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Texas Register

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POSTMASTER: Please send Form 3579 changes to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824.

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

Governor-Appointments, executive orders, and proclamations

Attorney General-summaries of requests for opinions, opinions, and open records decisions

Emergency Sections-sections adopted by state agencies on an emergency basis

Proposed Sections-sections proposed for adoption

Withdrawn Sections-sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections-sections adopted following a 30-day public comment period

Open Meetings-notices of open meetings

In Addition-miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In Order that readers may cite material more easily page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3"

How to Research: The public is invited to research rules and information; of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using Texas Register indexes, the *Texas Administrative Code,* sections number, or TRD number.

Texas Administrative Code

The *Texas Administrative* Code (TAC) is the approved, collected volumes of Texas administrative rules.

How to Cite: Under the TAC scheme, each agency section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative* Code;

TAC stands for the Texas *Administrative Code;*

§27.15 is the section number of rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

Texas Register Publications

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The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

Appointments Made June 28, 1990

To be a member of the **East Texas State University Board of Regents** for a term to expire February 15, 1995: John R. Armstrong, 7510 South Shore Lane, Bonham, Texas 75418. Mr. Armstrong is replacing Herman Furlough, Jr. of Terrell whose term expired.

To be a member of the **Water Development Board** for a term to expire December 31, 1995: William B. Madden, 4520 Belfort, Dallas, Texas 75205. Mr. Madden will be replacing Glen Roney of McAllen whose term expired.

Appointments Made June 29, 1990

To be a member of the **Agricultural Resources Protection Authority** for a term to expire February 1, 1991: W. Thomas Beard, III, P.O. Box 668, Alpine, Texas 79831. Mr. Beard will be filling the unexpired term of Othal Brand of McAllen whose name was withdrawn.

To be a member of the **Texas Alcoholic Beverage Commission** for a term to expire November 15, 1995: James R. Huffines, 2205 Scenic Drive, Austin, Texas 78703. Mr. Huffines will be replacing Morris Atlas of McAllen whose term expired.

Issued in Austin, Texas, on July 5, 1990.

TRD-9006769 William P. Clements, Jr.
Governor of Texas

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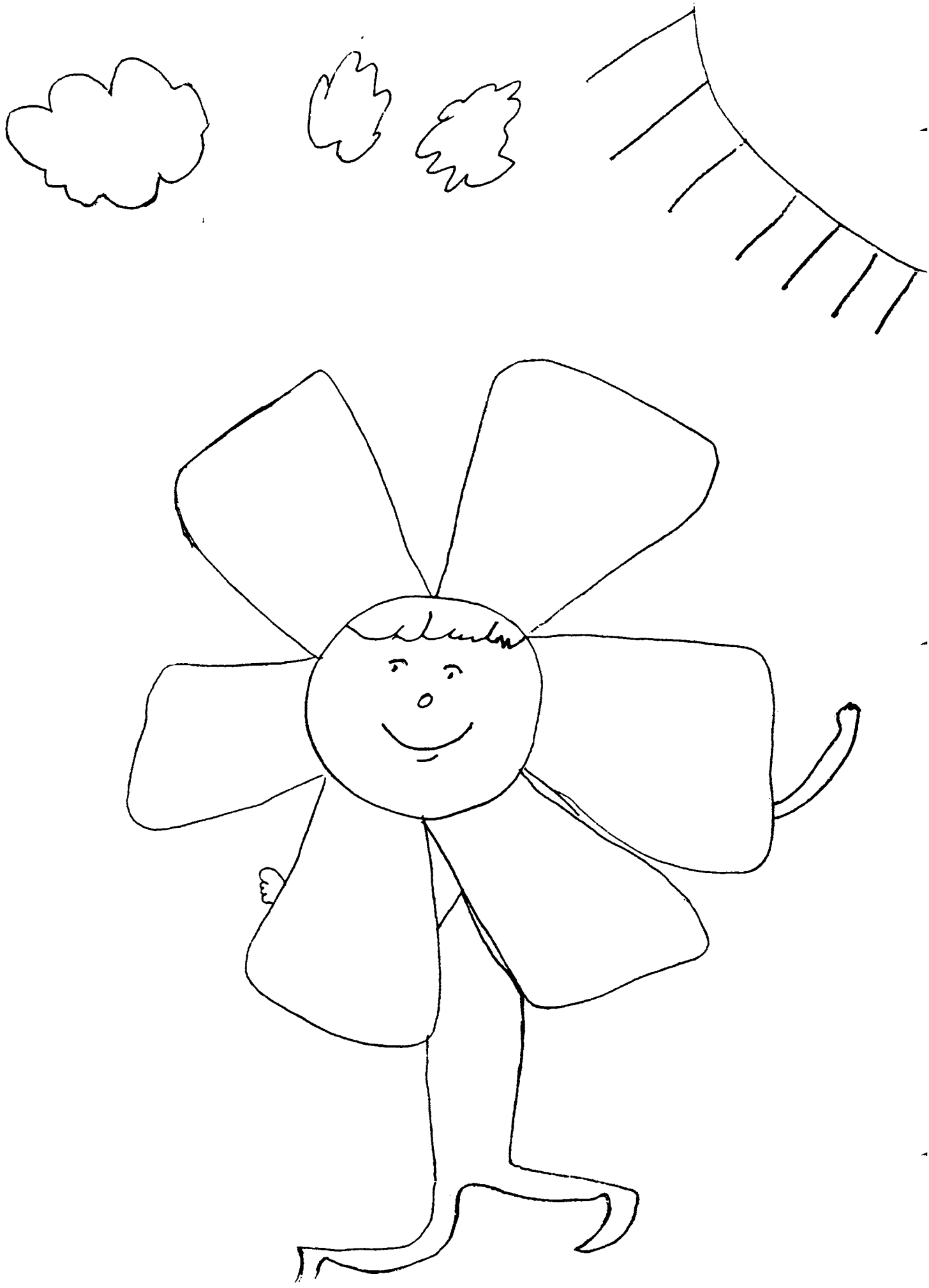

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

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

TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter A. General Provisions

• 16 TAC §305.6

The Texas Racing Commission adopts on an emergency basis an amendment to §305.6, concerning fees. The amendment authorizes the payment of license fees by personal check. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis so that the licensing procedure for individuals at racetracks opening in July and August, 1990, will be simplified and less costly to the applicants.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§305.6. Fees.

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

(c) A license fee must be in the form of a money order, a certified check, [or] a cashier's check, **or a personal check.**

Issued in Austin, Texas on July 5, 1990.

TRD-9006784 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges

Objections and Protests

• 16 TAC §307.224

The Texas Racing Commission adopts on an emergency basis an amendment to §307.224, concerning disqualification. The amendment provides that if the disqualification of a winning race animal is appealed, the first and second place finishers are considered winners for purposes of eligibility to enter and start in races while the appeal is pending. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§307.224. Disqualification.

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

(c) **If the disqualification of a race animal who won a race is appealed, until the appeal is disposed of, the animals that finished first and second in the race are both considered to be "winners" for purposes of eligibility to enter and start in races.**

Issued in Austin, Texas on July 5, 1990.

TRD-9006785 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Exclusion and Ejection

• 16 TAC §307.271

The Texas Racing Commission adopts on an emergency basis an amendment to §307.271, concerning ejection and exclusion. The amendment clarifies the grounds for excluding or ejecting an individual from an association's grounds and authorizes the executive secretary of the commission to order an individual excluded or ejected. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.01, which authorize the commission to adopt rules providing for the exclusion and ejection of individuals from an enclosure where greyhound races or horse races are conducted.

§307.271. Ejection and Exclusion. the stewards, racing judges, [and] commission, **and executive secretary** may order an individual ejected or excluded from an association's grounds in accordance with the Act if the stewards, racing judges, [or] commission, **or executive secretary** determine that:

(1) the individual may be excluded or ejected under the Act, §13. 01; and

(2)

the individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

Issued in Austin, Texas on July 5, 1990.

TRD-9006786 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Chapter 309. Operations of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.28

The Texas Racing Commission adopts on an emergency basis an amendment to §309.28, concerning photofinish equipment. The amendment clarifies the types of photographs the association must post for viewing by the public. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency

to adopt rules to administer the Texas Racing Act.

§309.28. Photofinish Equipment.

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

(e) The association shall promptly post a photograph of each **photofinish for win, place, or show** [finish] in an area accessible to the public.

(f) (No change.)

Issued in Austin, Texas on July 5, 1990.

TRD-9006787 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Subchapter B. Horse Racetracks

Operations

• 16 TAC §309.199

The Texas Racing Commission adopts on an emergency basis an amendment to §309.199, concerning horsemen's bookkeeper. The amendment clarifies the persons to whom the bookkeeper may release funds from an account and the time at which the purse money must be released. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§309.199. Horsemen's Bookkeeper.

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

(d) Except as otherwise provided by **these rules** [this section], an association shall make purse money from a race available to the people who are entitled to the money **immediatley** [not later than 10 days] after a commission staff member, designated by the executive secretary:

(1) certifies to the **stewards** [association] that the results of all tests on the participants in the race have been received; [and]

(2) advises the **stewards that the race has been cleared for payment; and**

(3) the stewards advise the horsemen's bookkeeper that the race has been cleared for payment [presiding steward of the test results and the presiding steward declares the official results of the race].

(e) An association may not deduct from the horsemen's account any money other than jockey fees except on written request from the person **in whose name the account is held or an authorized agent of that person** [to whom the money is payable].

(f) (No change.)

Issued in Austin, Texas on July 5, 1990.

TRD-9006788 Paula Cochran Carter
General Counsel
Texas Racing Commission

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Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Chapter 313. Officials and Rules for Horse Races

Subchapter D. Running of the Race

Pre-race Procedure

• 16 TAC §313.421

The Texas Racing Commission adopts on an emergency basis an amendment to §313.421, concerning horses to pre-race holding area. The amendment clarifies the time at which a horse must be present in the pre-race holding area. The amendment also prohibits the placement of blinkers on a horse until after the horse has been identified by the horse identifier. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§313.421. Horses to Pre-race Holding Area.

(a) The trainer of a horse entered in **a race** [the first race of a race day] must ensure that the horse is present in the pre-race holding area at **the time designated by the stewards** [least 45 minutes before post time for the race].

[(b) The horses in subsequent races must report to the pre-race holding area at the time designated by the stewards.]

(b)[(c)] The commission veterinarian shall report to the stewards the failure of a horse to report to the pre-race holding area at the appropriate time. The stewards **may** [shall] declare a horse out of the race if the horse is reported under this subsection.

(c) Except on permission of the stewards, blinkers may not be placed on a horse until after the horse has been identified by the horse identifier.

Issued in Austin, Texas on July 5, 1990.

TRD-9006789 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

Veterinary Practices

• 16 TAC §319.110

The Texas Racing Commission adopts on an emergency basis an amendment to §319.110, concerning Coggins test and health certificate. The amendment eliminates the requirement that a current health certificate for a horse be on file with the commission veterinarian for the horse to be eligible to start in a race. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

§319.110. Coggins Test and Health Certificate.

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

(d) A horse is ineligible to start in a race if the horse does not have on file with the commission veterinarian:

(1) a certificate, indicating a negative Coggins test, issued **by a testing laboratory** in the six-month period preceding the date of the race. [; and]

[(2) a health certificate issued in the 45-day period preceding the date of the race.]

Issued in Austin, Texas on July 5, 1990.

TRD-9006790 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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Subchapter D. Drug Testing Provisions for Horses

• 16 TAC §319.361

The Texas Racing Commission adopts on an emergency basis an amendment to §319.361, concerning testing of horses. The amendment clarifies which horses out of each race must submit to drug testing and for which drug testing is discretionary with the stewards. The amendment adopted on an emergency basis is contemporaneously proposed for public comment in this issue of the *Texas Register.*

The amendment is adopted on an emergency basis to ensure that the rules of horse racing are in place for pari-mutuel racing scheduled to begin in July and August, 1990.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179e, §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of the outcome of a race through the use of medication, stimulants, or depressants.

§319.361. Testing of Horses.

(a) (No change.)

(b) a specimen shall be collected from each horse that finishes first [or second] in a race.

(c) In addition to **the horse** [horses] designated under subsection (b) of this section, a specimen may be collected from the following horses:

(1) a horse that finishes second;

(2)[(1)] a beaten favorite;

(3)[(2)] for a race with a gross purse of $20,000 or more, the horse that finishes third;

(4)[(3)] a horse selected at random by the stewards; and

(5)[(4)] any other horse designated for cause by the stewards or the commission veterinarian.

Issued in Austin, Texas on July 5, 1990.

TRD-9006791 Paula Cochran Carter
General Counsel
Texas Racing Commission

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Expiration date: November 2, 1990

For further information, please call: (512) 476-7223

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

Gulf Shrimping Season

• 31 TAC §57.352

The Texas Parks and Wildlife Department adopts on an emergency basis new §57.352, concerning provisions for an early opening of the shrimping season in gulf (outside) waters of the Texas territorial sea (nine nautical miles). Based on sound biological data, the executive director has determined that migration of small brown shrimp from the bays to the Gulf of Mexico will occur earlier than the July 15 statutory opening date. Sound biological data indicate that most of the shrimp on the gulf fishing grounds will meet or exceed the 65 tails per pound size criterion on July 8.

The purpose of the closed gulf season is to protect brown shrimp during their major period of emigration from the bays to the Gulf of Mexico until they reach a larger, more valuable size before harvest and to prevent waste caused by the discarding of smaller individuals. The season was closed 30 minutes after sunset May 15, 1990. The executive director found imminent peril to the public welfare required the opening date as an emergency measure to obtain optimum yield from the resource.

The new section is adopted on an emergency basis under the Texas Parks and Wildlife Code, §77.062. In April 1978, the Texas Parks and Wildlife Commission delegated to the executive director the duties and responsibilities of opening and closing the shrimping season under this section.

§57.352. Early Opening of the Gulf Shrimping Season. The 1990 general closed season for shrimp as defined in the Texas Parks and Wildlife Code, §77.061(1), extends from 30 minutes after sunset May 15, 1990, to 30 minutes after sunset July 8, 1990.

Issued in Austin, Texas on July 3, 1990.

TRD-9006727 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife Department

Effective date: July 3, 1990

Expiration date: October 31, 1990

For further information, please call: (512) 479-4805

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Part IX. Texas Water Commission

Chapter 313. Edwards Aquifer

Subchapter A. Edwards Aquifer in Medina, Bexar, Comal, Kinney, Uvalde, Hays, Travis, and Williamson Counties

• 31 TAC §313.10, §313.11

The Texas Water Commission is renewing the effectiveness of the emergency adoption of new §313.10, §313.11, for a 60-day period effective July 19, 1990. The text of new §313.10, §313.11 was originally published in the March 23, 1990, issue of the *Texas Register* (15 TexReg 1616).

Issued in Austin, Texas on July 9, 1989.

TRD-9006914 Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 19, 1990

Expiration date: September 17, 1990

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 81. General Provisions

• 37 TAC §81.115

The Texas Youth Commission is renewing the effectiveness of the emergency adoption of amended §81.115, for a 60-day period effective July 11, 1990. The text of amended §81.115 was originally published in the March 20, 1990, issue of the *Texas Register* (15 TexReg 1561).

Issued in Austin, Texas on July 5, 1990.

TRD-9006811 Gail Graham
Policy and Manuals Coordinator
Texas Youth Commission

Effective date: July 11, 1990

Expiration date: September 9, 1990

For further information, please call: (512) 483-5244

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TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 17. Division of Motor Vehicles

Dealers and Manufacturers Vehicle License Plates

• 43 TAC §§17.60-17.62, 17.65, 17.68-17.71, 17.73-17.75

The State Department of Highways and Public Transportation adopts on an emergency basis amendments to §§17.60-17.62, 17.65, 17.68-17.71, and 17. 73-17.75, concerning dealers and manufacturers vehicle license plates. These amended sections allow a dealer licensed by another state to buy, sell, or exchange vehicles with a Texas licensed dealer; require the issuance of a general distinguishing number for a consignment location when a dealer consigns more than five vehicles in a calendar year; allow the use of dealer temporary cardboard tags on unregistered vehicles operated by a chari-

table organization; expand the definition of manufacturer to include persons, firms, or corporations who distribute new motor vehicles; allow a dealer to operate out-of-state vehicles under certain conditions; provide greater flexibility in securing compliance of the dealer license law without the necessity of formal enforcement actions; and allow the department to impose more realistic penalties in cases which advance to the formal enforcement stage. Section 17.60 is amended to include definitions of new and expanded terms. Section 17.61 is amended to provide for the issuance of a general distinguishing number when a dealer consigns more than five vehicles in a calendar year from a location different from the location for which the dealer has been issued a general distinguishing number; to allow an out-of-state licensed dealer to buy, sell, or exchange vehicles in this state with another licensed dealer without requiring such dealer to secure a general distinguishing number issued by this department; and to allow a licensed wholesale dealer to exchange the wholesale dealer general distinguishing number for another type of general distinguishing number. Section 17.62 is amended to include the term "travel trailer" in the definition of the term "house trailer" and to expand the definition of that term as it applies to the dealer rules and to expand the language concerning the vehicle size criteria. Section 17.65 is amended by changing the section title to "Security Requirements"; by incorporating the language of repealed §17.66 and removing reference to the repealed section; by adding the provision for the recovery of attorney's fees by a person obtaining a court judgment assessing damages against the dealer's bond; and by including house trailer dealer as a dealer exempt from security requirements. Section 17.68 is amended to provide that dealer metal plates shall be safeguarded; to remove the "buyer's" and "dealer's" reference to cardboard tags; and to provide for the use of a temporary cardboard tag on unregistered vehicles operated by a charitable organization. Section 17.69 is amended to specify that a dealer's office must be equipped with a working telephone instrument listed in the name under which the dealer does business; to provide that if the office is leased by the dealer, it must meet existing rules relating to lease requirements; and to refine the requirements regarding the display of the dealer's sign. Section 17.70 is amended by adding the provision that a dealer's license may be canceled if a dealer utilizes a temporary cardboard tag that fails to meet department specifications and by adding subsection (c) to provide for a system of presanction citations or warning notices for use in possible inadvertent violations. Section 17.71 is amended to provide for informal resolution of violations, penalties, and/or cancellations, failing which, the department may initiate formal administrative proceedings to determine the violations and the maximum sanctions to be imposed. Section 17.73 is amended by changing the section title to "Manufacturers License Plates;" by allowing the issuance of manufacturers license plates to out-of-state manufacturers; and by allowing the use of manufacturers license plates on unregistered vehicles loaned to consumers in accordance with the Texas Motor Vehicle Commission Code. Section 17.74 is amended to require a dealer to maintain a record of purchases and sales; to stipulate the data to be included in a dealer's records; and to require such records to be maintained for a minimum of 13 months. Section 17.75 is amended to require a dealer to qualify for a new general distinguishing number when there is a complete change of ownership.

Adoption on an emergency basis is necessary in order to comply with the recent amendments to the Dealer License Law, as amended by House Bill 2288, 71st Texas Legislature, 1989, effective August 28, 1989; to protect the interests of the citizens of Texas by immediately implementing a more effective and uniform administration of the Dealer License Law; in order to provide greater flexibility in securing compliance without the necessity of formal enforcement actions; and in order to allow imposition of more realistic penalties in cases which advance to the formal enforcement phase.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Articles 6666 and 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the State Department of Highways and Public Transportation and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

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

Barrier–A material object or set of objects.

Charitable organization–An organization that is established and exists for the purpose of relieving poverty, the advancement of education, religion, or science, the promotion of health, governmental, or municipal purposes, or other purposes beneficial to the community without financial gain.

Sale–With regard to a specific vehicle, the execution of a purchase agreement or tender of a monetary deposit or other consideration.

Temporary cardboard tag–A buyer tag, a dealer tag, or a charitable organization tag.

§17.61. General Distinguishing Number.

(a) No person may engage in business as a dealer unless that person has a currently valid general distinguishing number assigned by the department for **each** [the] location from which the person engages in business. [, provided, however, that this section does not apply to:] **If a dealer consigns more than five vehicles in a calendar year for sale from a location other than the location for which the dealer holds a general distinguishing number, the dealer must also hold a general distinguishing number for the consignment location.**

(b) The provisions of subsection (a) of this section do not apply to:

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

(8) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest bidder at a bona fide auction if neither legal nor equitable title passes to the auctioneer and if the auction is not held for the purpose of avoiding another provision of Texas Civil Statutes, Article 6686, and sections under this undesignated head; and provided that if an auction is conducted of vehicles owned, legally or equitably, by a person who holds a general distinguishing number, the auction may be conducted only at a location for which a general distinguishing number has been issued to that person or at a location approved by the department as provided in §17.63 of this title (relating to More Than One Location); **and** [.]

(9) a person who is a domiciliary of another state and who holds a valid dealer license and bond, if applicable, issued by an agency of that state, when the person buys a vehicle from, sells a vehicle to, or exchanges vehicles with a person who:

(A) holds a current valid general distinguishing number issued by the department, if the transaction is not intended to avoid the terms of Texas Civil Statutes, Article 6686; or

(B) is a domiciliary of another state if the person holds a valid dealer license and bond, if applicable, issued by that state, and if the transaction is not intended to avoid the terms of Texas Civil Statutes, Article 6686.

(c)[(b)] Application for a general distinguishing number shall be on a form prescribed by the director properly completed by the applicant showing all information requested thereon and shall be submitted to the director accompanied by the following:

(1)-(6) (No change.)

(d)[(c)] A person who applies for a general distinguishing number and will operate as a dealer under a name other than the name of that person shall use the name under which that person is authorized to do business, as filed with the secretary of state or county clerk, and the assumed name of such legal entity shall be recorded on the application using the letters "DBA". A separate license and bond shall be required for each location the person will operate under a different assumed name, except, a location which is licensed by the Texas Motor Vehicle Commission shall not require a bond.

(e)[(d)] If the general distinguishing number is issued to a corporation, the dealer's name, as it appears on file with the secretary of state, shall be recorded on the application. The corporation must provide verification that all corporate franchise

taxes required under Texas Business Corporation Act, Article 2.45, have been paid.

(f)[(e)] A licensed wholesale dealer who elects to **buy,** sell to, or exchange ehicles with persons other than licensed ealers, must [notify the department and] satisfy the display space requirements of §17.69 of this title (relating to Established and Permanent Place of Business) **and exchange the wholesale dealer license for a general distinguishing number which is appropriate for the type of vehicles the dealer wishes to buy, sell, or exchange.**

(g)[(f)] A dealer's license shall expire on March 31 of each year and all dealer metal plates issued to a licensed dealer shall expire on that same date.

§17.62. House Trailer; Travel Trailer. The term "house trailer/travel **trailer" for the purpose of the sections under this undesignated head shall mean a vehicle without automotive power design for human habitation and for carrying persons and property upon its own structure and for being drawn by a motor vehicle if that vehicle is** [as used in the Dealer License Law, Texas Civil Statutes, Article 6686, shall mean travel trailer which is the same as the term "house trailer" as defined in the title law, Texas Civil Statutes, Article 6687-1, except that the size of such vehicle shall be] less than eight body feet in width and less than 40 body eet in length, excluding the hitch, **or the ehicle shall be 400 square feet or less when measured at the largest horizontal projections.**

§17.65. **Security** [Bond] Requirements.

(a) A motor vehicle dealer or motorcycle dealer who is not licensed by the Texas Motor Vehicle Commission shall have a §25,000 bond conditioned on the dealer's payment of all valid bank drafts drawn by the dealer for the purchase of motor vehicles and the dealer's transfer of good title to each motor vehicle the dealer offers for sale. The bond must be valid for the same period of time as the dealer's license and is subject to the following.

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

(b) In lieu of a surety bond, the department will accept an assignment of security or an irrevocable letter of credit on forms approved by the attorney general. An assignment of security or an irrevocable letter of credit must be executed by a bank, savings and loan institution, credit union, or other financial institution insured by an agency of the United States government and authorized to do business in the State of Texas.

