001.

Issued in Austin, Texas, on November 25, 1992.

TRD-9215956 Gloria A. Vasquez  
Chief Clerk  
Texas Water Commission

Filed: November 30, 1992

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**Notices of Receipt on Applications for  
Municipal Solid Waste Permits**

Following are Notices of Receipt of Applications and Declaration of Administrative Completeness for municipal solid waste permits issued during the period of November 23-27, 1992.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Water Commission. Persons should be advised that these applications are subject to change based on such evaluation.

These notices are issued pursuant to the Texas Health and Safety Code, §361.0665. Any person who may be affected by the facility is entitled to request a hearing from the commission. The commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Waste Management of Texas, Inc.; Type V transfer station/resource recovery/recycling facility; located 30 feet southwest of the intersection of Lookout Ridge Boulevard and Edwards Drive, within the city limits of Harker Heights, Bell County; new; MSW2213.

Issued in Austin, Texas, on November 25, 1992.

TRD-9215955 Gloria A. Vasquez  
Chief Clerk  
Texas Water Commission

Filed: November 30, 1992  
◆ ◆ ◆



Name: Emily Wood  
Grade: 4  
School: Blanton Elementary, Arlington ISD

## TAC Titles Affected

The following is a list of the administrative rules that were published in the January-November, 1992, issues.

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Listed below are the deadline dates for the September-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register*, are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

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67 Friday, September 4	Monday, August 31	Tuesday, September 1
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69 *Friday, September 11	Friday, September 4	Tuesday, September 8
70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
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