(c)[(4)] Recovery against the bond **or acceptable security** may be made by any person who obtains a court judgment assessing damages **and attorneys fees** for an act or omission on which the bond is conditioned.

(d)[(b)] **The provisions of subsections (a) and (b) of this section** [The bond, or acceptable security, as cited in §17. 66 of this title (relating to Assignment of Security and Letter of Credit), requirements] do not apply to:

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

(3) a **house trailer or** travel trailer dealer; or

(4) (No change.)

§17.68. Metal Dealer License Plates and Temporary Cardboard Tags.

(a) Metal dealer license plates shall be attached to the rear license plate holder of vehicles on which such plates are to be displayed. If the vehicle on which a metal dealer plate is to be attached displays Texas multi-year plates that have not been validated for the current registration period, such multi-year plates shall be removed and **safeguarded** [placed under lock and key]. The multi-year plates should be placed back onto the vehicle when it is sold or if the metal dealer plate is removed from the vehicle.

(b) **Temporary** [Buyer's temporary cardboard tags and dealer's temporary] cardboard tags may be displayed either in the rear window or on the rear license plate holder of unregistered vehicles. When displayed in the rear window, the tag shall be attached in such a manner that it is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle on which a temporary cardboard tag is to be attached displays Texas multi-year license plates that have not been validated for the current registration period, the temporary cardboard tag may be displayed in the rear window as prescribed in this subsection or placed over the rear license plate. The multi-year plates should not be removed from the vehicle.

(c) (No change.)

(d) Each unregistered vehicle being conveyed utilizing the full mount method, the saddle mount method, the tow bar method, or any combination thereof in accordance with Texas Civil Statutes, Article 6686(a), §6, shall have a dealer's temporary cardboard tag or a buyer's temporary cardboard tag, whichever is applicable, affixed to **that vehicle** [it]. If the vehicle being transported is of a type which is prohibited from operating upon the public streets and highways [i.e., off-highway vehicle or self-propelled machine) and, thus, cannot qualify for registration, a cardboard tag shall be displayed thereon; and such tag shall be marked in bold letters with the notation "For Off-Highway Use Only."

(e) (No change.)

(f) A buyer's temporary cardboard tag may not be displayed on any vehicle being operated upon the public streets and highways for which a sale has not been consummated. [(A sale is considered to have been consummated when a buyer has signed a purchase agreement for a specific vehicle and/or has tendered a monetary deposit or other consideration on the purchase of a specific vehicle.)]

(g)-(i) (No change.)

(j) A charitable organization tag is valid for a period of 30 days from the date of issuance.

§17.69. Established and Permanent Place of Business. A dealer must meet the following requirements at each location where vehicles are sold or offered for sale.

(1) Office requirements.

(A) A dealer's office facility must be open to the public during normal working hours. The dealer's business hours for each day of the week must be posted at the main entrance of the dealer's office, and the owner or a bona fide employee of the dealer must be at the dealer's location during the posted business hours for the purpose of buying, selling, exchanging, or leasing vehicles. In the event the owner or a bona fide employee is not available to conduct business during the dealer's posted business hours, a separate sign must be posted indicating the date and time such owner or a bona fide employee will resume dealer operations. The structure [must have a degree of permanency and] must be of sufficient size to accommodate the usual office furniture and equipment, such as a desk, file cabinet, chairs, etc. As a minimum, the office must be equipped with a desk and chairs from which the dealer transacts his business and be equipped with a working telephone instrument listed in the name **under which the** [of the] dealer **does business.**

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

(E) If a dealer conducts business in conjunction with another business not owned by the same person, the same telephone number may be used by both businesses; however, the dealer shall have a separate desk, a separate **working** telephone instrument, and a separate telephone listing in the name of the dealer. The dealer must either own the property or have a separate lease agreement from the owner **meeting the requirements of paragraph (4) of this section** [for a continuous period of one year].

(F) In those instances when two or more dealers occupy the same business location and conduct their respective dealer operations under different

names, one office structure for all dealers operating from such location will be acceptable; provided, however, each dealer must, in addition to having a qualifying dealer's sign conspicuously displayed on the premises, have:

(i) (No change.)

(ii) a separate **working** telephone instrument and listing in the dealer's name;

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

(2) Sign requirements.

(A) A dealer shall display a **conspicuous** sign [of permanent construction] with letters at least six inches in height showing the name under which the dealer conducts business.

(B) [The term "sign of permanent construction" as used in this subparagraph means that the dealer's sign should be mounted on a pole or poles permanently fixed in the ground or the sign may be painted on or permanently attached to the dealer's building.] Such **sign** [signs] must be [high enough above the ground so as to be visible over parked vehicles or other obstructions and] readable from the address listed on the application for the dealer license. [Temporary signs, removable signs, or so-called blow-away signs are not acceptable.]

(3) Display space requirements.

(A) (No change.)

(B) The display area may not be on a public easement, right-of-way, or driveway. Such area shall be located at the dealer's address or contiguous with the dealer's **address** [location and may not be used for public parking]. The display area must be owned or leased for the exclusive use by the dealer for a continuous term of not less than one year. If the display area is in conjunction with other parking facilities, such area shall be separated by use of barriers under the control of the dealer so as to prevent its use for any purpose other than a display area. Subject to approval by the department, the display area may be located within a building.

(4) (No change.)

§17.70. Sanctions.

(a) Cancellation. The director may cancel a dealer's license (general distinguishing number) if that dealer:

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

(3) refuses to permit **or fails to comply with a request by** a representative of the department to examine, during normal working hours, the current and previous years' sales records and ownership papers for vehicles owned by that dealer or under that dealer's control, and evidence of ownership or lease agreement on the property upon which the dealer's business is located;

(4)-(8) (No change.)

(9) fails to [immediately] remove out-of-state license plates from **a vehicle which is displayed for sale** [vehicles which are purchased by the dealer or consigned to the dealer];

(10)-(18) (No change.)

(19) makes a material misrepresentation in any application or other information filed with the department; [or]

(20) fails to remit payment for civil penalties assessed by the department; **or** [.]

(21) utilizes a temporary cardboard tag that fails to meet department specifications as cited in §17.67 of this title (relating to Temporary Cardboard Tags).

(b) (No change.)

(c) Pre-sanction citation. In lieu of imposing sanctions under subsections (a) or (b) of this section, the director may issue a pre-sanction citation to a person notifying that person of the nature of the violation, and specifying the date by which corrective action is to be completed and full compliance is to be met; provided, however, that the director may not utilize this procedure in more than three subsequent violations of the same or similar nature by that person in the same calendar year.

§17.71. Notice and Appeal.

(a) Notice of proposed assessment or proposed cancellation. Upon a determination that a **person** [dealer] should be assessed a civil penalty, or that a dealer's license (general distinguishing number) should be canceled, the director shall mail a notice of proposed assessment or a notice of proposed cancellation, as the case may be, by certified mail to the last known address of **that person** [the dealer], notifying **that person** [the dealer] of the facts **of the apparent violation, the amount of the assessment, or date of cancellation proposed for informal resolution of the violation,** [underlying the proposed assessment or proposed cancellation] and of the **person's** [dealer's] right to request **an informal** [a] conference to review those circumstances and the proposed **informal resolution** [action].

(b) **Informal** conference. A request for **an informal** [a] conference under this section must be made in writing to the director within 15 days of the date of a notice issued under subsection (a) of this section. If timely requested, the conference shall be scheduled and conducted by the regional supervisor at the regional office. In the event matters are **informally** resolved in the **person's** [dealer's] favor, the director shall send **that person written notification that the notice of proposed assessment or cancellation** [the dealer a notice of withdrawal, notifying the dealer that the notice] is withdrawn[, and stating the basis for that action]. Failure to resolve matters in the **informal conference** [dealer's favor], however, shall cause the **department to initiate a formal enforcement action in an administrative hearing** [director to issue the dealer an order of assessment or an order of cancellation] as provided in subsection (c) of this section.

[(c) Order of assessment or cancellation. If, pursuant to subsection (b) of this section, a dealer fails to request a conference, or does not receive a notice of withdrawal as the result of a conference, the director shall mail an order of assessment or an order of cancellation, as may be appropriate, by certified mail to the last known address of the dealer, notifying the dealer of the factual grounds for such action, the effective date of the order which shall be the 31st day following the date of the order, and of the dealer's right to request an administrative hearing on the matter.]

(c)[(d)] Administrative hearing. **If, pursuant to subsections (a) or (b) of this section, a proposal to assess a civil penalty or to cancel a dealer's license is not informally resolved, the department may initiate a formal administrative hearing pursuant to §§1.21-1.63 of this title (relating to Contested Case Procedure) to determine the amount of the civil penalty to be assessed, if any, from not less than $50 up to $1,000 for each alleged violation of the provisions of §17.70 of this title (relating to Sanctions), and to determine whether the dealer's license should be canceled. For purposes of assessing civil penalties under this subsection, each act in violation of those provisions is a separate violation, and each day of a continuing violation is a separate violation.** [A request for an administrative hearing under this section must be made in writing and must be received by the director no later than the 20th day following the date of an order issued under subsection (c) of this section. If timely requested, the hearing shall be conducted in accordance with §§1.21-1. 63 of this title (relating to Contested Case Procedures), and shall serve to abate the assessment or the cancellation unless and until that assessment or cancellation is affirmed by order of the commission.]

§17.73. Manufacturers [Test Car] License Plates.

(a) Manufacturers [located in Texas] that **distribute,** manufacture, or assemble new vehicles [in this state] may apply for and secure manufacturers [test car] license plates for display on [such]

unregistered vehicles [which are being operated for the purpose of testing].

(b) Manufacturers [test car] license plates must be used exclusively for the purpose of testing such vehicles **or loaning a vehicle to a consumer in accordance with the Texas Motor Vehicle Commission Code, §6.07, Texas Civil Statutes, Article 4413(36),** and may not be used in conjunction with other business activities such as displayed on a vehicle operated by a representative of the manufacturer who uses the vehicle to contact dealers.

§17.74. Record of Sales and Inventory.

(a) Purchase and sales records. A dealer must keep a complete record of all vehicle purchases and sales **for a minimum period of 13 months,** and such record must be available for inspection by a representative of the department at the dealer's location.

(b) Content of records. As used in this subsection, a complete record of vehicle purchases and sales shall include the:

(1) date of purchase;

(2) date of sale;

(3) vehicle identification number;

(4) name and address of person selling to the dealer;

(5) name and address of person purchasing from the dealer;

(6) name and address of selling dealer if vehicles offered for sale by consignment; and

(7) except in a purchase or sale by a wholesale dealer or in a cash sale, number and filing date of the Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax, Form 31.

(c)[(b)] Title assignments. All certificates of title, manufacturer's certificates, or other evidence of ownership for vehicles offered for sale **or which have been acquired** by a dealer must be properly assigned into the dealer's name. A dealer must provide assigned ownership documents in favor of the purchaser when the vehicle is sold or furnish the purchaser with the receipt for application for certificate of title issued by the county tax assessor-collector within 20 **working** days of the date of sale.

(d)[(c)] Notification to the department. Notification of vehicle sales, as required by Texas Civil Statutes, Article 6686, §d, shall be an application for certificate of title in the name of the retail purchaser filed with the appropriate county tax assessor-collector. When a sales transaction involves a full cash payment, or the vehicle is to be transferred out of state, or the documents will be filed by the lienholder, the dealer may, in lieu of filing the application for certificate of title for the purchaser, deliver the properly assigned evidence of ownership to the purchaser. In such instance, a photocopy of such evidence, including all assignments, shall be documented on a form prescribed by the director, and maintained on file at the dealer's business location.

(e)[(d)] Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written consignment agreement for the vehicle or a power of attorney covering the vehicle **and shall maintain a record of each such vehicle by vehicle identification number and owner of each such vehicle handled on consignment for a minimum of 13 months.**

§17.75. Change of dealer's status.

(a) Dealer name change. A dealer's name change shall require a new bond or a rider to the existing bond reflecting the new dealer name. **The** [If there is no change in ownership, the] dealer may retain the same general distinguishing number.

(b) Change of ownership. A dealer shall notify the department in writing within 10 days if there is any change of ownership. Upon [such] notification, **of a complete change of ownership,** the department shall cancel the existing dealer's license and the new owner must qualify for [the assignment of] a new general distinguishing number.

(c) (No change.)

Issued in Austin, Texas, on June 27, 1990.

TRD-9006822 Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Effective date: July 5, 1990

Expiration date: November 2, 1990

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

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Dealers and Manufacturers Vehicle License Plates

• 43 TAC §17.66, §17.67

The State Department of Highways and Public Transportation adopts on an emergency basis the repeal of §17.66, concerning assignment of security and letter of credit and §17.67, concerning temporary cardboard tags. Repeal of these sections is necessary because of the contemporaneous adoption of amended §17.65, concerning bond requirements and new §17.67, concerning temporary cardboard tags, which incorporate certain of the repealed provisions in an amended form and provide additional requirements of the dealer license law.

Adoption on an emergency basis is necessary in order to comply with the recent amendments to the Dealer License Law, Texas Civil Statutes, Article 6686 as amended by the 71st Texas Legislature, 1989, effective August 28, 1989.

The repeals are adopted on an emergency basis under Texas Civil Statutes, Articles 6666 and 6686, which authorize the State Highway and Public Transportation Commission to establish rules for the conduct of the work of the State Department of Highways and Public Transportation and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

Issued in Austin, Texas on June 28, 1990.

TRD-9006824 Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Effective date: July 5, 1990

Expiration date: November 2, 1990

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

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• 43 TAC §17.67

The State Department of Highways and Public Transportation adopts on an emergency basis new §17.67, concerning temporary cardboard tags. The new section replaces existing §17.67, concerning temporary cardboard tags, which is being contemporaneously repealed. The new section provides the specifications for printing temporary tags, illustrations, and instructions for the dealer's lawful display of the temporary cardboard tags on certain vehicles.

Adoption on an emergency basis is necessary in order to comply with the Dealer License Law, Texas Civil Statutes, Article 6686, as amended by the 71st Texas Legislature, 1989, effective August 28, 1989.

The new section is adopted on an emergency basis under Texas Civil Statutes, Articles 6666 and 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

§17.67. Temporary Cardboard Tags.

(a) Motor vehicle, travel trailer, and trailer/semitrailer tags shall be printed on not less than six ply cardboard with bolt holes to be horizontally punched on 7 inch centers and vertically punched on 4 1/2 inch centers and the numerals and letters in the dealer number shall not be less than 2 inches high. Motorcycle tags shall be printed on not less than six ply cardboard with bolt holes to be horizontally punched on 5 3/4 inch centers and vertically punched on 2 3/4 inch centers and the numerals and letters shall not be less than 1 inch high.

Homemade cardboard tags or cardboard tags which have buyer's tag information printed on one side and dealer's tag information printed on the other side are not acceptable.

(b) The following appendices indicate the design of each of the temporary tags:

(1) Appendix A-1-dealer (front of tag); Appendix A-2-dealer (back of tag);

(2) Appendix B-1-buyer (front of tag); Appendix B-2-buyer (back of tag);

(3) Appendix C-1-charitable (front of tag); Appendix C-2-charitable (back of tag).


TEXAS DEALER
P-12345
JOHN DOE MOTORS
AUSTIN, TEXAS
USE ON MOTOR VEHICLE ONLY
FOR INTRANSIT, ROAD TESTING AND DEMONSTRATION

APPENDIX A-1

TEMPORARY CARDBOARD TAG FOR MOTOR VEHICLE

INSTRUCTIONS TO DEALER

This dealer's temporary cardboard tag may be used by the dealer to demonstrate or cause to be demonstrated his unregistered vehicles to prospective buyers only for the purpose of sale.

This tag may also be used to convey or cause to be conveyed a dealer's unregistered vehicles from his place of business in one part of the State to his place of business in another part of the State, or from his place of business to a place to be repaired, reconditioned, or serviced, or from the point in this State where such vehicles are unloaded to his place of business, or to convey such vehicles from one dealer's place of business to another dealer's place of business or from the point of purchase of such vehicles by the dealer to the dealer's place of business, or for the purpose of road testing; and such vehicles displaying this tag while being so conveyed shall be exempt from the mechanical inspection requirements of Sections 140 and 141 of the Uniform Act Regulating Traffic on Highways.

The black and white dealer's temporary tag shall not be used to operate vehicles for the personal use of a dealer or his employees and shall not be used on commercial vehicles when carrying a load.

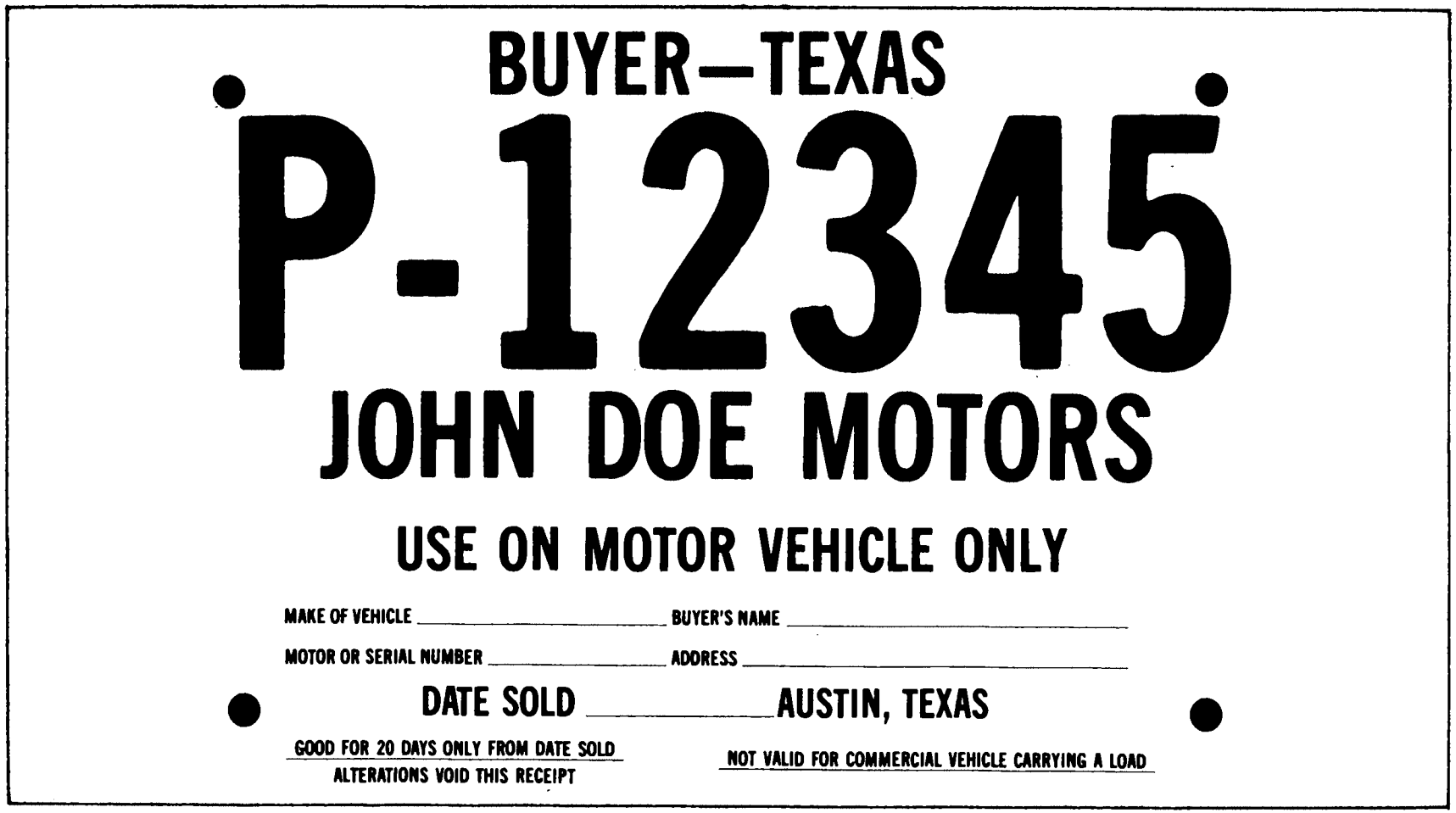
Under no circumstances will a homemade tag be permitted to be used.

INSTRUCTIONS TO PRINTER

The black and white dealer's temporary cardboard tags are to be cut 6" X 11". The tag shown on the reverse side shall be printed on not less than 6 ply cardboard with bolt holes to be horizontally punched on 7" centers and vertically punched on 4 1/2" centers. The numerals and letters in the dealer number shall not be less than 2" high. These tags are to be printed with black letters and numerals on a white background. Printed matter on the tag will appear exactly as shown on the reverse side except that the dealer's number, name, and address shall be the same as that shown on the Certificate of General Distinguishing Number. When printing the dealer's number on the tags, the prefix letter "P" should be separated from the numerals by a dash (-).

STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION - DIVISION OF MOTOR VEHICLES - AUSTIN, TEXAS

APPENDIX A-2


BUYER—TEXAS
P-12345
JOHN DOE MOTORS
USE ON MOTOR VEHICLE ONLY
MAKE OF VEHICLE
BUYER'S NAME
MOTOR OR SERIAL NUMBER
ADDRESS
DATE SOLD
AUSTIN, TEXAS
GOOD FOR 20 DAYS ONLY FROM DATE SOLD
ALTERATIONS VOID THIS RECEIPT
NOT VALID FOR COMMERCIAL VEHICLE CARRYING A LOAD

APPENDIX B-1

TEMPORARY CARDBOARD TAG FOR MOTOR VEHICLE

INSTRUCTIONS TO DEALER

You are authorized under V.C.S. 6686 to provide each customer with one red cardboard buyer's tag to be used on unregistered new or used vehicles for a period not to exceed twenty (20) days from the date sold. You will note, however, as a dealer, it is your responsibility to see that the following information is placed on the tag:

1. Make of Vehicle
2. Buyer's Name
3. Motor or Serial Number
4. Address
5. Date Vehicle Sold

If a buyer operates an unregistered vehicle without the above information being shown, both the dealer and the buyer may be subject to a fine.

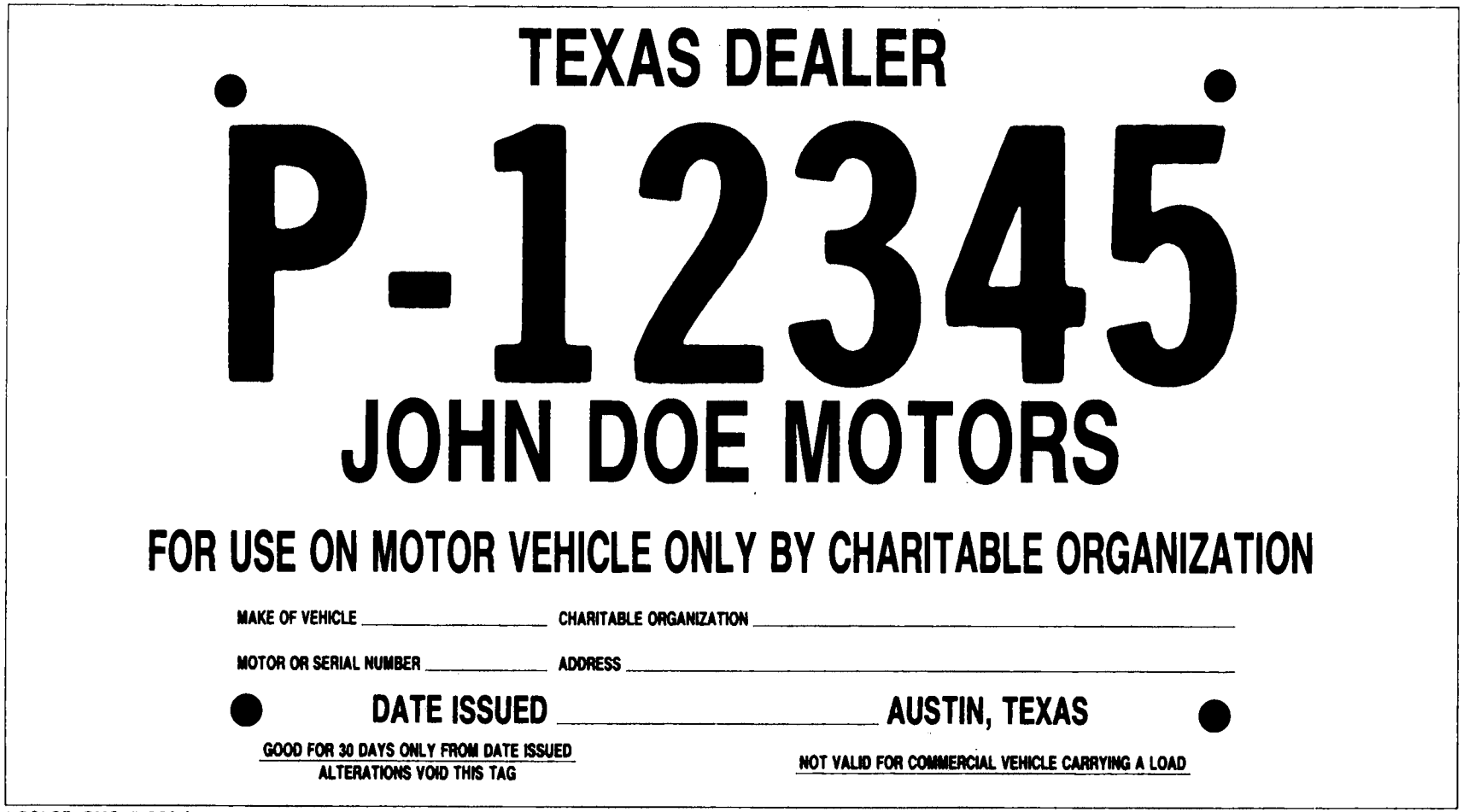
Under no circumstances will a homemade tag be permitted to be used.

INSTRUCTIONS TO PRINTER

The cardboard buyer's tag is to be cut 6" X 11". The tag shown on the reverse side will be printed on not less than 6 ply cardboard with bolt holds to be horizontally punched on 7" centers and vertically punched on 4 1/2" centers. The numerals and letters in the dealer number shall not be less than 2" high. All buyer's tags are to be printed with red numbers and letters on a white background. Printed matter on the plate will appear exactly as shown on the reverse side except that the dealer's number, name, and address shall be the same as that shown on the Certificate of General Distinguishing Number. When printing the dealer's number on the tags, the prefix letter "P" should be separated from the numerals by a dash (-).

STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION - DIVISION OF MOTOR VEHICLES - AUSTIN, TEXAS

APPENDIX B-2



(COLOR: PMS # 339)

(FACSIMILE NOT TO SCALE)

APPENDIX C-1

Temporary Cardboard Tag for Charitable Organization Use

INSTRUCTIONS TO DEALER

You are authorized under V.C.S. 6686 to use or allow the use of an unregistered vehicle by a charitable organization. A charitable organization is defined under this statute as ". . . one that is organized for the purpose of relieving poverty, the advancement of education, religion or science, the promotion of health, governmental or municipal purposes, or other purposes beneficial to the community without financial gain."

As a dealer, it is your responsibility to see that the following information is shown on the front of the tag:

1. Make of Vehicle and Motor or Serial Number
2. Name and Address of Charitable Organization
3. Date Tag Issued

If a charitable organization operates an unregistered vehicle without the above information being shown, both the charitable organization and the dealer may be subject to a fine.

The tag may be used for a period not to exceed thirty (30) days from the date of issuance.

Under no circumstances will a homemade tag be permitted to be used.

INSTRUCTIONS TO PRINTER

The cardboard tag is to be cut 6" x 11". The tag shown on the reverse side must be printed on not less than 6 ply cardboard with bolt holes to be horizontally punched on 7" centers and vertically punched on 4 1/2" centers. The numerals and letters in the dealer number shall not be less than 2" high. The tags are to be printed with green numbers and letters on a white background. Printed matter on the plate must appear exactly as shown on the reverse side except that the dealer's number, name, and address shall be the same as that shown on the Certificate of General Distinguishing Number. When printing the dealer's number on the tags, the prefix letter "P" shall be separated from the numerals by a dash (-).

STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION - DIVISION OF MOTOR VEHICLES - AUSTIN, TEXAS 78779-0001

APPENDIX C-2

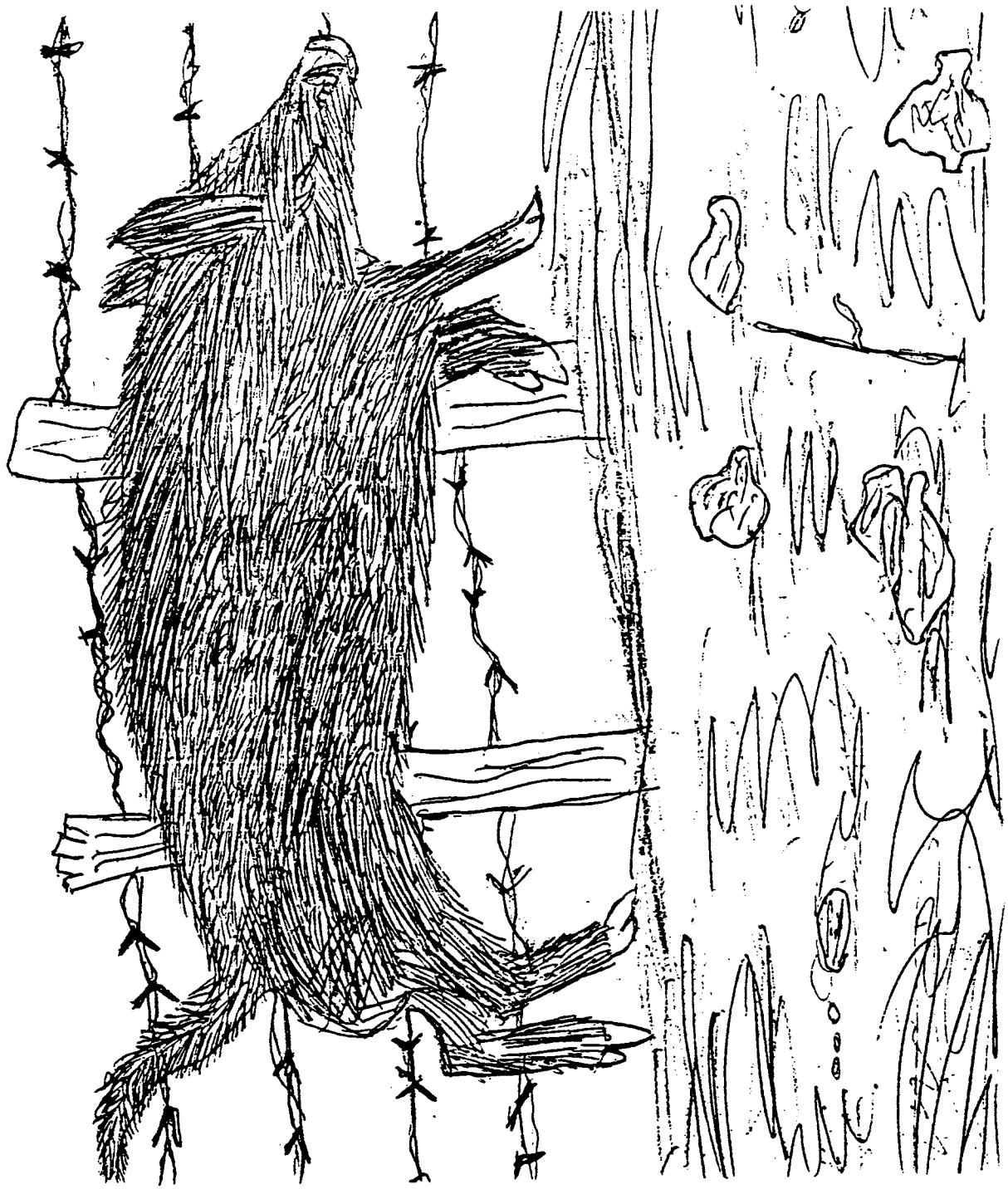
Issued in Austin, Texas, on June 28, 1990.

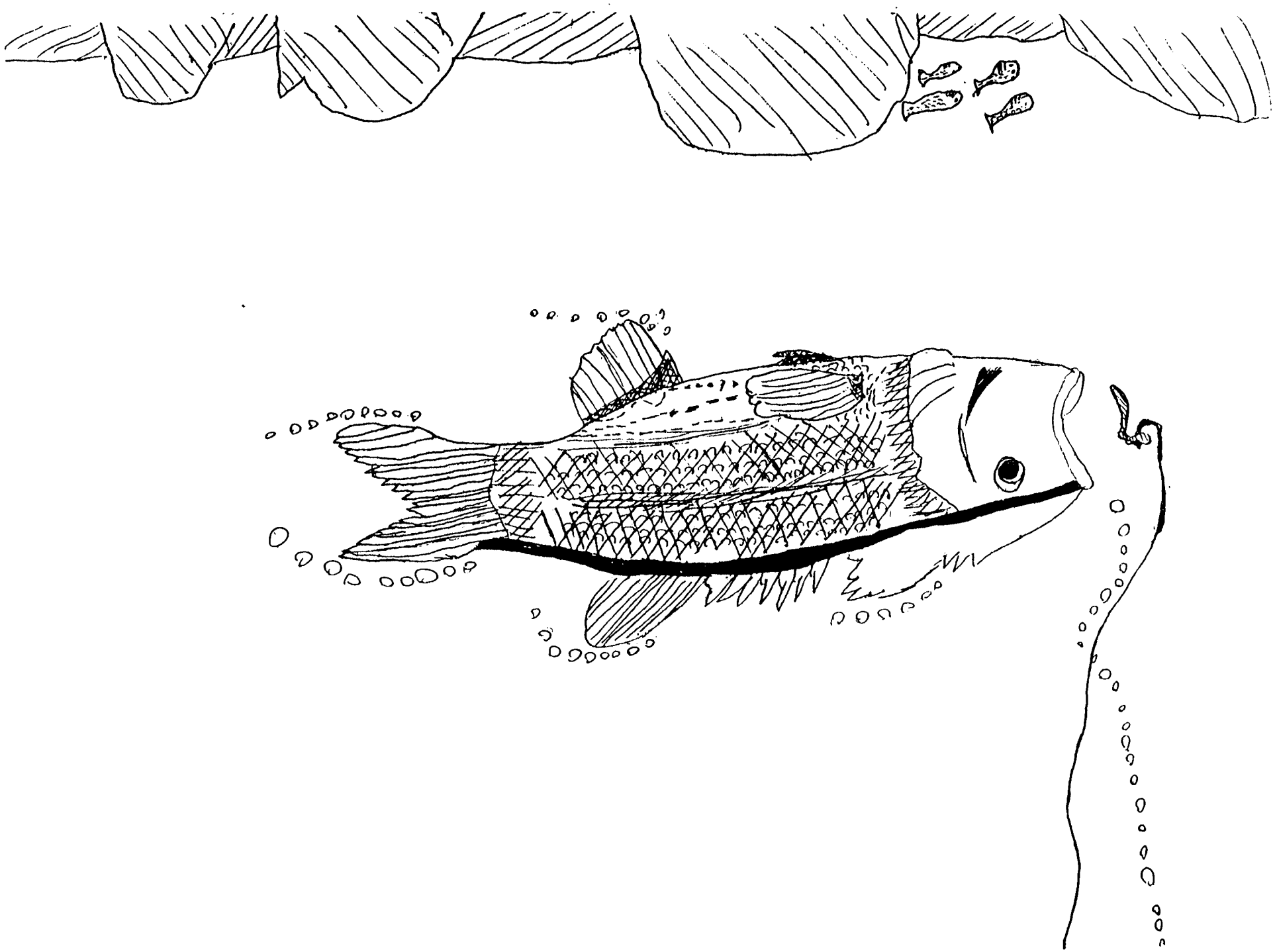
TRD-9006820 Diane L. Northam
Administrative Procedures
Technician
State Department of
Highways and Public
Transportation

Effective date: July 5, 1990

Expiration date: November 2, 1990

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





Proposed Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 105. Rules of Practice in Contested Cases

• 7 TAC §105.9

The State Securities Board proposes an amendment to §105.9, concerning rules of practice in contested cases. The amendment to the section reflects amendments made by the 71st Legislature to the Administrative Procedure and Texas Register Act (APTRA).

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

Mr. Morgan also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the board's rules of practice in contested cases will not differ from APTRA in regard to the procedure relating to motions for rehearing and notification of final decisions or orders. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Voight Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§105.9. Disposition.

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

(c) A motion for rehearing must be filed within **20** [15] days and replies filed within **30** [25] days after the **party or his attorney of record is notified** [date of rendition] of a final decision or order. If the presiding officer or body has not acted upon the motion within 45 days after the **party or his attorney of record is notified** [date of rendition] of the final decision or order, the motion is overruled by operation of law.

(d) (No change.)

(e) A copy of the final decision or order ruling on a motion for rehearing shall be sent by first class mail to the party or his attorney of record. A party or attorney of record so notified of a final decision or order shall be presumed to have been notified on the date the notice is mailed.

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 July 2, 1990.

TRD-9006742 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 474-2233

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Chapter 109. Transactions Exempt from Registration

• 7 TAC §109.13

The State Securities Board proposes an amendment to §109.13, concerning limited offering exemptions. The amendment to the section will clarify that the Securities Act, (Act) §5.I(a) and (c) may be combined with §109.13(k) as long as sales to no more than 35 unaccredited investors occur within a 12-month period. Also, the phrase "exempt under other provisions of §5" is redefined, and typographical errors are corrected.

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

Ms. Crawford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of a prohibition against combining §5.I(a) and (c) with §109.13(k) in certain circumstances, the redefinition of the phrase "exempt under other provisions of this §5" to exclude from the count of purchasers under the Act, §5.I(c), purchasers under an employee plan covered by the Act, §5.I(b), and the correction of typographical errors. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§109.13. Limited Offering Exemptions.

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

(c) Number of persons or security holders. In computing the number of purchasers or security holders for §5.I, the following criteria shall be used.

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

(4) The exemptions contained in the Act, §5.I(a) and (c), as interpreted in subsections (a)-(j) of this section may not be combined with the exemptions promulgated pursuant to the Act, §5.T, contained in subsections (k) and (l) of this section **to exceed sales to 35 unaccredited investors in a 12-month period.**

(d) (No change.)

(e) Other exemptions. The phrase "exempt under other provisions of this §5" in §5.I(c) means exempt under any provisions of the Act, other than **§5.I(a)** [5.I], and subsections (k) and (l) of this section.

(f)-(j) (No change.)

(k) Uniform limited offering exemption. In addition to sales made under the Texas Securities Act, §5.I, the State Securities Board, pursuant to the Act, §5.T, exempts from the registration requirements of the Act, §7, any offer or sale of securities offered or sold in compliance with the Securities Act of 1933, Regulation D, Rules 230.505 and/or 230.506, including any offer or sale made exempt by application of Rule 508(a), as made effective in United States Securities and Exchange Commission Release Number 33-6389 and as amended in Release Numbers 33-6347, 33-6663, 33-6758, and **33-6825** [33-6835], and which satisfies the following further conditions and limitations.

(1)-(15) (No change.)

(1) Intrastate limited offering exemption. In addition to sales made under the Securities Act, §5.I, the State Securities Board, pursuant to the Securities Act, §5.I, exempts from the registration requirements of the Securities Act, §7, any offer or sale of any securities by the issuer itself, or by a registered dealer acting as agent for the issuer provided all offers and sales are made pursuant to an offering made and completed solely within this state and all the conditions in paragraphs (1)-(11) of this subsection are satisfied.

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

(6) The offering complies with subsections (a)-(d) and (j) of this section. However, persons who are "accredited investors" as defined in paragraph (11) of this subsection are deemed to be "sophisticated" as defined in subsection (a)(2)[(1)] of this section.

(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.

Issued in Austin, Texas, on July 2, 1990.

TRD-9006741 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 474-2233

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Chapter 113. Registration of Securities

• 7 TAC §113.4

The State Securities Board proposes an amendment to §113.4, concerning application for registration. The amendment to the section reflects the provisions of the Securities Act (Act), §35-1 which allow for the retroactive registration of excess securities.

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

Mr. Northcutt also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a decreased possibility that persons would be unaware of the provisions of the Act, §35-1, that allow for the retroactive registration of excess securities. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The amendment is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§113.4. Application for Registration.

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

(e) **Sales in excess of amount registered** [Failure to renew permit]. An offeror who sells securities in this state in excess of the amount of securities registered may do the following. [A clerical error in failing to renew a permit may be rectified by:]

(1) If the registration is still in effect an offeror may:

(A) apply to register the excess securities by paving three times the difference between the initial fee paid and the fee required under the Securities Act (Act), §35, for the securities sold to persons in this state; and

(B) pay the amendment fee prescribed by the Act, §35.D.

(2) If the registration is no longer in effect an offeror may:

(A) apply to register the excess in accordance with paragraph (1)(A) of this subsection, plus interest on the amount of fees owed computed at the rate of 6.0% from the date the registration was no longer in effect until the date the subsequent application is filed; and

(B) pay the amendment fee prescribed by the Act, §35.D.

(3) Registration of the excess securities, if granted, shall be effective retroactively to the effective date of the initial registration for the offering.

(4) As an alternative to paragraph (1) or (2) of this subsection the offeror may issue [(1)] letters of rescission to persons who bought **excess securities** [after expiration of the permit,] and include a statement in the prospectus [explaining or], admitting the error [(this method is preferred); or [(2)] showing sales of unregistered securities as contingent liability].

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

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

Issued in Austin, Texas on July 2, 1990.

TRD-9006739 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 474-2233

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• 7 TAC §113.12

The State Securities Board proposes new §113.12, concerning applicability of guidelines. The new section will clarify that certain board guidelines apply only to securities offerings for which registration is being sought.

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

Mr. Northcutt also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification that compliance with the listed guidelines is required only when the securities offering in question is being registered. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Denise Voigt Crawford, State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

The new section is proposed under Texas Civil Statutes, Article 581, §28-1, which provide the board with the authority to adopt rules and regulations governing registration statements and applications; classify securities, persons, and matters within its jurisdiction; and prescribe different requirements for different classes.

§113.12. Applicability of Guidelines. The guidelines listed in this section do not apply to offerings made pursuant to an exemption under either the Securities Act (Act), §5 or §6. In other words, the requirements contained in one of the following guidelines would apply only to an offering for which an application for registration is filed with the securities commissioner:

(1) Chapter 117 of this title (relating to Administrative Guidelines of Registration of Real Estate Programs);

(2) Chapter 119 of this title (relating to Publicly-offered Cattle Feeding Programs);

(3) Chapter 121 of this title (relating to Oil and Gas Drilling Programs);

(4) Chapter 123 of this title (relating to Open-End Investment Companies);

(5) Section 135.5 of this title (relating to Registration of Bonds);

(6) Chapter 141 of this title (relating to Administrative Guidelines for Registration of Equipment Programs; and

(7) Chapter 143 of this title (relating to Administrative Guidelines for Registration of Real Estate Investment Trusts).

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 July 2, 1990.

TRD-9006740 Richard D. Latham
Securities Commissioner
State Securities Board

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 474-2233

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TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Racing

Subchapter A. General Provisions

• 16 TAC §305.6

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

The Texas Racing Commission proposes an amendment to §305.6, concerning fees. The amendment authorizes the payment of license fees by personal check.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the licensing procedure for individuals at racetracks will be simplified and less costly to the applicants. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006775 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Chapter 307. Practice and Procedure

Subchapter C. Proceedings by Stewards and Racing Judges

Exclusion and Ejection

• 16 TAC §307.271

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

The Texas Racing Commission proposes an amendment to §307.271, concerning ejection and exclusion. The amendment clarifies the grounds for excluding or ejecting an individual from an association's grounds and authorizes the executive secretary of the commission to order an individual excluded or ejected.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the pari-mutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §13.01, which authorize the commission to adopt rules providing for the exclusion and ejection of individuals from an enclosure where grey-hound races or horse races are conducted.

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 July 5, 1990.

TRD-9006777 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Chapter 309. Operations of Racetracks

Subchapter A. General Provisions

Facilities and Equipment

• 16 TAC §309.28

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

The Texas Racing Commission proposes an amendment to §309.28, concerning photofinish equipment. The amendment clarifies the types of photographs the association must post for viewing by the public.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that pari-mutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses as a result of enforcing the section. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006778 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Operations

• 16 TAC §309.67

(Editor's note: The text of the following section

proposed for repeal will not be published. The amendment may be examined in the offices of the Texas Racing Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Racing Commission proposes the repeal of §309.67, concerning money orders. The section requires an association to have money orders available for sale during all hours that the commission offices are open for occupational licensing.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Carter also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the administration of occupational licensing will be simplified and less costly to the association. There will be no effect on small businesses as a result of enforcing the repeal. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006779 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Subchapter B. Horse Racetracks

Operations

• 16 TAC §309.199

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

The Texas Racing Commission proposes an amendment to §309.199, concerning horsemen's bookkeeper. The amendment clarifies the persons to whom the bookkeeper may release funds from an account and the time at which the purse money must be released.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that parimutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006780 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Chapter 313. Officials and Rules for Horse Races

Subchapter D. Running of the Race

Pre-race Procedure

• 16 TAC §313.421

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

The Texas Racing Commission proposes an amendment to §313.421, concerning horses to pre-race holding area. The amendment clarifies the time at which a horse must be present in the pre-race holding area. The amendment also prohibits the placement of blinkers on a horse until after the horse has been identified by the horse identifier.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that parimutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas on July 5, 1990.

TRD-9006781 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

Veterinary Practices

• 16 TAC §319.110

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

The Texas Racing Commission proposes an amendment to §319.110, concerning Coggins test and health certificate. The amendment eliminates the requirement that a current health certificate for a horse be on file with the commission veterinarian for the horse to be eligible to start in a race.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that parimutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas

78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing Act.

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006782 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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Subchapter D. Drug Testing Provisions for Horses

• 16 TAC §319.361

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

The Texas Racing Commission proposes an amendment to §319.361, concerning testing of horses. The amendment clarifies which horses out of each race must submit to drug testing and for which drug testing is discretionary with the stewards.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Carter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that parimutuel racing will be of the highest integrity and will be fair to all participants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted before August 15, 1990, to Paula Cochran Carter, General Counsel, Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §14.03, which authorize the commission to adopt rules prohibiting the illegal influencing of the outcome of a race through the use of medications, stimulants, or depressants.

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 July 5, 1990.

TRD-9006783 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 476-7223

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TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 141. Teacher Certification

Subchapter B. Certificates Issuance Procedures

• 19 TAC §141.23

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

The Texas Education Agency proposes the repeal of §141.23, concerning the issuance of certificates based on examination. The proposed repeal of this section will correct an administrative error in the numbering of agency rules. A new §141.27, concerning the issuance of certificates based on examination, is being proposed.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal is that the agency's rules will be complete and in the proper order and will be in compliance with state law. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §13.0321, which provides the State Board of Education with the authority to adopt rules allowing certified teachers to qualify for additional certification based on examination.

§141.23. Issuance of Certificates Based on Examination.

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

Issued in Austin, Texas on June 22, 1990.

TRD-9006757 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 463-9701

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The Texas Education Agency proposes new §141.23, concerning duplicate teacher certificates. A duplicate certificate is issued, upon receipt of an appropriately completed application form, to an individual whose previous certificate was either lost or destroyed, or when a name has been legally changed.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing this new section is that a procedure is in place for individuals to obtain duplicate certificates. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §13.032(a), which provides the State Board of Education with the authority to establish rules and regulations concerning the issuance of teacher certificates.

§141.23. Duplicate Certificates. A duplicate certificate is issued, upon receipt of an appropriately completed application form, to an individual whose previous certificate was either lost or destroyed. A duplicate certificate may be issued to an individual whose legal name has changed, and who wishes the certificate to identify the correct current name. No fee is required for issuance of a duplicate certificate.

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

Issued in Austin, Texas, on June 22, 1990.

TRD-9006755 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 463-9701

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• 19 TAC §141.27

The Texas Education Agency proposes new §141.27, concerning the issuance of certificates based on examination. The proposed new section would enable previously certified teachers to add certificates for a different level or subject and allow secondary teachers to acquire additional teaching fields through the successful completion of the appropriate certification examination. In addition, teachers who possess a valid classroom teaching certificate and a bachelor's degree could qualify for an additional certification in a subject or at a level not covered by the teacher's existing certificate by passing the appropriate Examination for the Certification of Educators in Texas (ExCET) and then successfully completing a one year internship. The proposed new section also would set guidelines for the internship. The new section is proposed pursuant to House Bill 2185 of the 71st Texas Legislature.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Moak and Criss Cloudt McCuller, director for planning and coordination, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the increased opportunity for teachers to expand their teaching qualifications and compliance with state law. There will be no effect on small businesses. There is no anticipated economic cost for persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedures and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §13.0321, which provides the State Board of Education with the authority to adopt rules allowing certified teachers to qualify for additional certification based on examination.

§141.27. Issuance of Certificates Based on Examination.

(a) General provisions. A teacher who possesses a valid classroom teaching certificate and a bachelor's degree may qualify for an additional teaching field(s) or certification to teach at another level by passing the appropriate Examination(s) for the Certification of Educators in Texas (ExCET) that are offered for that subject. The rule shall not be used to qualify an individual for:

(1) initial certification;

(2) vocational certification based on skill and experience;

(3) professional service certification; or

(4) certification for which no ExCET requirement has been developed.

(b) Adding additional secondary teaching fields. A teacher who already possesses a secondary certificate and is seeking additional certification at the secondary level will be required to successfully pass the appropriate ExCET(s) that are offered for that secondary teaching subject listed in the Texas Education Code, §21.101(a).

(c) Additional certification for a different level or subject area. A teacher who possesses a valid classroom teaching certificate and a bachelor's degree may qualify for additional certification in a subject or at a level not covered by the teacher's existing certificate by:

(1) passing the appropriate ExCET(s) in the subject for which the teacher is seeking additional certification; and

(2) then completing a successful one-year internship under the supervision of an experienced certified teacher and who is teaching at that level or in that subject area.

(d) District requirements for approving individuals seeking additional certification. School districts who choose to staff positions with teachers who are qualifying for additional certification but who are not certified for that specific assignment must maintain documentation that they meet the following:

(1) full accreditation status of the participating school district;

(2) commitment to individual(s) seeking additional certification through adequate funding, a sufficient number of qualified supervising teachers, and other resources to deliver the internship;

(3) provision of time for the supervising teacher and the intern to observe each other and to conduct follow-up conferences;

(4) that all eligible candidates serving as teacher of record were assigned to an internship no later than October 1 of the school year in which the internship is to be completed; and

(5) that districts annually report the assignment of all interns in this program who are serving as the teacher of record in the district through the Public Education Information Management System (PEIMS).

(e) The supervising teacher.

(1) The supervising teacher shall be teaching in the subject or grade level in which the intern is seeking additional certification, and shall be experienced and certified in the subject or at that level.

(2) The supervising teacher shall have adequate time to assess the intern through formative instruments and to determine appropriate activities for the intern based on the needs of the intern as determined by the assessment and by input from the intern.

(f) The internship.

(1) The teacher shall have a minimum of two years of classroom teaching experience and shall have been appraised as at least exceeding expectations in the most recent year served in order to be considered eligible for the internship.

(2) The intern shall be provided time within the instructional day to observe the supervising teacher and other experienced teachers in the subject or at the level for which certification is sought.

(3) The intern, regardless of career ladder assignment level, must receive two appraisals.

(4) Internship shall begin no later than October 1 and extend through the last day of instruction.

(g) Recommendation for additional certification. To be eligible for certification in a subject area or at a level for which an internship is required, the intern must receive, in addition to the appraisals of the intern by two appraisers, a recommendation from the supervising teacher that signifies successful completion of the internship.

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

Issued in Austin, Texas on June 21, 1990.

TRD-9006756 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 463-9701

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TITLE 22. EXAMINING BOARDS

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Suspension or Revocation of Licensure

• 22 TAC §535.164

The Texas Real Estate Commission proposes an amendment to §535.164, concerning disclosure of agency. The amendment adds language relating to prohibited discrimination based on familiar status or handicap to a disclosure form, which was adopted by reference on September 1, 1988, real estate licensees are required to use. The disclosure form must be provided to a prospective buyer or tenant prior to negotiating a sale or lease or signing an offer. This revision brings the form into conformity with the Federal Fair Housing Amendments Act of 1988, Public Law Number 100-430, 102 Statute 1619. The amendment also adds a blank to the form in which the real estate broker or salesman may indicate the name of the real estate brokerage firm providing the disclosure. The mailing address of the commission is also revised in the section.

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

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased awareness of prohibited discrimination in housing. There will be no effect on small businesses as a result of enforcing the section. The only anticipated economic cost to persons who are required to comply with the section is the cost of copies of the form, estimated to be $3.50 for a pad of 50 copies.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(e), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.164. Disclosure of Agency.

(a) The Texas Real Estate Commission adopts by reference Agency Disclosure Form **1-1**, approved by the Texas Real Estate Commission in **1990** [1988]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-**2188.**

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

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

Issued in Austin, Texas, on June 29, 1990.

TRD-9006720 Mark A. Moseley
General Counsel
Texas Real Estate Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 465-3960

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• 22 TAC §535.165

The Texas Real Estate Commission proposes an amendment to §535.165, concerning disclosure of buyer or tenant agency. The amendment adds language relating to prohibited discrimination based on familial status or handicap to a disclosure form, which was adopted by reference on April 1, 1989, real estate brokers are required to provide to a seller or landlord when representing a buyer or tenant. This revision conforms language used in the form with the Federal Fair Housing Amendments Act of 1988, Public Law Number 100-430, 102 Statute 1619. The amendment also revises the mailing address of the commission as shown in the section.

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

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased awareness of prohibited discrimination in housing. There will be no effect on small businesses as a result of enforcing the section. The only anticipated cost to persons who are required to comply with the section is the cost of copies of the form, estimated to be $3.50 for a pad of 50 copies.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(e), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.165. Disclosure of Buyer or Tenant Agency.

(a) The Texas Real Estate Commission adopts by reference Agency Disclosure Form **2-1**, [2] approved by the Texas Real Estate Commission in **1990** [1988]. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-**2188.**

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

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

Issued in Austin, Texas on June 29, 1990.

TRD-9006719 Mark A. Moseley
General Counsel
Texas Real Estate Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 465-3960

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Chapter 537. Professional Agreements and Standard Contracts

Standard Contract Forms

• 22 TAC §537.11

The Texas Real Estate Commission proposes an amendment to §537.11, concerning use of standard contract forms. The proposed amendment modifies the section to permit computer reproduction of contract forms or addenda promulgated or approved by the agency. Under guidelines provided by the proposed section, computer reproduced forms would be identical in appearance to those reproduced from printed proofs, and the name and address of the person or firm responsible for developing the software program would appear on each form. The proposed amendment would prohibit direct access to the text of a form in the software program. The amendment also rearranges the section for clarity.

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

Mr. Moseley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased efficiency in preparing standard contract forms by use of computers. There will be no effect on small businesses as a result of the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P. 0. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(c), which provide the Texas Real Estate Commission with the authority to adopt and enforce all rules and regulations necessary for the performance of its duties.

§537.11. Use of Standard Contract Forms.

(a) Standard Contract Form TREC Number 2-2 is promulgated for use as an addendum only to another promulgated standard contract form. Standard Contract Form TREC Number 9-1 is promulgated for use in the sale of unimproved property where intended use is for one to four family residences. Standard Contract Form TREC Number 10-1 is promulgated for use as an addendum concerning sale of other property by a buyer to be attached to promulgated forms of contracts. Standard Contract Form TREC Number 11-1 is promulgated for use as an addendum to be attached to

promulgated forms of contracts which are second or back-up contracts. Standard Contract Form TREC Number 12-0 is promulgated for use as an addendum to be attached to promulgated forms of contracts where there is a veterans administration release of liability or restoration entitlement. Standard Contract Form TREC Number 13-0 is promulgated for use as an addendum concerning new home insulation to be attached to promulgated forms of contracts. Standard Contract Form TREC Number 14-0 is promulgated for use as an addendum concerning financing conditions to be attached to promulgated contracts where there is a conventional loan. Standard Contract Form TREC Number 15-1 is promulgated for use as a residential lease when a seller temporarily occupies property after closing. Standard Contract Form TREC Number 16-1 is promulgated for use as a residential lease when a buyer temporarily occupies property prior to closing. Standard Contract Form TREC Number 20-0 is promulgated for use in the resale of residential real estate where there is all cash or owner financing, an assumption of an existing loan, or a conventional loan. Standard Contract Form TREC Number 21-0 is promulgated for use in the resale of residential real property where there is a veterans administration guaranteed loan or a federal housing administration insured loan. Standard Contract Form TREC Number 23-0 is promulgated for use in the sale of a new home where construction is incomplete. Standard Contract Form Number 24-0 is promulgated for use in the sale of a new home where construction is completed. Standard Contract Form TREC Number 25-0 is promulgated for use in the sale of a farm or ranch. Standard Contract Form TREC Number 26 0 is promulgated for use as an addendum concerning seller financing. [Forms approved or promulgated by the commission shall be reproduced from numbered proofs obtained from the commission, from printed copies made from proofs obtained from the commission or from legible photocopies made from such proofs or printed copies. The control number of each proof must appear on all forms reproduced from the proof. Forms shall not be reproduced by means of word processors, computers, optical scanners, or other similar devices or machines. When reproducing a form, additions or changes are prohibited, except that brokers, organizations, or printing services may add their names and/or logo at the top of the form itself. Also, the real estate broker's name may be inserted on the front page of the form in the blank space provided after the words "broker's fee" and the broker's name and license number may be printed in the signature section on the back page.]

(b)-(g) (No change.)

(h) Forms approved or promulgated by the commission shall be reproduced only from the following sources:

(1) numbered proofs obtained from the commission;

(2) printed copies made from proofs obtained from the commission;

(3) legible photocopies made from such proofs or printed copies; or

(4) computer-driven printers following these guidelines.

(A) Any software used must not allow the user direct access to the text of the form and may only permit the user to insert language in blanks in the forms.

(B) Typefaces or fonts must be identical to that used by the commission in printed proofs of the particular form.

(C) The text, number of pages, spacing, length of blanks, borders of the form, and position on the page must be identical to that used by the commission in printed proofs of the particular form.

(D) The name and address of the person or firm responsible for developing the software program must be legibly printed below the border at the bottom of each page in no less than 14-point type.

(E) The text of the form must be obtained from a proof of the form bearing a control number assigned by the commission.

(i) The control number of each proof must appear on all forms reproduced from the proof, including forms reproduced by computer-driven printers.

(j) Forms approved or promulgated by the commission may be reproduced with the following changes or additions only.

(1) The business name or logo of a broker, organization or printer may appear at the top of a form outside the border.

(2) the broker's name may be inserted in any blank provided for that purpose.

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

Issued in Austin, Texas on June 29, 1990.

TRD-9006718 Mark A. Moseley
General Counsel
Texas Real Estate Commission

Earliest possible date of adoption: August 13, 1990

For further information, please call (512) 465-3960

Chapter 544. Provisions of the Real Estate License Act

Rules Relating to Certified Real Estate Appraisers

• 22 TAC §§544.1-544.9

The Texas Real Estate Commission proposes new §§544.1 544.9, concerning certification of real estate appraisers. The new proposed sections implement a voluntary program of appraiser certification authorized by Texas Civil Statutes, Article 6573a, §22. The proposed new sections have been prepared and recommended for adoption by the Texas Real Estate Appraiser Certification Committee (TREACC). TREACC is composed of nine real estate appraisers appointed by the Texas Real Estate Commission.

The proposed new sections would permit Texas real estate brokers and certain Texas real estate salesmen to become certified and thereby remain eligible to appraise in federally related transactions in compliance with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Title XI. By July 1, 1991, appraisals performed in connection with federally related transactions must be performed only by persons certified or licensed in accordance with Title XI.

Section 544.1 defines terms employed in the appraisal of real property or in the sections relating to certification.

Section 544.2 provides for filing of applications, adopts application and experience verification forms by reference, and provides grounds to disapprove applications. If a hearing is requested on an application, TREACC would conduct the hearing and recommend the entry of a final order by the commission.

Section 544.3 requires examinations for certification to consist of a section devoted to subjects recommended by the Appraiser Qualifications Board of the Appraisal Foundation and a section devoted to ethics and Texas law. An applicant is required to pay another examination fee and take both sections again if the applicant fails to complete both sections successfully; administrative procedures for examinations are also established by §544.3.

Section 544.4 concerns verification of experience required for general or residential appraiser certification. The section establishes a point system for measuring experience based on the complexity of the appraisal and the degree of participation by the appraiser. The committee may verify appraisals submitted for credit.

Section 544.5 provides for review and acceptance of coursework submitted by applicants to satisfy the educational requirements for certification. Courses must be appraisal-related, and the section identifies seven specific core real estate courses which are

acceptable for certification. The section also provides for correspondence courses and minimum course length.

Section 544.6 establishes requirements for renewal of certification and provides a procedure for notifying appraisers to file renewal applications. Renewal fees would be set by the commission upon the recommendation of TREACC. The section also requires an appraiser to complete 30 hours of continuing education courses approved by TREACC in order to renew a certification, seven hours of which must have been devoted to updates of standards of professional practice and ethics. Every third renewal, an appraiser must have completed a 15-hour course in standards of professional practice and ethics.

Section 544.7 concerns the formation and structure of TREACC and provides grounds for removal of members comparable to those for members of the commission.

Section 544.8 concerns administrative hearings conducted by TREACC with regard to certified appraisers or real estate brokers and salesmen alleged to have violated Texas Civil Statutes, Article 6573a or a rule of the commission while engaged in the performance of an appraisal of real property. TREACC may recommend a reprimand, or the suspension or revocation of a real estate license or appraiser certification, or both, or the probation of an order. Final orders would be entered by the commission in accordance with Texas Civil Statutes, Article 6573a, §22.

Section 544.9 adopts by reference the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation in 1987. The section provides exceptions for broker's opinions and comparative market analyses provided as part of other brokerage business.

Renil C. Liner, director of appraiser certification, has determined that there will be an additional cost to state government as a result of enforcing and administering the proposed sections, estimated to be approximately $275,000 annually for staff salaries and travel and operating expenses for TREACC. No fiscal implications are involved for local government.

Mr. Liner also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the availability in Texas of certified appraisers for federally related real estate transactions.

There will be no effect on small businesses as a result of enforcing the sections. The anticipated cost to persons who become certified is limited by statute to fees not to exceed $300 for filing an application for certification, $200 for an examination, and $150 for annual renewal. Continuing education expenses are estimated to be $75 annually.

There will be no local employment impact.

Comments on the proposed sections may be submitted to Renil C. Liner, Director of Appraisal Certification, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The new sections are proposed under Texas Civil Statutes, Article 6573a, §5(e), which provide the Texas Real Estate Commission with the authority to adopt all rules and regulations necessary for the performance of its duties.

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

Act–The Real Estate License Act, Texas Civil Statutes, Article 6573a.

Analysis–The act or process of providing information, recommendations, or conclusions on diversified problems in real estate other than estimating value.

Applicant–A person seeking to be certified as an appraiser.

Appraisal–The act or process of estimating value; an estimate of value; of or pertaining to appraising and related functions; for example, appraisal practice and appraisal services.

Appraisal practice–The work performed by appraisers in the marketplace, defined by three terms in these sections: appraisal, review, and analysis.

Appraising–The act of rendering an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.

Cash flow analysis–A study of the anticipated movement of cash in or out of real estate.

Classroom hour–Fifty minutes of actual classroom session time.

Client–Any party for whom an appraiser performs a service.

College–A junior or community college, senior college, university, or any other postsecondary educational institution established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other accrediting associations, or is a candidate for such accreditation.

College degree–An earned academic degree from a college or university, such as an associate's, bachelor's, master's, or doctor's degree or their equivalent titles.

Commission–The Texas Real Estate Commission.

Committee–The Texas Real Estate Appraiser Certification Committee.

Desk review–The act or process of performing a review, as defined, without physically inspecting the appraised property or the comparable data and with or without consideration of data not otherwise contained in the report.

Feasibility analysis–A study of the cost-benefit relationship of an economic endeavor.

Field review–The act or process of performing a review, as defined, to include physically inspecting the appraised property and comparable data and with the consideration of data not otherwise contained in the report.

Investment analysis–A study that reflects the relationship between acquisition price and anticipated future benefits of a real estate investment.

Market analysis–A study of real estate market conditions for a specific type of property.

Mass appraisal–The process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing.

Mass appraisal model–A mathematical expression of how supply and demand factors interact in a market.

Nonresidential property–A property which does not conform to the definition of residential property.

Person–An individual.

Personal property–Identifiable portable and tangible objects which are considered by the general public as being "personal"; for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery, and equipment.

Real estate–An identified parcel or tract of land, including improvements, if any.

Real property–The interests, benefits, and rights inherent in the ownership of real estate.

Report–Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

Residential property–A one-to-four family dwelling or a vacant site suitable for a one-to-four family dwelling.

Review–The act or process of critically studying a report prepared by another in accordance with §531.15 of this title (relating to Reviewing an Appraisal).

State certified real estate appraiser–An appraiser certified by the Texas Real Estate Appraiser Certification Committee of the Texas Real Estate Commission.

§544.2. Application for Certification.

(a) A person desiring to be certified as an appraiser shall file an application for certification using forms prescribed by the commission. The commission may not accept for filing an application which is incomplete or which is not accompanied by the appropriate fee. The commission may not grant a certification to an applicant unless the applicant:

(1) pays the fees requested by the commission;

(2) satisfies experience and education requirements established by the Real Estate License Act (the Act), §22 or by these sections;

(3) successfully completes the qualifying examination prescribed by the committee; and

(4) provides all supporting documentation or information requested by the commission or committee in connection with the application.

(b) The Texas Real Estate Commission adopts by reference the following forms approved by the commission in 1990 upon the recommendation of the Texas Real Estate Appraiser Certification Committee and published by and available from the commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1) TREACC Form GAC-1, Application for General Real Estate Appraiser Certification;

(2) TREACC Form RAC-1, Application for Residential Real Estate Certification;

(3) TREACC Form EVA-1, Experience Verification Affidavit; and

(4) TREACC Form LOG-1, Appraisal Experience Log.

(c) The commission shall establish fees to be collected under the Act, §22, upon the recommendation of the committee or at such other times as the commission deems appropriate. Fees shall not exceed the amount specified in the Act. Fees are not refundable once an application has been accepted for filing by the commission.

(d) Experience and educational requirements established by the Act, §22 or by these sections must be satisfied before an applicant may sit for the qualifying examination, provided an applicant who has a college degree or who has completed the number of classroom hours required for the category of certification sought may complete the course in professional practice and ethics required by the Act, §22(d)(3) at any time prior to being certified.

(e) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the commission or the committee makes written request for the information or documentation.

(f) A certification is valid for two years after it is granted by the commission unless the certification is suspended or revoked for cause. A certification may be renewed in accordance with the requirements of §544.6 of this title (relating to Renewal of Certification).

(g) An application for certification may be disapproved by the committee upon a determination that the applicant has failed to satisfy the committee as to the applicant's honesty, trustworthiness, and integrity.

(h) An application for certification may also be disapproved or a certification may be suspended or revoked upon a determination by the committee that:

(1) the applicant has been convicted of a criminal offense which is grounds for disapproval of an application under §541.1 of this title (relating to Criminal Offense Guidelines);

(2) the applicant supplied false or misleading information to the committee or the commission;

(3) the applicant gave, received, or attempted to give or receive unauthorized assistance during the administration of any examination required for appraiser certification; or

(4) the applicant disclosed to another person the content of any portion of the examination administered by the committee or the commission with the expectation that the disclosed information would be used by the other person for obtaining an advantage in another examination or that the disclosed information would be made available to other applicants.

(i) An applicant whose application has been disapproved by the committee is entitled to notice and opportunity for hearing. Proceedings involving disapproved applications shall be conducted in accordance with §§533.1-533.30 of this title (relating to Practice and Procedure), provided the committee shall conduct the hearing and recommend the entry of a final order by the commission as provided by the Act, §22(i) and by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §15. The committee may recommend that the disapproval be upheld or withdrawn or that a probationary certification be granted in the manner provided by §535.94 of this title (relating to Applications; Probationary Licenses).

§544.3. Examinations.

(a) Except as provided by this section, examinations administered by the commission to applicants for general or residential appraiser certification shall be administered in the manner contemplated by §535.61(a)-(o) of this title (relating to Competency: Examinations). If an examination is conducted by a testing service under contract with the commission, the examination shall be conducted in accordance with the procedures specified in the contract.

(b) Each examination shall consist of a section devoted to the subjects recommended for certification examinations by the Appraiser Qualifications Board of the Appraisal Foundation and a section devoted to ethics and Texas law related to the appraisal of real property. Each applicant for certification must achieve a score of at least 70% in each section of an examination for the category of certification sought.

(c) An applicant for certification must satisfy the examination requirement by successfully completing the examination within one year from the time the application for certification was accepted for filing by the commission. If an applicant fails the examination, the applicant must apply to take the examination again, pay the appropriate fee, and successfully complete the examination within the one-year period from the commission's acceptance of the application for certification. If the applicant has not satisfied all examination requirements within one year from the time the application for certification was accepted for filing by the commission, the application is terminated and a new application is required for certification.

(d) The commission or any testing service under contract with the commission shall administer examinations for appraiser certification at locations designated by the commission. The commission may assign an examination date and site to an applicant. An applicant who does not attend an assigned examination shall be deemed to have failed unless the commission is notified at least 24 hours in advance that the applicant will not appear on the assigned date.

§544.4. Experience Required for Certification.

(a) An applicant for general real estate appraiser certification must provide evidence satisfactory to the committee that the applicant possesses the equivalent of three years of appraisal experience within the five-year period immediately preceding the filing of the application for certification. 240 points of experience credit is deemed to be the equivalent of one year of experience. Experience credits for general real estate appraiser certification shall be awarded as follows.

(1) Sixteen points of credit shall be awarded for a complex nonresidential appraisal.

(2) Four points of credit shall be awarded for a complex nonresidential field review.

(3) One point of credit shall be awarded for a complex nonresidential desk review.

(4) Four points of credit shall be awarded for a non-complex nonresidential appraisal.

(5) Two points of credit shall be awarded for a non-complex nonresidential field review;

(6) One point of credit shall be awarded for a non-complex nonresidential desk review.

(7) Credit for appraisals of residential properties shall be awarded as provided in subsection (b) of this section.

(8) Each applicant must have a minimum of 720 points of credit, with no more than 300 points being awarded for a single year.

(9) No more than 240 points may be awarded for experience in appraising residential properties.

(b) An applicant for residential real estate appraiser certification must provide evidence satisfactory to the committee that the applicant possesses the equivalent of two years of appraisal experience within the five-year period immediately preceding the filing of an application for certification. Two hundred forty points of experience credit is deemed to be the equivalent of one year of experience credit. Experience credits for residential real estate appraiser certification shall be awarded as follows.

(1) Six points of credit shall be awarded for a complex residential appraisal.

(2) Two points of credit shall be awarded for a complex residential field review.

(3) One point of credit shall be awarded for a complex residential desk review.

(4) Three points of credit shall be awarded for a non-complex residential appraisal.

(5) One point of credit shall be awarded for a non-complex residential field review.

(6) One-half point of credit shall be awarded for a non-complex residential desk review.

(7) Each applicant must have a minimum of 480 points of credit, with no more than 300 points being awarded for a single year.

(8) Experience credits shall be limited to appraisals of one-to-four family residential properties.

(c) Experience for either category of certification must have been obtained during the five-year period immediately preceding the filing of the application for certification.

(d) For the purpose of this section, a noncomplex appraisal is one having the following characteristics:

(1) there is an active market of essentially identical properties;

(2) adequate data is available to the appraiser;

(3) adjustments to comparable sales are not large in the aggregate, specifically not exceeding the trading range found in the market of essentially identical properties; and

(4) for residential property, the contract price falls within the market norm (median sales price) of homes in the neighborhood.

(e) For the purpose of this section, a complex appraisal is one that relied to any significant degree on all three approaches to value (cost, sales comparison, and income approaches) or was an appraisal which did not have the characteristics of a noncomplex appraisal.

(f) Each signer (coauthor) of an appraisal report accepting responsibility for the report shall be awarded full credit for the appraisal. Each appraisal having four or more signers accepting responsibility for the report shall be awarded credit for an appraisal based on the appropriate points divided by the number of signers.

(g) All appraisals submitted or claimed for experience credit are subject to verification by the commission or by the committee. Applicants may not claim experience credit for appraisals which are not supported by written reports or file memoranda or which were performed by the applicant at a time when the applicant lacked legal authority to perform real estate appraisals. On request, the applicant shall furnish the commission or the committee copies of appraisal reports and file memoranda supporting the experience credit sought by the applicant.

(h) For each year (240 points of credit) of review appraisal experience for which credit is sought, one year of appraisal experience as defined in §531.10 of this title (Relating to Definitions) is required.

§544.5. Educational Requirements for Certification.

(a) The commission shall accept a course of study to satisfy educational requirements for certification if the committee has approved the course and determined it to be a course related to real estate appraisal.

(b) The committee may approve courses to be submitted by applicants for appraiser certification upon a determination of the committee that:

(1) the course was devoted to a subject named in the Real Estate License Act (the Act), §7(a), or was a core real estate course;

(2) the subject matter of the course was appraisal-related; provided that core real estate courses set forth in the Act, §§7(a)(1)-(4), (6), (8), and (9) shall be deemed appraisal-related;

(3) the course was offered by an accredited college or university, a school accredited by the commission, or by a real estate or appraiser certification or licensing agency of another state, a professional trade association, or a service-related school such as the United States Armed Forces Institute;

(4) the applicant has received in a classroom presentation the hours of instruction for which credit was given and successfully completed a final examination for course credit, provided that for courses offered by colleges or universities prior to the effective date of this section, an applicant must have received in a classroom presentation the hours of instruction comparable to those required by the college or university for courses of equivalent length conferring academic credit and must have qualified for successful course completion by either a final examination or another form of final evaluation; and

(5) with the exception of 15-hour courses related to the study of standards of professional practice and ethics related to the profession of real estate appraising, the course was at least 30 classroom hours in duration.

(c) For the purposes of this section, a professional trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting the common interest of its members.

(d) The commission or the committee may require an applicant to furnish materials such as source outlines, syllabi, course descriptions, or official transcripts to verify course content or credit.

(e) Correspondence courses may be approved by the committee under the following conditions:

(1) the course must have been offered by an accredited college or university which offers correspondence programs in other disciplines;

(2) successful completion of a written examination administered to positively identified students at a location and by an official approved by the college or university must be required for course credit; and

(3) the content and length of the course must meet the requirements for real estate appraisal-related courses established by this section.

(f) The commission shall periodically publish guidelines as to the acceptability of appraisal-related courses which have been approved by the committee. Except as may be specifically provided to the contrary in this section, the review and acceptance of courses submitted to satisfy educational requirements for appraiser certification shall be conducted by the commission or by the committee, as the case may be, in the manner prescribed by §535.61 of this title (relating to Examinations).

§544.6. Renewal of Certification.

(a) A person certified as an appraiser may renew the certification by timely filing the prescribed application for renewal of certification, paying the appropriate fee to the commission, and satisfying continuing education requirements as provided by this section.

(b) The commission shall mail the prescribed renewal application form to the certified appraiser's last known business address at least 90 days prior to the expira-

tion of the certification. It is the responsibility of the certified appraiser to apply for renewal of certification in accordance with this chapter, and failure to receive a renewal application form from the commission does not relieve the appraiser of the responsibility of applying for renewal of certification.

(c) The commission may not accept without documented evidence of hardship a renewal application filed after the expiration of the certification. An appraiser who does not timely file a renewal application must file an application for certification in accordance with the provisions of §544.2 of this title (relating to Application for Certification) and, if the application for certification is filed more than one year after the expiration of the certification, successfully complete the examination required by §544.3 of this title (relating to Examinations).

(d) A renewal application is deemed filed when placed in the mails properly addressed to the commission with appropriate postage paid.

(e) The committee shall recommend the renewal fee to be collected by the commission, provided the fee shall not exceed $150 for each year the certification is renewed as provided by the Real Estate License Act, §22(f).

(f) As a condition for renewing a certification, an appraiser must successfully complete the following courses during the term of the certification:

(1) at least 30 hours of continuing education courses approved by the committee, of which at least seven hours have been devoted to updates of standards of professional practice and ethics; and

(2) for every third certification, a 15-hour course in standards of professional practice and ethics approved by the committee as part of the 30 hours required by paragraph (1) of this subsection.

§544.7. The Committee.

(a) The committee shall meet in Austin in November of each year and at such other times and places as it deems necessary to discharge the responsibilities of the committee. Meetings of the committee are subject to the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(b) A quorum of the committee consists of five members.

(c) Meetings of the committee may be called by the chairman on his own motion or upon the written request of five members. Meetings shall be conducted in accordance with *Robert's Rules of Order*.

(d) Officers of the committee shall consist of a chairman, a vice-chairman, and a secretary. The committee shall elect its officers at the November meeting or upon the creation of a vacancy in an office, whichever first occurs.

(e) The members of the committee are subject to the ethics and standards of conduct imposed by Texas Civil Statutes, Article 6252-9b.

(f) Terms of office for members of the committee shall be established when the members are appointed by the commission as provided by the Real Estate License Act (the Act), §22(g)(2), and members shall continue to serve until their successors are appointed. It is grounds for the commission to remove a member who:

(1) did not have at the time of appointment the qualifications for appointment required by the Act, §22(g)(2);

(2) does not maintain during the member's term of office the qualifications required by the Act, §22(g)(2);

(3) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(4) is absent from more than one-half of the regularly scheduled committee meetings that the member is eligible to attend during each calendar year, except when the absence is excused by a majority vote of the committee.

§544.8. Disciplinary Actions.

(a) The committee shall conduct administrative hearings and recommend the entry of final orders by the commission in contested cases regarding:

(1) real estate licensees who are alleged to have violated the Real Estate License Act (the Act) or a rule of the commission while engaged in the performance of an appraisal of real property; or

(2) certified real estate appraisers who are alleged to have violated any provision of the Act or of a rule of the commission.

(b) The committee may recommend a reprimand, or the suspension or revocation of a real estate license, an appraiser certification, or both, after an administrative hearing. The committee may recommend that an order of suspension or revocation be probated in whole or in part, and may recommend that the probation be subject to reasonable terms and conditions in accordance with the Act, §15B(b) and §15B(c).

(c) Proceedings under this section shall be conducted by the committee in accordance with §§533.1-533.30 of this title (relating to Practice and Procedure) and with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§544.9. Uniform Standards of Professional Practice.

(a) The Texas Real Estate Commission adopts by reference the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Foundation in 1987 and approved by the Texas Real Estate Commission in 1990. This document is published by and availabl from the Appraisal Foundation, 1029 Vermont Avenue, Northwest, Suite 900, Washington, D. C. 20005-3271, and is on file at the offices of the Texas Real Estate Commission, 1101 Camino La Costa, Austin.

(b) The "Uniform Standards of Professional Appraisal Practice" shall not apply to:

(1) a statement of opinion of value of real property (commonly known as a broker's opinion of value) given by a licensee in connection with seeking or obtaining a listing contract; or

(2) a price comparison of similar properties (commonly known as a comparative market analysis or CMA) provided as part of other brokerage business for the sole purpose of determining a listing, selling, or rental price for a specific property.

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

Issued in Austin, Texas, on June 29, 1990.

TRD-9006717 Mark A. Moseley
General Counsel
Texas Real Estate Commission

Proposed date of adoption: September 1, 1990

For further information, please call: (512) 465-3960

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Special Senses and Communication Disorders

• 25 TAC §37.47, §37.48

The Texas Department of Health proposes new §37.47 and §37.48 concerning special senses and communication disorders. New §37.47 covers the procedures of the Children's Speech, Hearing, and Language Screening Advisory Committee. New §37. 48 covers the procedures of the Children's Vision Screening Advisory Committee. Specifically the new sections cover the committees' name and place of business; purpose; membership and participation; meetings and voting; responsibilities of members; officers; public participation; and compensation of members.

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

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to make the general public aware of the procedures of the Children's Speech, Hearing, and Language Screening Advisory Committee and the Children's Vision Screening Advisory Committee. There will be no fiscal implications to small businesses or to persons and there also will be no impact on local employment.

Comments on the proposal may be submitted to Linda G. Prentice, M.D., Director, Division Child Health, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 77056, (512) 458-7700. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The new sections are proposed under the Health and Safety Code, §11.016, which provides the Texas Board of Health with the authority to establish advisory committees; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§37.47. Procedures of the Children's Speech, Hearing, and Language Screening Advisory Committee.

(a) Name and place of business.

(1) Name. This committee shall be known as the Children's Speech, Hearing, and Language Screening Advisory Committee, created by the Health and Safety Code.

(2) Office. The committee is administratively attached to the Vision, Hearing, and Speech Services programs under the Division of Child Health, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(b) Purpose. The advisory committee is created for the purpose of advising the Texas Board of Health in the adoption of rules establishing standards for persons administering speech, hearing, and language screening tests and standards for referral and follow-up, including standards for any remedial services authorized by the board. Committee responsibilities will include:

(1) reviewing and critiquing proposed changes in screening standards, keeping both short-range and long-range program goals in mind, and making recommendations to the Texas Department of Health;

(2) making recommendations annually to the Vision, Hearing, and Speech Services' hearing, speech, and language screening and remedial programs regarding population served, gaps in coverage and services to each population, and the efficiency of the coordination of these services throughout the state; and

(3) reviewing related proposed legislation and rules to determine their impact on access, delivery, and coordination of screening and/or remedial services.

(c) Membership and participation.

(1) Membership. The committee shall consist of 10 members, which include:

(A) two audiologists (one from private practice and one from the public sector);

(B) two speech-language pathologists (one from private practice and one from the public sector);

(C) two physicians (one ear, nose, and throat specialist and one school health practitioner);

(D) one school nurse;

(E) two public members (parents or interested persons); and

(F) one specialist in communications disorders.

(2) Terms.

(A) The initial two-year terms will be served by an audiologist in private practice, a speech-language pathologist in the public sector, a physician with an ear, nose, and throat specialty, a school nurse, and a public member.

(B) The initial four-year terms will be served by an audiologist in the public sector, a speech-language pathologist in private practice, a school health physician, a specialist in communications disorders, and a public member.

(C) Thereafter, terms will be for four years with appointments made every two years for half the committee membership, expiring on August 31st at the end of their respective terms.

(3) Policies governing membership. The subcommittees of the committee shall be ad hoc and shall be appointed from the membership by the chairperson with such powers and responsibilities as shall be delegated to them by the chairperson.

(4) Staff participation. The Texas Department of Health shall cooperate with the committee by making resource staff available to the committee when information relating to the department's programs is needed.

(d) Meetings and voting.

(1) Meetings. The committee shall meet at least once every year. Notice of the time, date, place, and purpose of regular meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(2) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(3) Quorum. A majority of the committee's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote. Proxy votes shall not be allowed.

(4) Parliamentary procedure. Parliamentary procedures for all committee or subcommittee meetings are conducted in accordance with the latest edition of *Roberts Rules of Order*, except that the chairperson may vote on any action as any other member of the committee.

(5) Minutes. Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

(e) Responsibilities of members.

(1) Attendance. Members accepting appointment are expected to attend all committee meetings, and subcommittee meetings to which they are appointed, except in the case of an emergency.

(2) Absences. A record of attendance at each meeting shall be made. If a member misses two consecutive meetings, written notice shall be given to the member. A third consecutive absence from a regular meeting shall be sufficient grounds for membership termination.

(f) Officers.

(1) Officers. The officers of the committee shall consist of a chairperson and a vice-chairperson and shall be selected at the committee's first regular meeting and thereafter, as terms expire or vacancies are otherwise created. Officers shall serve two-year terms and shall be eligible for re-election for one additional term. The vice-chairperson shall assume the authority and duties of the chairperson in his or her absence.

(2) Duties. Each officer shall be expected to fulfill his or her assigned duties and other appropriate duties requested by the committee.

(A) The chairperson shall:

(i) preside at meetings;

(ii) plan with Department of Health for the agenda of the meetings and other committee activities;

(iii) handle administrative matters of the committee;

(iv) act as spokesperson of the committee;

(v) appoint members to membership of subcommittees and ad hoc committees as needed; and

(vi) perform other duties as requested by the committee.

(B) The vice-chairperson shall:

(i) preside at meetings in the absence of the chairperson;

(ii) cooperate with the chairperson in the administration of the committee;

(iii) assume all duties and responsibilities of the chairperson in his or her absence; and

(iv) assume additional duties as requested by the committee.

(g) Public participation. All requests from the public to participate in committee meetings shall be submitted to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public participation. The chairperson may limit, as necessary, the time for each spokesperson appearing before the committee. Written comments are encouraged and may be submitted to the committee for their consideration.

(h) Compensation. Members of the committee and ad hoc committees will receive no compensation for their services. A member of the committee is entitled to reimbursement for expenses incurred in performing duties for this committee. The reimbursement may not exceed the amount specified in the General Appropriations Act for travel and per diem allowances for state employees.

§37.48. Procedures of the Children's Vision Screening Advisory Committee.

(a). Name and place of business.

(1) Name. This committee shall be known as the Children's Vision Screening Advisory Committee, created by the Health and Safety Code.

(2) Office. The committee is administratively attached to the Vision, Hearing, and Speech Services programs under the Division of Child Health, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(b) Purpose. The advisory committee is created for the purpose of advising the Texas Board of Health in the adoption of rules establishing standards for persons administering vision screening tests and standards for referral and follow-up, including standards for any remedial services authorized by the board. Committee responsibilities will include:

(1) reviewing and critiquing proposed changes in screening standards, keeping both short-range and long-range program goals in mind and making recommendations to the Texas Department of Health;

(2) make recommendations annually to the Vision, Hearing, and Speech Services' vision screening and remedial programs regarding population served, gaps in coverage and services to each population, and the efficiency of the coordination of these services throughout the state; and

(3) reviewing related proposed legislation and rules to determine their impact on access, delivery, and coordination of screening and/or remedial services.

(c) Membership and participation.

(1) Membership. The committee shall consist of six members which include:

(A) two physicians who specialize in ophthalmology;

(B) two optometrists (one a member of the Texas Optometric Association and one a member of the Texas Association of Optometrists); and

(C) two persons who have experience in and an interest in children's vision problems to represent the public.

(2) Terms. Committee members shall serve for staggered six-year terms, with the terms of two members expiring on August 31st of each odd-numbered year.

(3) Policies governing membership. The subcommittees of the committee shall be ad hoc and shall be appointed from the membership by the chairperson with such powers and responsibilities as shall be delegated to them by the chairperson.

(4) Staff participation. The Texas Department of Health shall cooperate with the committee by making resource staff available to the committee when information relating to the agency's programs is needed.

(d) Meetings and voting.

(1) Meetings. The committee shall meet at least once every year. Notice of the time, date, place, and purpose of regular meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(2) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(3) Quorum. A majority of the committee's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote. Proxy votes shall not be allowed.

(4) Parliamentary procedure. Parliamentary procedures for all committee or subcommittee meetings are conducted in accordance with the latest edition of *Roberts Rules of Order*, except that the chairperson may vote on any action as any other member of the committee.

(5) Minutes. Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

(e) Responsibilities of members.

(1) Attendance. Members accepting appointment are expected to attend all committee meetings and subcommittee meetings to which they are appointed, except in the case of an emergency.

(2) Absences. A record of attendance at each meeting shall be made. If a member misses two consecutive meetings, written notice shall be given to the member. A third consecutive absence from a regular meeting shall be sufficient grounds for membership termination.

(f) Officers.

(1) Officers. The officers of the committee shall consist of a chairperson and a vice-chairperson and shall be selected at the committee's first regular meeting and thereafter, as terms expire or vacancies are otherwise created. Officers shall serve two-year terms and shall be eligible for re-election for one additional term. The vice-chairperson shall assume the authority and duties of the chairperson in his or her absence.

(2) Duties. Each officer shall be expected to fulfill his or her assigned duties and other appropriate duties requested by the committee.

(A) The chairperson shall:

(i) preside at meetings;

(ii) plan with Texas Department of Health staff for the agenda of the meetings and other committee activi-

ties;

(iii) handle administrative matters of the committee;

(iv) act as spokesperson of the committee;

(v) appoint members to membership of subcommittees and ad hoc committees as needed; and

(vi) perform other duties as requested by the committee.

(B) The vice-chairperson shall:

(i) preside at meetings in the absence of the chairperson;

(ii) cooperate with the chairperson in the administration of the committee;

(iii) assume all duties and responsibilities of the chairperson in his or her absence; and

(iv) assume additional duties as requested by the committee.

(g) Public participation. All requests from the public to participate in the committee meetings shall be submitted to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public participation. The chairperson may limit, as necessary, the time for each spokesperson appearing before the committee. Written comments are encouraged and may be submitted to the committee for their consideration.

(h) Compensation. Members of the committee and ad hoc committees will receive no compensation for their services. A member of the committee is entitled to reimbursement for expenses incurred in performing duties for this committee. The reimbursement may not exceed the amount specified in the General Appropriations Act for travel and per diem allowances for state employees.

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 July 6, 1990.

TRD-9006895 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7700

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Chapter 125. Special Care Facilities

• 25 TAC §125.1, §125.6

The Texas Department of Health proposes amendments to §125.1 and §125.6, concerning special care facilities. The sections cover definitions and standards for facilities which provide nursing or medical care or services primarily to persons with acquired immune deficiency syndrome or other terminal illnesses.

The proposed amendments change the definition of the term "drug" to conform to the current definition of that term in the Texas Food, Drug, and Cosmetic Act, Health and Safety Code, Chapter 431, as amended by Chapters 1129 and 1195, Acts of the 71st Legislature, 1989. The amendments also modify a present requirement that copies of credentials, where applicable, be kept on file for personnel and volunteers, and clarify the location of storage for medications that require refrigeration.

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

Mr. Seale 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 update and clarify the sections. There will be no effect on small businesses. There will be no effect on local employment as a result of administering the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments may be submitted to Nance Kerrigan, R.N., M.S.N., Director, Health Facility Licensure and Certification Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register.*

The amendments are proposed under the Texas Special Care Facility Licensing Act, Texas Civil Statutes, Article 4442c-5, which provides the Texas Board of Health with the authority to adopt certain minimum standards relating to special care facilities; 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.

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

Drug–A drug **means** [is]:

(A) **articles** [any substance] recognized [as a drug] in the official **United States Pharmacopoeia** [, official *Homeopathic Pharmacopoeia of the United States*, or official] *National Formulary*, or any supplement to **it** [any of them];

(B) **articles** [any substance] **designed or** intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in **man or other animals** [humans];

(C) **articles,** [any substance (]other than food, [)] intended to affect the structure **of** [or] any function of the body of **man or other animals** [humans]; **and** [or]

(D) **articles** [any substance] intended for use as a component of any **article** [substance] specified in subparagraphs (A)-(C) of this paragraph. **The term** [It] does not include devices or their components, parts, or accessories.

§125.6. Standards.

(a) Administrative management.

(1) (No change.)

(2) Operating policies and procedures. The facility shall comply with its own written policies and procedures. All policies shall be reviewed and updated annually.

(A)-(F) (No change.)

(G) The facility shall ensure that personnel records are correct and contain sufficient information to support placement in the assigned position (including a resume of training and experience). Where applicable, a current **verification** [copy] of the person's license or permit shall be in the file.

(H)-(L) (No change.)

(3)-(7) (No change.)

(8) Volunteer services.

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

(E) All volunteers who are performing duties that require licensure, certification, or registration must currently be licensed, certified, or registered by the appropriate board or agency and a **verification** [copy] of their credentials shall be kept on file in the facility.

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

(f) Care and services.

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

(8) Pharmacy services.

(A)-(L) (No change.)

(M) Medication requiring refrigeration shall be stored in the medication **refrigerator** [room,] **which is** [and] used only for medicine storage, supplemental feedings, and substances specifically ordered by the resident's physician that

require refrigeration.

(N)-(R) (No change.)

(9)-(12) (No change.)

(g) (No change.)

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

Issued in Austin, Texas, on July 6, 1990.

TRD-9006863 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7245

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Chapter 133. Hospital Licensing

Standards

• 25 TAC §133.21

The Texas Department of Health (department) proposes an amendment to §133.21, concerning the department's hospital licensing standards which the section adopts by reference. Amendments are proposed to Chapter 11 of the standards which cover hospital patient transfer policies. The amendments are necessary to address the recent legislative enactment of the Omnibus Health Care Rescue Act (House Bill 18), Chapter 1027, 71st Legislature, 1989, and to conform to certain changes in the federal patient transfer statute (42 United States Code §1395dd) made by the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239, Title VI, §6211). Amendments have been made to Chapter 11 of the standards as follows: §11-1.1, relating to definitions, is amended to delete the definition of "active labor," to change the definition of "emergency medical condition," and to correct the citation to the Texas hospital licensing law to conform to the recent recodification of the law in the Health and Safety Code; §11-1.2.4, relating to transfer agreements, is amended to indicate that such agreements must be adopted only after consultation with the medical staff and to direct the reader to Part B of Chapter 11 for the substantive and procedural rules governing hospital patient transfer agreements; §11-2.1, relating to required anti-discrimination provisions in transfer policies, is amended to clarify that this provision does not override later provisions relating transfers to mandated or designated providers under the Indigent Health Care and Treatment Act, Health and Safety Code, Chapter 61, or insurance contracts; §11-2.1.1, relating to acceptance of patients by public hospitals, is new language mandated by the Omnibus Health Care Rescue Act, §6; §§11-2.4.5 and 11-2.5.2, relating to the transfer of patients under the Indigent Health Care and Treatment Act are amended to conform the statutory citations to the new Health and Safety Code; §11-2.10.4, relating to the memorandum of transfer, is amended to add new language requiring a physician's risk/benefit statement comparable to that required by the current medicare statute so that the memorandum may be used to meet the current federal requirement for emergency patients; §§11-3.2, 11-3.4, 11-3.5.3, 11-3.6.1, 11-3.6.2, 11-4.3, 11-4.4, 11-4. 5,11-4.7, 11-4.8, 11-5.2.1, and 11-5.2.2, 11-5.3, are amended to clarify the respective duties and powers of the director and the division in the department relating to the review and enforcement of Part A of the chapter, relating to hospital patient transfer policies; §§11-6 11 11.3 (Part B), relating to hospital patient transfer agreements are added to conform with the requirements of the Omnibus Health Care Rescue Act, §6. These latter sections provide minimum standards for the content of transfer agreements and provide substantive and procedural rules for the submission, review and enforcement of hospital patient transfer agreements.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for state or local government as the result of enforcing and administering the sections. Additional costs to the state will arise from the statutory duty for the director and the division within the department to review and approve patient transfer agreements and from the added administrative, investigation, and enforcement responsibilities. For each year of the first five years the sections are in effect the increased costs will range from $100 to $10,000. Additional costs to local government will arise from new statutory provisions, referred to in the sections, that require a public hospital or hospital district to accept the transfer of its eligible patients, if the public hospital or hospital district has appropriate facilities, services and staff available for providing care to the patient. These costs may range from $100 to $1,000,000 per year per hospital for the first five-year period the sections are in effect. The cost to public hospitals and hospital districts of negotiating and implementing hospital patient transfer agreements are voluntary and will be negligible.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be safer, more expeditious, and more equitable transfers of patients from hospital to hospital and from physician to physician. There will be no effect on small businesses as a result of enforcing the sections. There will be no effect on local employment and there will be no cost to persons as a result of administering the sections.

Comments on the proposal may be submitted to Maurice B. Shaw, Chief, Bureau of Licensing and Certification Division, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538. Comments will be accepted for 30 days after publication of the rules in the *Texas Register*. A public hearing on the amendments will be held at 10 a.m., Tuesday, August 7, 1990, in the Texas Department of Health auditorium, 1100 West 49th Street, Austin.

The amendment is proposed under the Texas Hospital Licensing Law, Health and Safety Code, §241.027, as amended by the Omnibus Health Care Rescue Act (House Bill 18), Chapter 1027, §6, Acts of the 71st Legislature, 1989, which authorizes the Texas Board of Health to adopt rules to establish minimum standards for hospital patient transfer policies and agreements; and §12.001, Health and Safety Code, that provides the Texas Board of Health with authority to adopt rules for the performance of every duty imposed by law upon the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§133.21. Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication effective September 1, 1985, entitled, "Hospital Licensing Standards," as amended through **October 1990** [December 1990].

(b) (No change.)

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

Issued in Austin, Texas, on July 6, 1990.

TRD-9006894 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7538

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Chapter 181. Vital Statistics

Vital Statistics

• 25 TAC §§181.1, 181.3-181.5, 181.10

The Texas Department of Health proposes amendments to §§181.1, 181.3-181.5, and 181.10, concerning vital statistics. The sections cover definitions, transportation of dead bodies, preservation of dead bodies, embalming and standards of the funeral industry, and confidentiality of birth records covering adoption placement.

The amendment to §181.1 will amend existing definitions, add new definitions, and include existing definitions being transferred from §181.10. The amendment to §181.3 will remove the requirement of embalming and clarify the requirements concerning the shipping and transportation of dead bodies. The amendment to §181.4 will update and clarify the section with regard to the preservation of dead bodies. The amendment to §181.5 will change the name of the section title, remove the requirement of embalming, and clarify the provision concerning the burial of a person who has died from a communicable disease. The amendment to §181.10 will transfer the definitions to §181.1, clarify the provision concerning the confidentiality of birth record indexes which contain information about adoption or paternity determinations, and add a new provision concerning summary birth or death indexes for public use at the local level.

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

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to update and clarify the sections. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There also will be no effect on local employment.

Comments on the proposed amendments may be submitted to Richard B. Bays, Chief, Bureau of Vital Statistics, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3191 (telephone (512) 458-7692). Comments will be accepted for a period of 30 days following publication in the *Texas Register*.

The amendments are proposed under the Texas Health and Safety Code, §191. 003, which provides the Texas Board of Health with the authority to adopt rules concerning vital statistics; and §12.001, which provides the board with the authority to adopt rules to implement every duty imposed by law on the board, the department, and the commissioner of health.

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

Applicant–See definition for properly qualified applicant.

Birth records–Records governing births filed pursuant to Texas Vital Statistics Act, Health and Safety Code, Title 3.

Bureau of Vital Statistics–The office within the Texas Department of Health charged with the implementation of the Texas Vital Statistics Law.

Certification–A certified statement, form, or letter, of the facts stated on the form or document as filed in the Bureau of Vital Statistics, certified by the state registrar or his duly appointed designee, over his respective signature and bearing the seal of the Bureau of Vital Statistics.

Certified copy–An exact photocopy of the original record issued on a special form and paper as filed with the Bureau of Vital Statistics, bearing the seal of the State of Texas, the Texas Department of Health, and the facsimile signature of the state registrar.

Death records–Records governing deaths and fetal deaths filed pursuant to the Texas Vital Statistics Act.

Department–The Texas Department of Health.

Embalming–The act of disinfecting or preserving a human body, entire or in part, by the use of chemical substances, fluids, or gases in the body; or by the introduction of the same into the body by vascular or hypodermic injection; or by direct application into the organs or cavities; or by any other method intended to disinfect or preserve a dead body or restore body tissues and structures.

Fetal death **(stillbirth)**–Death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

Genealogist–An individual who traces the descent of persons or families. He or she may be an individual family member or a person hired by the family to trace a family tree or do family research.

Identification required of applicant–A picture ID such as drivers license, state/city/county ID card, student ID, employment badge or card, or military ID; or two documents, without a picture, one of which must bear the signature of the applicant in place prior to submission.

Immediate family member–A persons' parent(s), child, sibling(s), spouse, grandparent(s), legal guardian, or conservator.

Indexes–An index to or listing of birth records.

Legal representative (personal representative or agent) –Any individual, attorney, funeral director, or other representative acting under contract for the requestor, when the requestor is not the applicant; or is one bearing an affidavit, authorizing that person, agent, genealogist, or other representative to make application on behalf of the registrant or member of the immediate family for the record or information requested.

Local registration official–A county clerk or person authorized by the Vital Statistics Act to maintain a duplicate system of records for each birth, death, or fetal death that occurs in the person's jurisdiction.

Properly qualified applicant (qualified applicant)–A legal representative, personal representative or agent, an immediate family member, or the registrant, who has a direct and tangible interest in the record and who shall have a significant legal relationship to the person whose record is requested. The purpose for which the certified copy is needed and the relationship of the applicant to the registrant is essential to the application to determine if the applicant is properly qualified.

Registrant–The individual named on the certificate of birth, death, or fetal death; application for marriage license; or report of divorce or annulment of marriage.

Research copy–A plain paper non-certified reproduction of the complete original document or a portion of the original document.

Search–The act of examining the files and/or indexes maintained by the Bureau of Vital Statistics for a specific record or information as identified by a qualified applicant or his or her agent.

Signature–The name of a person written with his or her own hand; the act of signing one's own name.

State registrar–The chief of the Bureau of Vital Statistics, Texas Department of Health.

Verification–A non-certified statement only of facts and information stated on the document filed with the Bureau of Vital Statistics.

Vital statistics–The registration, preparation, transcription, collection, compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, **fetal deaths** [still births], marital status, and data incidental thereto.

Vital Statistics Act–Health and Safety Code, Title 3.

§181.3. Transportation of Dead Bodies.

(a) Bodies shipped by common carrier.

(1) Any body shipped by common carrier must be [thoroughly embalmed by a licensed embalmer in a manner approved by the State Board of Embalming and] placed in either:

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

(2) If the body **is not** [cannot be] embalmed or is in a state of decomposition, it may be shipped only after enclosure in an air-tight metal casket encased in a strong outside shipping case or in a sound casket encased in an air-tight metal or metal lined shipping case.

(3) **Shipping containers and requirements for the shipping of dead bodies must meet or exceed any requirement imposed by the shipping company, the receiving state, or foreign country.** [When any body is to be transported by common carrier, the burial-transit permit shall be enclosed in a strong envelope and attached to the shipping case. No separate transit permit shall be required.]

(4) When any body is to be transported by common carrier, the burial-transit permit shall be enclosed in a strong envelope and attached to the shipping case. No separate transit permit shall be required.

(b) Bodies transported by means other than common carrier.

(1) (No change.)

(2) If a dead body is to be transported by means other than a common carrier and for a purpose other than

preparation or storage, the report of death form shall be **enclosed in a strong envelope and** [be either] attached to the container in which the body is enclosed [or in possession of the person transporting the body].

(c) (No change.)

§181.4. Preservation of Dead Bodies. No human body may be held in any place or be in transit more than 24 hours after death and pending final disposition unless either maintained at a temperature within the range 34 degrees–40 degrees Fahrenheit, or is embalmed by a licensed embalmer in a manner approved by the **Texas Funeral Service Commission,** [State Board of Embalming] or by an embalmer licensed to practice in the state where death occurred, **or is encased in a container which insures against seepage of fluid and the escape of offensive odors.**

§181.5. Embalming and Standards of the Funeral Industry [Public Funerals].

(a) **The department adopts by reference the rules of the Texas Funeral Service Commission in 22 TAC §203.13 covering minimum standards for embalming.**[No public funeral shall be conducted for a person who has died from a communicable disease unless the body has been thoroughly embalmed by a licensed embalmer in a manner approved by the State Board of Embalming and permission for such public funeral has been granted by the local health officer having jurisdiction at the place where the funeral is to be held.]

(b) **The rules adopted by reference in subsection (a) of this section shall not require or infer a requirement for the embalming of a dead body prior to burial or cremation.** [No public funeral shall be conducted in or on the premises where the person died of a communicable disease unless:]

[(1) the body has been thoroughly embalmed by a licensed embalmer in a manner approved by the State Board of Embalming;

[(2) the premises have been thoroughly disinfected; and

[(3) permission for such public funeral has been granted by the local health officer having jurisdiction at the place where the funeral is to be held.]

§181.10. Confidentiality of Birth Records Covering Adoption Placement.

(a) (No change.)

[(b) Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly states otherwise.]

[Birth records–Records governing births filed pursuant to Texas Vital Statistics Act.]

[Department–The Texas Department of Health.]

[Indexes–An index to or listing of birth records.]

[Local registration official–A county clerk or person authorized by the Vital Statistics Act to maintain a duplicate system of records for each birth, death, or fetal death that occurs in the person's jurisdiction.]

[State registrar–The chief of the Bureau of Vital Statistics, Texas Department of Health.]

[Vital Statistics Act –Texas Civil Statutes, Article 4477.]

(b)[(c)] Availability of birth records generally.

(1) Birth records **less than 50 years old** are not available to the public for searching or inspection. **Records over 25-50 years old, actual books, volumes of original records, or records themselves shall not be made available to the public in the interest of preservation of the records.**

(2) The local registration official, upon receipt of a record of birth based on adoption must either forward the original record filed at the time of the event to the state registrar for enclosure in a sealed file, or delete or expunge such record.

(c)[(d)] Availability of indexes or listings of birth records.

(1) The indexes or listings of birth records are not available to the public for searching or inspection , **if the fact of adoption or paternity determination can be revealed or broken or if the index contains specific identifying information relating to the parents of the child.**

(2) The local registration official must delete or expunge the identifying information relating to the original birth record filed at the time of the event, from the indexes maintained in that office **and made available to the public.**

(3) A local registration official may prepare a summary birth or death index for public use. The index shall be in alphabetical order by surname of the registrant. The index shall consist of the last, first, and middle name, if any, of the registrant, the date of the event, the county in which the event occurred, and the file number of the record. If the record falls into the open record category, a general index may be made available for public use. This index shall be alphabetical by surname of the registrant. In addition to the previously mentioned information, names of the parents may also be listed. The fact of adoption or paternity determination must not be disclosed nor be able to be broken by any such indexes.

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 July 6, 1990.

TRD-9006896 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7692

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Chapter 241. Shellfish Sanitation

Texas Crab Meat

• 25 TAC §241.23

The Texas Department of Health proposes an amendment to §241.23, concerning labeling crab meat. The amendment to subsection (j) will allow placing the designations of the content (lump, special, claw, etc.) of crab meat on the cover or lid of the container rather than on the sidewall. This amendment will correct an oversight which places an unnecessary burden on the crab meat industry. The department has no objections to placing the designation of content on the lid because the department has accepted this practice for many years.

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

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be continuing a practice of placing the content designation on the lid of the container, which is and has been the accepted practice by the department and the crab meat industry for many years. There will be no effect on small or large businesses or persons who are required to comply with section as proposed. There also will be no effect on local employment.

Comments on the proposal may be submitted to Richard E. Thompson, R.S., Director, Division of Shellfish Sanitation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7510. Comments will be accepted for 30 days from the date of publication of this proposal in the *Texas Register.*

The amendment is proposed under Health and Safety Code, §436.046, which provides the Texas Board of Health with the authority to adopt rules concerning the regulation of Texas crab meat; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

§241.23. Labeling Crab Meat.

(a)-(i) (No change.)

(j) All required information shall be provided in a legible and indelible form, and shall be on the sidewall of the container unless the cover becomes an integral part of the container during the sealing process. **The designation of the contents (lump, special, claw, etc.) may be shown on the container cover rather than the sidewall.**

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 July 6, 1990.

TRD-9006862 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 23, 1990

For further information, please call: (512) 458-7510

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Chapter 337. Water Hygiene

Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems

The Texas Department of Health proposes amendments to §§337.3, 337.4, 337.7, 337.12, and 337.18; proposes the repeal of §337.5 and §337.6; and proposes new §§337.5, 337.6, and 337.19-337.21, concerning drinking water standards governing drinking water quality and reporting requirements for public water supply systems. The sections cover standards of chemical quality, control tests, maximum bacteriological contaminant levels for microbiological contaminants, microbiological contaminant sampling and analytical requirements, turbidity sampling and analytical requirements, approved laboratory, filtration, and monitoring requirements for systems using surface water treatment.

The purpose of the amendments, repeals, and new sections is to update the rules for comformity with federal regulations concerning coliform monitoring and requirements for surface water treatment.

Mr. Stephen L. Seale, Chief Accountant III, has determined that for the first five years that the sections as proposed will be in effect there will be fiscal implications to state and local government as a result of enforcing or administering the sections. The effect on state government will be an estimated additional cost of $75,000 each year of fiscal years 1991-1995; however there will be an estimated increase in revenue of $24,000 per year for the same time period. The effect on local government will be an estimated additional cost of $0.01 to $0.16 per 1000 gallons water produced each year of fiscal years 1991-1995.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated will be a higher quality of water produced which in turn will lessen the potential of adverse health effects associated with poor water quality. The cost of compliance for small businesses will be an estimated additional cost of $0.15 to $0.30 per 1000 gallons of water produced. The possible econimic cost to persons will be from $0.01 to $0.30 per 1,000 gallons of water purchased. This will be from pass through of additional costs of water purveyors to the customers. There will be no impact on local employment.

Comments on the proposal may be submitted to Mr. James E. Pope, P.E., Director, Division of Water Hygiene, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7533. Comments will be accepted for 45 days from the date of publication of the proposed sections in the Texas Register.

• 25 TAC §§337.3–337.7, 337.12, 337.18, 337.19-337.21

The amendments and new sections are proposed under the Health and Safety Code, §341.002, which provides the Texas Board of Health with the authority to adopt rules covering public water systems; 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.

§337.3. Standards of Chemical Quality. All analyses to determine compliance shall be performed by laboratories approved by the department. Analyses shall be performed on treated water as furnished to the customer.

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

(5) Maximum allowable levels for turbidity. This standard shall apply only to systems which treat surface water. The maximum allowable levels for turbidity in drinking water measured at a representative entry point(s) to the distribution system are as follows. **This paragraph shall remain in effect until June 30, 1993.**

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

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

§337.4. Control Tests. These tests permit the operator of the system to judge variations in water quality, to identify objectionable water characteristics, and to detect the presence of foreign substances which may adversely affect the potability of the water. These control tests shall be performed in accordance with procedures approved by the department.

(1) (No change.)

(2) **This section shall remain in effect until June 30, 1993.** [Water samples for bacteriological quality. The minimum number of samples to be collected from a public water supply and submitted for examination shall be in accordance with the following table with the exception of noncommunity water systems which meet the conditions of §337.6(c) of this title (relating to Microbiological Contaminant Sampling and Analytical Requirements). The department may require a sampling frequency in excess of the minimum number of monthly samples.]

[Population Served	Minimum Number of Samples Per Month
0 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 9,400	10
9,401 to 10,300	11
10,301 to 11,100	12
11,101 to 12,000	13
12,001 to 12,900	14
12,901 to 13,700	15
13,701 to 14,600	16
14,601 to 15,500	17
15,501 to 16,300	18
16,301 to 17,200	19
17,201 to 18,100	20
18,101 to 18,900	21
18,901 to 19,800	22
19,801 to 20,700	23
20,701 to 21,500	24
21,501 to 22,300	25
22,301 to 23,200	26
23,201 to 24,000	27
24,001 to 24,900	28
24,901 to 25,000	29
25,001 to 28,000	30
28,001 to 33,000	35
33,001 to 37,000	40
37,001 to 41,000	45
41,001 to 46,000	50
46,001 to 50,000	55
50,001 to 54,000	60
54,001 to 59,000	65
59,001 to 64,000	70
64,001 to 70,000	75
70,001 to 76,000	80]

[76,001 to 83,000	85
83,001 to 90,000	90
90,001 to 96,000	95
96,001 to 111,000	100
111,001 to 130,000	110
130,001 to 160,000	120
160,001 to 190,000	130
190,001 to 220,000	140
220,001 to 250,000	150
250,001 to 290,000	160
290,001 to 320,000	170
320,001 to 360,000	180
360,001 to 410,000	190
410,001 to 450,000	200
450,001 to 500,000	210
500,001 to 550,000	220
550,001 to 600,000	230
600,001 to 660,000	240
660,001 to 720,000	250
720,001 to 780,000	260
780,001 to 840,000	270
840,001 to 910,000	280
910,001 to 970,000	290
970,001 to 1,050,000	300
1,050,001 to 1,140,000	310
1,140,001 to 1,230,000	320
1,230,001 to 1,320,000	330
1,320,001 to 1,420,000	340
1,420,001 to 1,520,000	350
1,520,001 to 1,630,000	360
1,630,001 to 1,730,000	370
1,730,001 to 1,850,000	380
1,850,001 to 1,970,000	390
1,970,001 to 2,060,000	400
2,060,001 to 2,270,000	410
2,270,001 to 2,510,000	420
2,510,001 to 2,750,000	430
2,750,001 to 3,020,000	440
3,020,001 to 3,320,000	450
3,320,001 to 3,620,000	460
3,620,001 to 3,960,000	470
3,960,001 to 4,310,000	480
4,310,001 to 4,690,000	490
4,690,001 or more	500]

• **25 TAC §337.5 §337.6**

The repealed sections are proposed under the Health and Safety Code, §341. 002, which provides the Texas Board of Health with the authority to adopt rules covering public water systems; 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.

§337.5. Maximum Bacteriological Contaminant Levels.

§337.6. Microbiological Contaminant Sampling and Analytical Requirements.

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

Issued in Austin, Texas, on July 6, 1990.

TRD-9006898 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7533

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§337.5. Maximum Contaminant Levels (MCLs) for Microbiological Contaminants.

(a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(1) For a system which collects at least 40 samples per month, if no more than 5.0% of the samples collected during a month are total coliform-positive, the system is in compliance with the MCL for total coliforms.

(2) For a system which collects fewer than 40 samples/month, if no more than one sample collected during a month is total coliform-positive, the system is in compliance with the MCL for total coliforms.

(b) Any fecal coliform-positive repeat sample or Escherichia coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or Escherichia coli-positive routine sample, constitutes a violation of the MCL for total coliforms. For purposes of the public notification requirements in §337.3(8) of this title (relating to Standards of Chemical Quality), this is a violation that may pose an acute risk to health.

(c) Compliance with the MCL for total coliforms in subsections (a) and ¡(b) of this section will be determined for each month in which the system is in operation.

§337.6. Coliform Sampling.

(a) Routine monitoring.

(1) Public water systems must collect total coliform samples at active service connections which are representative of water throughout the distribution system according to a written sample siting plan. These plans are subject to review and revision by the Department of Health.

(2) The monitoring frequency for total coliforms for community and noncommunity water systems is based on the population served by the system, in accordance with the following table:

Population Served	Minimum Number of Samples per Month
1 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

The population for noncommunity systems will be based on the maximum daily population.

(3) The public water system must collect samples at regular time intervals throughout the month, except that a system which uses groundwater (except groundwater under the direct influence of surface water, as defined in §337.1 of this title (relating to Purpose)), and serves 4,900 persons or fewer, may collect all required samples on a single day if they are taken from different sites.

(4) Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, shall not be used to determine compliance with the MCL for total coliforms.

(b) Repeat monitoring.

(1) If a routine sample is total coliform-positive, the public water system must collect a set of repeat samples within 24 hours of being notified of the positive result, or as soon as possible if the laboratory is closed.

(A) A system which collects more than one routine sample per month must collect no fewer than three repeat samples for each total coliform-positive sample found.

(B) A system which collects one routine sample per month must collect no fewer than four repeat samples for each total coliform-positive sample found.

(2) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site, unless the positive sample was collected at the end of the distribution line.

(3) The system must collect all repeat samples on the same day, except that a system with a single service connection may collect daily repeat samples until the required number of repeat samples has been collected.

(4) If one or more repeat samples in the set is total coliform- positive, the public water system must collect an additional set of repeat samples in the manner specified in paragraphs (1)-(3) of this subsection. The additional samples must be collected within 24 hours of being notified of the positive result or as soon as possible if the laboratory is closed. The system must repeat this process until either total coliforms are not detected in one complete set of repeat samples or the system determines that the MCL for total coliforms has been exceeded.

(5) If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the department does not invalidate the sample(s) in accordance with subsection (c) of this section, it must collect at least five routine samples during the next month the system provides water to the public.

(6) After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to not contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(7) Results of all routine and repeat samples not invalidated by the department must be included in determining compliance with the MCL for total coliforms in accordance with §337.5 of this title (relating to Maximum Bacteriological Contaminant Levels (MCLs) for Microbiolgical Contaminants).

(c) Invalidation of total coliform samples. A total coliform-positive sample invalidated under this subsection does not count towards meeting the minimum monitoring requirements of this section.

(1) The department may invalidate a total coliform-positive sample only if one of the following conditions is met:

(A) the laboratory establishes that improper sample analysis caused the total coliform-positive result;

(B) the department, on the basis of the results of repeat samples collected as required by this section, determines that the total coliform-positive sample resulted from a domestic or other nondistribution system plumbing problem. The department cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. The system must request the department invalidate the sample and provide copies of the routine positive and all repeat samples; or

(C) the department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by this section, and use them to determine compliance with the MCL for total coliforms in §337.5 of this title (relating to Maximum Contaminant Levels (MCLs) for Microbiological Contaminants). The system must provide written documentation which must state the specific cause of the total coliform-positive sample, and what action the system has taken, or will take, to correct this problem. The department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(2) If a laboratory invalidates a sample, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until it obtains a valid result.

(d) Fecal coliforms/Escherichia coli (E. coli) testing.

(1) If any routine or repeat sample is total coliform-positive, that total coliform-positive culture medium must be analyzed to determine if fecal coliforms or E. coli are present. If fecal coliforms or E. coli are present, the system must notify the department by the end of the day when the system is notified of the test result, unless the system is notified of the result after the department office is closed, in which case the system must notify the department before the end of the next business day.

(e) Response to violation.

(1) A public water system which has exceeded the MCL for total coliforms in §337.5 of this title (relating to Maximum Contaminant Levels for Microbiological Contaminants) must report the violation to the department no later than the end of the next business day after it learns of the violation, and notify the public in accordance with §337.3(8) of this title (relating to Standards of Chemical Quality).

(2) A public water system which has failed to comply with a coliform monitoring requirement must report the monitoring violation to the department within ten days after the system discovers the violation, and notify the public in accordance with §337.3(8) of this title (relating to Standards of Chemical Quality).

§337.7. Turbidity Sampling and Analytical Requirements.

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

(d) This section shall remain in effect until June 30, 1993.

§337.12 Approved Laboratory.

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

(c) Methods of analysis shall be as specified in 40 Code of Federal Regulations, **§141.21(f)** [§141.21(a)] (mi-

crobiological), §141.22(a) (turbidity), §141.23(f) (inorganics), §141.24(e), (f), and (g) (organics), and §141.25 (radionuclides) of the National Primary Drinking Water Regulations, or by any alternative analytical technique as specified by the department and approved by the Administrator under 40 Code of Federal Regulations, §141.27.

(d) (No change.)

§337.18. Fees for Services to Drinking Water Systems.

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

(c) Services concerning bacteriological testing.

(1) (No change.)

(2) The department will charge a fee of **up to $8.00** [$5.00] per sample for bacteriological testing. This fee applies to the department laboratory in Austin.

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

(d)-(e) (No change.)

§337.19. Disinfection.

(a) A system that uses a surface water source that provides filtration treatment must provide the disinfection treatment specified in subsection (b) of this section beginning July 1, 1993. A system that uses a groundwater source under the direct influence of surface water and provides filtration treatment must provide disinfection treatment as specified in subsection (b) of this section by July 1, 1993, or beginning when filtration is installed, whichever is later. Failure to meet any requirement of this section after the applicable date specified in this subsection is a treatment technique violation.

(b) Each public water system that utilizes surface water or groundwater under the influence of surface water treatment must provide disinfection treatment as follows.

(1) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9% (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99% (4-log) inactivation and/or removal of viruses, as determined by the department. Disinfection contact time will be based on tracer study data submitted by the system and approved by the department. Acceptable tracer study data must be submitted to the department no later than January 1, 1993.

(2) The residual disinfectant concentration in the water entering the distribution system measured as specified in §337.7 of this title (relating to Monitoring Requirements for Systems Using Surface Water Treatment) cannot be less than 0.2 mg/l free chlorine or 0.5 mg/l chloramine for more than four hours. Violation of this paragraph must be reported to the department by the end of the next business day after the measurement was taken.

(3) The residual disinfectant concentration in the distribution system, as specified in §337.21 of this title (relating to Turbidity Sampling and Analytical Requirements) cannot be less than 0.2 mg/l free chlorine or less than 0.5 mg/l chloramine in more than five percent of the samples each month, for any two consecutive months that the system serves water to the public.

Where:

the value "V" in the following formula cannot exceed five percent per month for any two consecutive months --

$$V = \frac{b}{a} \times 100$$

where:

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is measured but not detected.

§337.20. Filtration. A public water system that uses a surface water source must provide filtration treatment which complies with this section by July 1, 1993. A public water system that uses groundwater under the direct influence of surface water must provide filtration by a date specified by the department. Such date will not exceed 18 months from the date of notification. Failure to meet any requirement of this section after the applicable date specified in this section is a treatment technique violation.

(1) For systems using conventional filtration or groundwater systems under the influence of surface water using direct filtration, the turbidity level of representative samples of a system's filtered

water must be less than or equal to 0.5 Nephelometric Turbidity Unit (NTU) in at least 95% of the measurements taken each month, measured as specified in §337.21 of this title (relating to Monitoring Requirements for Systems Using Surface Water Treatment); except that if the department determines that the system is capable of achieving at least 99. 9% removal and/or inactivation of Giardia lamblia cysts at some turbidity level higher than 0.5 NTU in at least 95 percent of the measurements taken each month, the department may substitute this higher turbidity limit for that system. However, in no case may the department approve a turbidity limit that allows more than one NTU in more than five percent of the samples taken each month, measured as specified in §337.21 of this title (relating to Monitoring Requirements for Systems Using Surface Water Treatment).

(2) The turbidity level of representative samples of a system's filtered water must at no time exceed five NTU, measured as specified in § 337.21 of this title (relating to Monitoring Requirements for Systems Using Surface Water Treatment). Violation of this paragraph must be reported to the department by the end of the next business day after the measurement was taken.

§337.21. Monitoring Requirements for Systems Using Surface Water Treatment. A public water system that uses a surface water source or a ground water source under the influence of surface water must monitor in accordance with this section beginning July 1, 1993.

(1) Turbidity measurements as required by §337.20 of this title (relating to Filtration) must be performed on representative samples of the system's filtered water every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a monthly basis. For systems serving 500 or fewer persons, the system may reduce t turbidity sampling frequency to once pe day.

(2) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day, except that if there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies each day as prescribed in the following chart.

System Size by Population	Samples/ day[1]
<500	1
501 to 1,000	2
1,001 to 2,500	3
2,501 to 3,300	4

[1] The day's samples cannot be taken at the same time. The sampling intervals are subject to department review and approval.

(4) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in §337.6 of this title (relating to Coliform Sampling). Results of these residual measurements must indicate a minimum residual of 0.5 mg/l chloramine or 0.2 mg/l free chlorine, depending on disinfectant used.

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 July 6, 1990.

TRD-9006897

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

Proposed date of adoption: September 22, 1990

For further information, please call: (512) 458-7533

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TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter B. Insurance Code, Chapter 5, Subchapter B

Patient Safety and Risk Reduction Training for Health Care Professionals

• **28 TAC §5.1401, §5.1402**

The State Board of Insurance proposes ne §5.1401 and §5.1402, concerning approval l the board of courses for minimum continuin education requirements for health care professionals on patient safety and risk reduction subjects. Section 5.1401 and §5.1402

were adopted on an emergency basis and became effective on May 21, 1990. Notification of the emergency adoption appeared in the May 29, 1990, issue of the *Texas Register* (15 TexReg 2953) . The new sections are necessary to maintain effective regulation of professional liability insurance by providing procedures under which insurers and health care professionals can operate in accordance with the Insurance Code, Article 5.15-4, under the recently enacted Omnibus Health Care Rescue Act. Article 5.15-4 entitles health care professionals to obtain from their insurers a premium discount for medical professional liability insurance coverage under certain conditions. One of the criteria for eligibility for this premium discount is that the health care professional must complete 15 hours of approved continuing education courses, during the term of the policy, on patient safety and risk reduction subjects related to the health care professional's practice. The courses must be approved, sponsored, endorsed, or accredited either by an insurer, by state or nationally recognized accrediting organizations, by continuing medical or nurse education programs, or by the State Board of Insurance. The new sections provide a procedure by which anyone may apply to obtain course approval from the State Board of Insurance and provide requirements for approval of courses. Under proposed §5.1402, the board adopts by reference a form entitled "Application for Risk Reduction Course Approval." The board has filed with the Office of the Secretary of State, Texas Register Section, a copy of this form, and other copies may be obtained from the Director of Loss Control Regulation, Mail Code 012-8, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

Robert L. Halverson, director of loss control regulation, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local employment or local economy.

Mr. Halverson 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 is the establishment of procedures under which professional liability insurers and health care professionals can operate in accordance with the Insurance Code, Article 5.15-4, under the recently enacted Omnibus Health Care Rescue Act. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Robert L. Halverson, Director of Loss Control Regulation, State Board of Insurance, Mail Code 012-8, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 1.04 and Article 5.15-4, §4(2). Article 1.04 authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.15-4, §4(2), entitles health care professionals to obtain from their insurers a premium discount for medical professional liability insurance upon satisfaction of eligibility criteria, including completion of 15 hours of approved patient safety and risk reduction training courses.

§5.1401. Definitions Concerning Patient Safety and Risk Reduction Training for Health Care Professionals. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Board–The State Board of Insurance created under the Insurance Code, Article 1.02(a).

Commissioner–The commissioner of insurance appointed under the Insurance Code, Article 1.09(a).

Director of loss control regulation–The director of loss control regulation employed by the commissioner of insurance under the Insurance Code, Article 1.09(g).

Qualifying education–Continuing education which constitutes a basis for qualification for a premium discount for medical professional liability insurance coverage under the Insurance Code, Article 5. 15-4, §4(2).

Sponsor–Any individual, group of individuals, organization, or other entity seeking approval from the State Board of Insurance for a patient safety and risk reduction training course or program to be offered to health care professionals pursuant to the Insurance Code, Article 5.15-4.

§5.1402. Procedure for Approval of Patient Safety and Risk Reduction Training Courses for Health Care Professionals.

(a) The State Board of Insurance hereby approves, as qualifying education, each patient safety and risk reduction training course or program which complies with all of the requirements in paragraphs (1)-(3) of this subsection.

(1) The training course or program must comply with the criteria in subsection (b) of this section.

(2) The sponsor of the training course or program must apply for approval and must provide the required information under subsection (c) of this section.

(3) The training course or program must receive notification of approval from the director of loss control regulation under subsection (d) of this section.

(b) As a basis for approval by the board, a training course or program must comply with all of the criteria in paragraphs (1)-(3) of this subsection.

(1) Content of course or program. The training course or program must provide information and promote awareness of the potential safety risks to which certain patient populations treated by a clinical specialty of health care professionals are exposed, and how those risks can be reduced. The curriculum must take into account any patient risk exposures that may be related to the nature of the health care professional's practice, such as the size and location of the practice, access to technical diagnostic or life-sustaining equipment, and the availability and support of other medical practitioners. The course must cover any federal or state laws which are relevant to the topic of patient safety and risk reduction, and, finally, it must cover any recent trends in malpractice litigation by practitioner specialty.

(2) Qualifications of training personnel, instructors, or lecturers. The individuals who will be teaching the patient safety and risk reduction training courses or programs must be qualified in the field they intend to teach to the health care professionals and specialists who will be attending the courses or programs.

(3) Method of training. The training programs may be in the form of classes, seminars, symposiums, correspondence courses, self-study courses followed by an examination, or other, appropriate training methods. Training aids and materials may include brochures, pamphlets, video cassettes, tapes, books, or manuals.

(c) The sponsor of the training course or program must complete an application form and send it to the director of loss control regulation at the State Board of Insurance. For use in complying with this subsection, the board hereby adopts by reference a form entitled "Application for Risk Reduction Course Approval." This form is published by the State Board of Insurance, and copies of the form may be obtained from the Director of Loss Control Regulation, Mail Code 012-8, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. The applicant for approval must provide the following information:

(1) name and address of the course sponsor;

(2) description of the training program and course content;

(3) names and qualifications of course instructors or program lecturers;

(4) types of health care professionals to be trained; and

(5) number of hours of training to be provided which will qualify as continuing education credit.

(d) Upon receipt of a completed application for course approval, the director of loss control regulation will evaluate the course or program. If the training course or program complies with the requirements in subsection (a) of this section, the director of loss control regulation, on behalf of the commissioner, shall issue to the sponsor of the training course or program a written

notification of approval. The notification shall contain the date on which the approval becomes effective. If the training course or program does not comply with the requirements in subsection (a) of this section, the director of loss control regulation, on behalf of the commissioner, shall issue to the sponsor a dated notification of non-compliance. If the director, of loss control regulation does not issue any notification within 30 days after receipt of a completed application for course approval, the State Board of Insurance will deem that the director of loss control regulation, on behalf of the commissioner, has issued a notification of non-compliance. The board will deem the issuance of any notification by the director of loss control regulation under this subsection to be an action of the commissioner of insurance.

(e) Once the director of loss control regulation has issued a notification of approval under subsection (d) of this section, and so long as the director of loss control regulation has not subsequently issued a notification of non-compliance superseding the notification of approval, the notification of approval remains in effect until a date two years after the effective date in the notification of approval. After expiration of the effectiveness of any notification of approval, the sponsor of a training course or program must re-apply in order to obtain approval for the course or program for an additional period.

(f) After receipt of a notification of approval for any training course or program, the sponsor must immediately provide the director of loss of control regulation with written notification of any change in the correctness or completeness of any information provided under subsection (c) of this section. Failure to provide the director of loss control regulation with immediate written notification of any such change terminates the effectiveness of the notification of approval.

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 July 3, 1990.

TRD-9006751 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: August 13, 1990

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

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Procedures for Reconsideration of Rates or Premiums Charged a Physician or Health Care Provider for Medical Professional Liability Insurance

• 28 TAC §§5.1501-5.1503

The State Board of Insurance proposes new §§5.1501-5.1503, concerning procedures for reconsideration of rates or premiums charged a physician or health care provider for medical professional liability insurance. Sections 5. 1501-5.1503 were adopted on an emergency basis and became effective on March 28, 1990. Notification of the emergency adoption appeared in the April 3, 1990, issue of the *Texas Register* (15 TexReg 1881). The new sections are necessary to set forth the criteria to be followed by insurers in establishing such procedures, as well as the standards and procedures for appellate review of rates and premiums by the State Board of Insurance as required by the Omnibus Health Care Rescue Act (Insurance Code, Article 5.15-1, §3 and §4B, and Article 5.15-4). Section 5.1501 provides that each insurer covered by the Insurance Code, Article 5.15-1, must adopt a procedure for reconsideration of the rate or premium charged a physician or health care provider for professional liability insurance coverage and sets forth the requirements for such procedure. Section 5.1502 establishes grievance and hearing procedures to be used by insurers in connection with complaints by insureds. Section 5.1503 provides for appeal to the State Board of Insurance by dissatisfied insured physicians or health care providers.

Brett Dahl, director of professional liability insurance, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local employment or local economy.

Mr. Dahl 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 compliance by insurers and certain health care professionals with the statutory requirements of the Omnibus Health Care Rescue Act relating to reconsideration of rates or premiums and procedures for appellate review of those rates or premiums. There will be no effect on small businesses as a result of enforcing the sections. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Brett Dahl, Director of Professional Liability Insurance, State Board of Insurance, Mail Code 012-4, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 5.15-1, §4(B)(c), which authorizes the State Board of Insurance to establish the criteria to be followed by insurers in establishing procedures for reconsidering rates and premiums charged a physician or health care provider for professional liability coverage, as well as standards and procedures for appellate review of such rates and premiums by the State Board of Insurance.

§5.1501. Procedure for Reconsideration. Each insurer covered by the Insurance Code, Article 5.15-1, shall adopt a procedure for reconsideration of the rate or premium charged a physician or health care provider, as defined in §2 of said article, for professional liability insurance coverage. The procedure so adopted must:

(1) afford any insured physician or health care provider the opportunity to file a written grievance with, or request a hearing before, officers or employees of the insurer who have responsibility for determining rates and premiums to be charged for professional liability insurance;

(2) require that the insurer reconsider the rate or premium of the insured physician or health care provider;

(3) require the insurer to provide a written explanation of the rate or premium being charged; and

(4) provide that the insurer shall file a copy of any grievance or request for hearing, together with the insurer's response thereto, with the Professional Liability Division of the State Board of Insurance.

§5.1502. Grievance and Hearing Procedures. Each insurer shall file its written procedures with the Director of Professional Liability Insurance, Mail Code 012-4, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, within 60 days after the effective date of this section and, thereafter, when these procedures are amended. The director shall review each filing for compliance with the following criteria.

(1) The insurer must file with the Professional Liability Division of the State Board of Insurance, the names, titles, and mailing addresses of at least two officers or employees responsible for receiving, reviewing, and hearing any grievance.

(2) Prior to a request for hearing, the insured must file a written grievance with the insurer including a short and plain statement of the matters asserted.

(3) Upon receipt of the insured's written grievance, the insurer shall promptly provide a written response to the grievance, by certified mail to the insured's last known address, with a copy to the Professional Liability Division of the State Board of Insurance.

(4) If the matter in dispute is not resolved to the insured's satisfaction, the insured may request a hearing.

(5) Upon receiving an insured's written request for a hearing, the insurer shall promptly provide, by certified mail to the insured's last known address, with a copy to the Professional Liability Division of the State Board of Insurance, a written notice of a hearing which shall include:

(A) the time, place, and nature of the hearing;

(B) a reference to the Insurance Code, Article 5.15-1, §4B, and to this section; and

(C) an explanation of any procedures to be followed at, or prior to, the hearing.

(6) The hearing date should be scheduled no less than 10 nor more than 30 days after the date upon which the insurer mails a notice letter to the insured, pursuant to this section. If necessary, the parties may reschedule the hearing for a mutually agreeable time or continue the hearing from time to time and place to place. The hearing may take place at the insurer's premises, the insured's premises, or any other location within this state convenient to the insured.

(7) The hearing must be held before the officers or employees of the insurer who have responsibility for determining rates and premiums to be charged for professional liability insurance. The insured must be afforded an opportunity to present evidence and argument on all issues involved. The insurer may swear any witnesses and take their testimony under oath. The hearing should be recorded either electronically or stenographically. A transcript shall be provided upon the request of either party, with the cost to be born by the requesting party.

(8) The insurer shall reconsider he rate or premium charged the insured and render its final decision on the contested hearing within 60 days after the date the hearing is finally closed. The final decision shall be in writing and include specific findings of fact, which shall be confined exclusively to the evidence presented at the hearing. It shall also include a written explanation of the rate or premium being charged, if the final decision is adverse to the insured. The insurer must inform the insured in writing of the insured's right to appeal an adverse decision to the State Board of Insurance under the Insurance Code, Article 5.15-1, §4B, and §5.1503 of this title (relating to Appeal to the State Board of Insurance).

§5.1503. Appeal to the State Board of Insurance. If the insured physician or health care provider is not satisfied with a decision under the procedures established in §5.1501 and §5.1502 of this title (relating to Procedure for Reconsideration and Grievance and Hearing Procedures) the insured may appeal to the State Board of Insurance for a review of the rate or premium and request a determination of whether the rate or premium being charged complies with criteria of the Insurance Code, Article 5.15-1, §3.

(1) Any insured who wishes to appeal the final decision of the insurer under these rules shall file, with the chief clerk of the State Board of Insurance, a written notice of intent to appeal, which includes a copy of the final decision of the insurer.

(2) The appeal shall be filed within 30 days after receipt by the insured of the final decision of the insurer.

(3) The insured shall certify that a copy of the written notice of intent to appeal has been sent by certified mail to the insurer.

(4) The appeal will be conducted in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a, §§13-17).

(5) The decision of the State Board of Insurance will be final and may not be appealed.

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 July 3, 1990.

TRD-9006750 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: August 13, 1990

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

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Chapter 15. Surplus Lines Insurance

Subchapter A. General Regulations of Surplus Lines Insurance

• 28 TAC §15.27

The State Board of Insurance proposes an amendment to §15.27, concerning exemption from minimum capital and surplus requirements of the Insurance Code, Article 1.14-2, §8(b). The amendment was adopted on an emergency basis and became effective on May 3, 1990. Notification of the emergency adoption appeared in the May 11, 1990, issue of the *Texas Register* (15 TexReg 2669). The amendment is necessary to clarify information which may be required by the commissioner in determining whether to grant an exemption from the minimum capital and surplus requirements of the Insurance Code, Article 1.14-2, §8(b), as allowed by the Insurance Code, Article 1.14-2, §8(c). The amendment provides that the commissioner of insurance may consider other evidence of adequate reinsurance satisfactory to him, as well as trust funds or letters of credit.

Richard B. Schroeter, director, Surplus and Excess Lines Section, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or local economy.

Mr. Schroeter 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 effective regulation of surplus lines insurance. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Richard B. Schroeter, Director, Surplus and Excess Lines Section, Mail Code 014-5, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Article 1.04(b), which authorizes the State Board of Insurance to determine rules in accordance with the laws of this state, and under the Insurance Code, Article 1.14-2, §8(c), which authorizes the commissioner to exempt unauthorized insurers from the minimum capital and surplus requirements of the Insurance Code, Article 1.14-2, §8(b).

§15.27. Exemption from Minimum Capital and Surplus Requirements.

(a) (No change.)

(b) Requirements and standards for exemption by commissioner. The commissioner may exempt an unauthorized insurer from the minimum capital and surplus requirements provided by the Insurance Code, Article 1.14-2, §8(b), if it is determined, after public hearing, that the exemption is warranted. In determining whether such an exemption is warranted, the commissioner shall consider the evidence filed and presented relating to each of the following.

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

(4) Reinsurance contracts. The commissioner shall require that all of the ceded reinsurance of the insurer is with insurers licensed in any state or shall require evidence of acceptable trust funds or letters of credit pursuant to insurance laws of this state if the ceded reinsurance is with alien reinsurers, **or other evidence of adequate reinsurance satisfactory to the commissioner.** The commissioner may require actual copies of any executed reinsurance agreements.

(5)-(9) (No change.)

(c) (No change.)

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

Issued in Austin, Texas on July 5, 1990.

TRD-9006810 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: August 13, 1990

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

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TITLE 31. NATURAL RESOURCE AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter K. Migratory Game Birds-Nontoxic Shot Zones

• 31 TAC §65.261

The Texas Parks and Wildlife Department proposes an amendment to §65.261, concerning the Nontoxic Shot Zone Proclamation. The proposed amendment increases the area where only nontoxic shot may be use to take waterfowl and requires that private bird hunting areas within the nontoxic shot zones use nontoxic shot.

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

Mr. 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 a decrease in the mortality of waterfowl associated with toxic shot poisoning. There will be no effect on small businesses as a result of enforcing the section. The anticipated economic cost to persons who are required to comply with the section as proposed is approximately a 20% increase in cost of nontoxic (steel) shot shells over the cost of shot shells containing legal shot.

Comments on the proposal may be submitted to Robert Jessen, Waterfowl Program Leader, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, 1-800-792-1112, extension 4578 or (512) 389-4578.

The amendment is proposed under the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the Texas Parks and Wildlife Commission with authority to provide an open season, means, methods, and devices for the taking and possession of migratory game birds.

§65.261. Nontoxic Shot Zones.

(a) During waterfowl seasons commencing on or after September 1, **1990** [1989], no person may possess shotgun shells containing any shot material or loose shot for muzzleloading firearms, which is not approved by the federal government as being nontoxic to wildlife or the environment while taking or killing or attempting to take or kill waterfowl within the nontoxic shot zones, **including** [excluding] the shooting of privately owned pen reared and banded mallards on licensed private bird hunting areas. These zones are described as follows:

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

(5) the remaining portions of **Austin, Cameron,** Colorado, Harris, Jefferson, **Kleberg,** Liberty, Nueces, **Refugio, San Patricio,** Willacy, and Waller Counties not included in paragraph (1) of this subsection;

(6)-(7) (No change.)

(8) the remaining portions of Henderson and Smith Counties not included in paragraph (4) of this subsection.

(9)[(8)] all of Baylor, **Bosque,** Brazos, **Burleson, Castro, Collin,** Comanche, **Deaf Smith, Denton, Eastland, Erath, Hood,** Hopkins, **Hunt, Moore, Red River, Robertson, Rockwall, Shelby, Titus,** [and] Trinity, **Walker, Washington, Wise, and Wood** Counties.

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

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

Issued in Austin, Texas on July 3, 1990.

TRD-9006728 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife Department

Earliest possible date of adoption: August 13, 1990

For further information, please call: 1-800-792-1112, ext. 4578 or (512) 389-4578

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TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Chapter 161. Valuation Procedures

• 34 TAC §161.202

The State Property Tax Board proposes new §161.202, concerning the construction of the Tax Code, §25.19(h). The section defines for the purposes of appraisal district administration the phrase "reappraised in the current year. " The section states that a property was reappraised for the current year for the purpose of the previously referenced section if its appraised value for the current year differs from its appraised value in the preceding year, regardless of which is higher.

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

Mr. Stiefer 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 promotion of a uniform interpretation of the provisions of the Tax Code concerning notice of reappraisal. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Sands Stiefer, General Counsel, State Property Tax Board, 4301 Westbank Drive, Building B, Suite 100, Austin, Texas, 78746-6565. The new section is proposed under the Tax Code, §5.03, which provides the State Property Tax Board with the authority to prescribe minimum standards for the administration and operation of appraisal districts.

§161.202. Reappraisal Practices. For the purposes of the Tax Code, §25.19(h), a property was reappraised in the current tax year if its appraised value for the current year differs from its appraised value in the preceding year, regardless of whether the appraised value for the current year exceeds the appraised value in the preceding year.

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 July 3, 1990.

TRD-9006725 Jim Robinson
Executive Director
State Property Tax Board

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 329-7802

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Personnel and Employment Policies

• 37 TAC §1.23

The Texas Department of Public Safety proposes an amendment to §1.23, concerning individual evaluation of applicant's suitability. The amendment adds paragraph (9) regarding an applicant's past use of any illegal substance(s). The department will request additional information for evaluating an applicant's suitability. Past use of any illegal substance(s) may be cause for rejection of an applicant.

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

Terry H. Greene, commander of personnel bureau, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to ensure the public that department employees are evaluated fairly and that they reflect good

morale, habits, attitudes, and general responsibility of the applicant. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The amendment is proposed under the Texas Government Code, which provides the Public Safety Commission with authority to establish grades and positions for the department and set standards of qualification for each such grade and position so established. Rulemaking authority is granted in this section.

§1.23. Individual Evaluation of Applicant's Suitability. When an applicant's record shows any of the following, additional information will be secured from the applicant or other sources and an individual evaluation will be made of the applicant's suitability:

(1)-(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.

Issued in Austin, Texas on July 2, 1990.

TRD-9006812 Joe E. Milner
Director
Texas Department of Public Safety

Earliest possible date of adoption: August 13, 1990

For further information, please call: (512) 465-2000

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 31. Case Management Services

Case Management for High-risk Pregnant Women and High-risk Infants

- **40 TAC §§31.201-31.207**

The Texas Department of Human Services (DHS) proposes new §§31.201-31. 207, concerning primary care case management for high-risk pregnant women and high-risk infants. Senate Bill 1678, passed by the 71st Legislature, requires the DHS to establish programs for the case management of high-risk pregnant women and high-risk children to age one. The new sections specify target populations, primary care case management services, benefits, limitations, provider qualifications, and the rate-setting methodology. The new sections involve only primary care case management.

Federal statutes allow states to provide case management as a distinct service under the Medicaid program. These services can be targeted to specific populations. DHS proposes to target case management services to the high-risk pregnant women and children. DHS is requesting a waiver from the Health Care Financing Administration (HCFA), under the Social Security Act, §1915(b)(1), to direct the high-risk pregnant women and children to specific Medicaid service providers.

DHS has determined, in cooperation with the Texas Department of Health (TDH), that TDH regional clinics and Local Health Clinics (LOHs) are qualified to ensure that Medicaid-enrolled pregnant women and infants who are "high- risk" have access to the full range of services they need. The services will be provided through case management coordination activities.

DHS plans to initially implement these case management services in DHS Region 06 (State Health Region 01). DHS also plans to expand the availability of these services, on a phased-in basis, once experience is gained through the initial implementation.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of $29,475 for fiscal year 1990; $78,600 for fiscal year 1991; $78,600 for fiscal year 1992; $78,600 for fiscal year 1993; and $78,600 for fiscal year 1994. The effect on state government for the first five-year period the sections will be in effect is an estimated increase in revenue of $137,000 for fiscal year 1990; $760,144 for fiscal year 1991; $768, 640 for fiscal year 1992; $786,348 for fiscal year 1993; and $777,853 for fiscal year 1994. There will be no fiscal implications for local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to decrease infant mortality and morbidity; assist high-risk pregnant women to seek and receive early and appropriate prenatal care that conforms to prescribed medical regimes; assist high-risk pregnant women and infants in getting access to appropriate social, educational, nutritional and other ancillary services, as needed; provide the availability for appropriate coordination with the medical community; and to maximize the use of Title XIX federal Medicaid funds. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Larry Nale at (512) 450-4887 in DHS's Health Policy Initiatives Department. Comments on the proposal may be submitted to Cathy Rossberg, Agency Liaison, Policy Communications Services-307, Texas Department of Human Services 454-W, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

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

Case management contact–An action taken by a case manager on behalf of a client to locate, coordinate, and monitor necessary and appropriate services with a specific person or organization. Case management contacts may be face-to-face or by telephone.

High-risk infant–A child under the age of one who meets one or more of the criteria on the list of high-risk conditions for case management.

High-risk pregnant woman–A pregnant woman who meets one or more of the criteria on the list of high-risk conditions for case management.

§31.202. Eligible Individuals. To be eligible for case management services under this section, individuals must be:

(1) a pregnant woman who meets one or more of the criteria for high-risk conditions for pregnant women; or

(2) an infant who meets one or more of the criteria for high-risk infants;

(3) enrolled as a Medicaid recipient and receive the service in a geographic area(s) designated by the Texas Department of Human Services to provide the service.

§31.203. Case Management Services. Case management services are provided to assist eligible clients, as defined in §31.202 of this title (relating to Eligible Individuals), in gaining access to medical, social, educational, and other appropriate services to reduce morbidity and mortality among infants, to encourage the use of cost-effective medical care, to make referrals to appropriate providers, and to discourage overutilization or duplication of costly services. The case management services system includes the following.

(1) Risk assessment/initial intake. This consists of an initial diagnostic study, using a uniform tool, to determine if the client meets the established high-risk criteria. This process includes gathering identifying information from the individual on the nature of the current problem, determining if case management services are needed, and whether the individual wants to receive the services. This process may occur by telephone, in a face-to-face interview or by referral from another professional.

(2) Comprehensive assessment.

(A) The written comprehen-

sive assessment is completed by the case manager to determine the need for services. At a minimum, the written assessment must include:

(i) medical needs;

(ii) social needs;

(iii) nutritional needs; and

(iv) educational needs (including family planning).

(B) If the comprehensive assessment reveals that there is no need for case management services, referrals may be made that will meet the client's other needs.

(3) Service plan. The written service plan is developed to address the specific care needs of the client. The service plan is developed, to the extent possible, with the client (or parent(s), in the case of an infant), or other support system(s). The service plan must include, at a minimum, documentation of:

(A) the persons involved in the development of the service plan;

(B) measurable goals to be achieved via the provision of care;

(C) a description of all services to be provided: education, transportation, medical, referral to other programs, and any other services;

(D) the periodic review of the service plan and description of unmet needs; and

(E) schedules for the case manager to monitor the service plan and to perform a formal reassessment.

(4) Service implementation. The case manager arranges for the delivery of appropriate services to the client. Through negotiation, the case manager acts as an advocate for the client and assists service provider agencies in planning and program development that will meet the needs of the high-risk pregnant women or infants. Service implementation may involve telephone calls, face-to-face contact and home visits. Referrals for education and counseling and assistance with transportation arrangements may also be included as activities of the case manager.

(5) Staff consultation. The case manager may provide consultation to other human service and health care professionals regarding the needs of the client.

(6) Monitoring.

(A) The case manager monitors to determine:

(i) what services have been delivered;

(ii) whether the services were delivered as schedule; and

(iii) whether the services are consistent with the client's service plan.

(B) Modifications to the service plan or a change of service provider may be required. Monitoring is conducted on a periodic basis. Each monitoring visit must be documented in writing. The recommended schedule, unless modified for individual needs, is:

(i) monthly for pregnant women, and one month post-partum; and

(ii) one visit during the first two weeks of life for infants, and one visit at two, four, six, nine, and eleven months of age.

(7) Reassessment. A formal reassessment of the client's progress and needs must be conducted on a periodic basis and must be documented in writing. At the reassessment, the case manager determines if modifications to the service plan are necessary and if the level of involvement by the case manager should be adjusted. Reassessment also includes determining whether or not case management services need to be continued. Following initial assessment, reassessment must occur once during pregnancy and once during the first year of the infant's life.

§31.204. Service Limitations.

(a) Case management services are not reimbursable as a Medicaid service if they are duplicative or if they are associated with the proper and efficient administration of the state plan. Case management activities associated with the following are not reimbursable as optional targeted case management services:

(1) Medicaid eligibility determinations and redeterminations;

(2) Medicaid eligibility intake processing;

(3) Medicaid preadmission screening;

(4) prior authorization for Medicaid services;

(5) required Medicaid utilization review;

(6) EPSDT administration; and

(7) Medicaid "lock-in" provided under the Social Security Act, §1915(a).

(b) Specifically, reimbursement is not be made for the following:

(1) services that are an integral and inseparable part of another Medicaid service;

(2) outreach activities that are designed to locate individuals who are potential Medicaid eligibles. This exclusion does not include Medicaid eligibles requiring services outlined in §31.203 of this title (relating to Case Management Intake);

(3) any medical evaluation, examination, or treatment billable as a distinct Medicaid-covered benefit. However, referral arrangements and staff consultation for such services are reimbursable as a case management service.

§31.205. Provider Qualifications.

(a) The Social Security Act, §1915(b)(1) is used to limit the provider of case management services to the Texas Department of Health Regional Health Clinic and Local Health Clinics in the geographical area(s) designated by the Texas Department of Human Services (DHS) to provide the services. DHS has determined, in coordination with the Texas Department of Health, that these public health clinics are qualified to ensure, through case management, that high-risk pregnant women and high-risk infants have access to the full range of services that they need.

(b) Standards and procedures must be implemented to ensure that case management services are:

(1) offered on a uniform basis throughout the geographic area covered, with procedures to ensure continuity of services and avoidance of duplication;

(2) provided by case managers who meet educational and work experience requirements commensurate with their job responsibilities and who have been trained for case management activities;

(3) provided through an identifiable unit of an organization that is vested with sole responsibility to provide case management services;

(4) delivered through a system in which the case manager is responsible for the overall coordination of services for the Medicaid-eligible participant; and

(5) provided in compliance with federal, state, and local laws, including directives, settlements, and resolutions applicable to the target population.

§31.206. Case Management Reimbursement Methodology.

(a) General information. The Texas Department of Human Services will reimburse qualified providers for case management services provided to Medicaid-eligible individuals who are high-risk pregnant women or high-risk infants. The Texas Board of Human Services determines reimbursement rates at least annually for case management services. These rates are:

(1) uniform throughout the geographic area(s) providing the service; and

(2) cost related.

(b) Basis for rate analysis.

(1) For the initial reimbursement period, providers are reimbursed based on rates set as a result of modeling other rates for case management services, and cost information provided by the Texas Department of Health.

(2) At some future date, as yet unspecified, reimbursements will be based on cost-based prospective rates.

§31.207. Right to Appeal. Applicants have the right to appeal decisions of the Texas Department of Human Services (DHS) according to DHS's fair hearings rules contained in Chapter 79 of this title (relating to Legal 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 July 6, 1990.

TRD-9006846 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Proposed date of adoption: September 15, 1990

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

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Chapter 49. Child Protective Services

Subchapter Q. Purchased Protective Services

The Texas Department of Human Services (DHS) proposes the repeal of §§49.1744-49.1752 and new §§49.1744-49.1749, concerning purchased adoption services, in its Child Protective Services chapter. The purposes of the repeals and new sections are to restructure the rate system for purchased adoption services, to authorize a system of flexible billing for different combinations of service, and to clarify requirements for the plan of operation in adoption services contracts. The restructured rate system will increase the ceiling on purchased services in a single adoption from $2,300 to $5,000. The proposed sections will give the department greater flexibility in securing purchased adoption services for hard-to-place children in DHS's managing conservatorship.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the repeals and new sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections and repeals.

Mr. Raiford also has determined that for each year of the first five years the repeals and new sections are in effect the public benefit anticipated as a result of enforcing the repeals and new sections will be to provide more options for adoptive placement of children in DHS's managing conservatorship. There will be no effect on small businesses as a result of enforcing or administering the repeals and new sections. There is no anticipated economic cost to persons who are required to comply with the repeals and new sections as proposed.

Questions about the content of this proposal may be directed to Marilyn Kennerson at (512) 450-3286 in DHS's Protective Services for Families and Children Department. Comments on the proposal may be submitted to Cathy Rossberg, Policy Communication Services-835, Texas Department of Human Services 454-W, P. O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register.*

• 40 TAC §§49.1744-49.1752

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 47, which authorizes the department to administer programs to promote the adoption of hard-to-place children.

§49.1744. Adoption Services.

§49.1745. Purchased Adoption Services.

§49.1746. Plan of Operation for Adoption Services Contracts.

§49.1747. Recruitment and Screening Services Providers.

§49.1748. Adoptive Placement Services.

§49.1749. Unit of Service and Basis for Payment for Recruitment and Screening.

§49.1750. Unit of Service and Basis for Payment for Adoptive Placement Services.

§49.1751. Rate Setting in Adoption Contracts.

§49.1752. Reimbursement Fees.

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 July 6, 1990.

TRD-9006844 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Proposed date of adoption: September 15, 1990

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

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• 40 TAC §§49.1744-49.1749

The new sections are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 47, which authorizes the department to administer programs to promote the adoption of hard-to-place children.

§49.1744. Purchased Adoption Services.

(a) Beginning on May 16, 1990, the Texas Department of Human Services (DHS) applies the policies for purchased adoption services specified in this section and in §§49.1745-49. 1749 of this title (relating to Types of Purchased Adoption Services; Provider Eligibility for Purchased Adoption Services; Reimbursement of Purchased Adoption Services; Purchasing Adoption Services for Sibling Groups; and Plan of Operation for Adoption Services Contracts).

(b) DHS purchases adoption services for children in its managing conservatorship who:

(1) are members of a minority race or have a racially mixed background;

(2) have a professionally diagnosed physical, mental, or emotional handicap;

(3) are siblings who need to be placed together; or

(4) are six years old or older.

(c) Based on such factors as a private agency's ability to place particular children, the number of children needing placement, and the availability of funds, DHS regional offices purchase adoption services from private, licensed child-placing agencies that meet the requirements specified in §49.1746 of this title (relating to Provider Eligibility for Purchased Adoption Services).

(d) DHS does not purchase adoption services in adoptions by DHS foster parents.

§49.1745. Types of Purchased Adoption Services.

(a) When appropriate under the provisions of §49.1744 of this title (relating to Purchased Adoption Services), the Texas Department of Human Services (DHS) contracts with providers to purchase the following adoption services:

(1) recruitment and screening of adoptive families;

(2) adoptive home-study services;

(3) placement services, including presentation of the child and preplacement visits with the adoptive family; and

(4) postplacement services

before consummation of the adoption.

(b) DHS may purchase the four types of service specified in subsection (a) of this section either:

(1) together, as an integrated package of adoption services; or

(2) separately, as discrete components in the overall process of placing a child for adoption.

§49.1746. Provider Eligibility for Purchased Adoption Services.

(a) To separately purchase the recruitment and screening services specified in §49.1745(a)(1) of this title (relating to Types of Purchased Adoption Services), the Texas Department of Human Services (DHS) must contract with:

(1) a council on adoptable children (COAC);

(2) another parent or community group; or

(3) a child-placing agency that meets the requirements specified in subsection (b) of this section.

(b) To purchase the adoptive home-study, placement, or postplacement services specified in §49.1745(a)(2)-(4) of this title (relating to Types of Purchased Adoption Services), DHS must contract with a private agency that is licensed to place children for adoption. The child-placing agency's staff must:

(1) have experience in adoptive placements; and

(2) be supervised by a person with a masters degree in social work.

(c) When appropriate, DHS purchases adoption services from child-placing agencies affiliated with churches that limit placements to specific religious groups. The child-placing agency, however, must respect the religious affiliation of the child and must provide services to children of all religious faiths.

§49.1747. Reimbursement of Purchased Adoption Services.

(a) Basis of payment. As specified in §49.1705 of this title (relating to Cost Reimbursement Method), the Texas Department of Human Services (DHS) reimburses providers of purchased adoption services only for the actual, allowable costs of completed services. The department's reimbursements may not exceed the maximum amounts specified in subsections (b)-(d) of this section.

(b) Maximum payable amounts. DHS's payments for the purchased adoption services specified in §49.1745 of this title (relating to Types of Purchased Adoption Services) are subject to the following maximums:

Service	Maximum Hours	Maximum Payment
Recruitment & Screening	15	$ 500
Home Study	53	$1,750
Placement	18	$ 600
Postplacement (Supervision)	65	$2,150
Total Per Child		$5,000

(c) Flexible billing.

(1) When appropriate under the provisions of paragraph (3) of this subsection, DHS may authorize a child-placing agency to employ a special method of flexible billing for recruitment and screening, home-study, and placement services. The flexible-billing method permits an agency to bill more than the maximum allowed for one type of service in a particular adoption and to make up the difference by billing less than the maximum for another type of service in the same adoption. The total amount billed must not exceed the combined maximum allowances for the services billed, as specified in subsection (b) of this section. The flexible-billing method may be used to reallocate maximum allowances for two or more types of services up to and through the placement component of the adoption process. This is the point at which DHS makes the initial purchase payment for the child-placing agency's services.

(2) By enabling the child-placing agency's staff and DHS regional staff to adjust adoption services to a child's special needs without renegotiating the agency's contract, the flexible-billing method helps DHS and the agency to meet the goals of contracting for adoption services when circumstances warrant a different distribution of resources.

(3) DHS regional staff authorize flexible billing only on a limited basis and in unusual circumstances. The child-placing agency must explain and document why its costs for a particular type of service must exceed the maximum allowance for that type of service, and DHS regional staff must approve the agency's justification as reasonable and appropriate.

(d) Subsequent placement. When a placement is disrupted and the provider subsequently places the child in another adoptive home, the subsequent placement is considered an extension of the services for which DHS contracted. DHS may pay the child-placing agency up to $1,500 for the child's subsequent placement.

(e) Required documentation. To receive payment, the child-placing agency must document its services in a manner specified or approved by DHS.

(f) Restriction of services to the contract period. DHS reimburses the child-placing agency only for services initiated during the contract period. When an adoption is consummated after the contract period ends, DHS makes payment only if the child was physically placed in the adoptive home during the contract period. This restriction must be included in the child-placing agency's contract.

(g) Prohibition against billing adoptive families. The child-placing agency must not seek reimbursement from, charge fees to, or solicit donations from adoptive families to whom it provides purchased adoption services.

§49.1748. Purchasing Adoption Services for Sibling Groups.

(a) Classification of service components. When the Texas Department of Human Services (DHS) purchases adoption services for a sibling group, the department may classify each component service in the adoption process as a single service to the entire group or as a separate service to each sibling, depending on the nature of the actual services necessary to complete the adoption.

(b) Classification as a single service. When DHS classifies a component service in a sibling group's adoption as a single service to the entire group, the department's payment for providing the service to the group may not exceed the maximum amount specified for providing it to a single child in §49.1747 of this title (relating to Reimbursement of Purchased Adoption Services).

(c) Classification as a separate service. When DHS classifies a component service in a sibling group's adoption as a separate service to each child, the

department prorates the child-placing agency's total, actual cost for the service among all the siblings placed. The department's payment for providing the service to each child may not exceed the maximum amount specified in §49. 1747 of this title (relating to Reimbursement of Purchased Adoption Services).

(d) Negotiation of classifications.

(1) Based on the actual services necessary in a particular sibling group's adoption, DHS regional contract-management staff negotiate with the child-placing agency to determine the most appropriate classification for each component service in the adoption.

(2) The requirement to negotiate an appropriate classification for each component service in a sibling-group adoption must be included in the child-placing agency's plan of operation.

(e) Subsequent placements.

(1) When a sibling group's placement is disrupted and the child-placing agency subsequently places the group in another adoptive home, DHS may classify the subsequent placement as a separate service for each child or as a single service for the entire group. If DHS classifies the subsequent placement as a single service for the entire group, the $1,500 maximum specified in §49. 1747(d) of this title (relating to Reimbursement of Purchased Adoption Services) applies to the entire group's placement. If DHS classifies the subsequent placement as a separate service for each child, the $1,500 maximum applies individually to each child's placement.

(2) Based on the actual services necessary in a particular sibling group's subsequent placement, DHS regional contract-management staff negotiate with the child-placing agency to determine whether to classify the subsequent placement as a separate service for each child or as a single service for the entire group. The requirement to negotiate appropriate classifications for subsequent placements must be included in the child-placing agency's plan of operation.

§49.1749. Plan of Operation for Adoption Services Contracts. In addition to meeting the general documentation requirements specified in §49.1702 of this title (relating to The Plan of Operation), to enter into an adoption services contract with the Texas Department of Human Services (DHS), a child-placing agency must include the following statements, agreements, and stipulations in its plan of operation.

(1) Referral.

(A) A description, by age, race, and handicap, of the children whom the child-placing agency intends to serve.

(B) A statement that DHS will refer children who are legally free for adoption and who meet the criteria specified in the adoption contract procedures for the DHS region in which the child-placing agency is located. Exceptions to this requirement must be stipulated in regional adoption contract procedures.

(C) An agreement about what constitutes a referral. This agreement must specify all documents, records, and other information required by DHS's *Minimum Standards for Child-placing Agencies* before a child is placed. The agreement may also specify other information that DHS and the child-placing agency consider helpful for recruiting, studying, and preparing prospective adoptive families.

(D) A stipulation that DHS must help the child-placing agency obtain access to the child, to foster parents, and to others who have been involved with the child, so that the agency can directly assess the child's needs.

(E) A stipulation that DHS is responsible for direct supervision of each child in foster care until an adoptive home is selected for the child, unless the child is in a foster home supervised by the child-placing agency. DHS continues to list each child referred to the child-placing agency on the department's adoption resource exchange (ARE). If another family becomes available to adopt a child before the child-placing agency offers an adoptive home, DHS may withdraw the referral to the child-placing agency and proceed with the available placement.

(2) Recruitment.

(A) A statement that the child-placing agency is responsible for recruiting, screening, studying, and approving possible adoptive homes for the children referred by DHS. The child-placing agency must agree not to place a child with a family until completion and approval of the adoptive home study and DHS approval of the placement.

(B) A stipulation that DHS must provide the child-placing agency with recruitment material about each child and a full specification of limitations on the agency's methods of recruitment and areas of coverage.

(C) A stipulation that DHS must notify each child-placing agency about other agencies to which the child has been referred.

(3) Screening. A stipulation that each adoption inquiry that DHS refers to the child-placing agency is subject to the agency's usual screening and application process.

(4) Home study.

(A) A stipulation that the adoptive home study must meet DHS's *Minimum Standards for Child-placing Agencies.*

(B) A stipulation that the child-placing agency must not charge fees to or solicit donations from families that the agency studies for placement of DHS-referred children with special needs.

(5) Placement services.

(A) An agreement that DHS will provide staff to work with children to:

(i) prepare them emotionally and physically for adoption; and

(ii) prepare their records, including adoption readiness summaries and health, social, educational, and genetic history reports, in compliance with DHS's *Minimum Standards for Child-placing Agencies.*

(B) A stipulation that DHS must provide the child-placing agency with a copy of the child's complete record including all legal documents.

(C) A designation of DHS staff and child-placing agency staff (by position and name) who are involved in reviewing and approving placements.

(D) A stipulation that written approval is required before formal presentation of a child to an adoptive family.

(E) A stipulation that DHS must continue providing services to the child and his foster parents before the adoptive placement, unless the child is in the care of another child-placing agency. In that case, the supervising child-placing agency must continue providing services.

(F) A stipulation that the DHS worker responsible for a child must allow the child-placing agency's worker to meet with the child and the child's caregivers before the adoptive placement.

(G) A stipulation that the child-placing agency must provide the adoptive family with the child's health, social, educational, and genetic history Report and with the written information about the child required by DHS's *Minimum Standards for Child-placing Agencies.*

(H) An agreement that DHS and the child-placing agency will cooperate in processing:

(i) adoption assistance; and

(ii) placement requests under the Interstate Compact on the Placement of Children.

(6) Post-placement services.

(A) A stipulation that the child-placing agency must provide support services after placement until the adoption is consummated. These services may be provided in the adoptive home, the child-placing agency's office, or any other designated place.

(B) A stipulation that DHS retains managing conservatorship of the child until the adoption is consummated. If the adoption is not consummated within a year after the initial placement, DHS and the child-placing agency must review the placement, and develop a time-limited service plan.

(C) An agreement that the child-placing agency will visit the child and the adoptive family at least every 30 days and will send the DHS worker written reports on the placement every two months. The child-placing agency may send reports more frequently and may supplement its written reports with telephone calls and letters.

(D) An agreement that the child-placing agency will help the adoptive parents and their attorney to complete the consummation process. The child- placing agency must prepare the court report unless the court orders another party to prepare the report.

(E) A stipulation that DHS must provide written consent for the adoption when the following conditions are met:

(i) DHS and the child-placing agency agree that the adoption is in the child's best interest and should be consummated;

(ii) the child-placing agency has supervised the adoptive placement for at least six months; and

(iii) the child-placing agency has sent DHS at least three written reports about the placement.

(F) An agreement by the child-placing agency to provide DHS with a copy of the petition to adopt and the adoption decree.

(G) A stipulation that, if an adoptive placement is disrupted, the child-placing agency must work with DHS to plan for another placement for the child. The planning must include a review of available resources before another placement is selected. DHS and the child-placing agency must identify the staff authorized to approve new placement plans in the adoption contract procedures.

(H) A stipulation that, as managing conservator, DHS must provide for children whose adoptive placements are disrupted.

(I) An agreement that the child-placing agency will inform adoptive parents about adoption assistance and help them to apply for assistance when appropriate.

(7) Post-adoption services. An agreement that the child-placing agency will provide services after an adoption is consummated, if there are problems with the adoption. The child-placing agency must agree to provide these services to the extent possible within its own resources and to help the family locate other resources.

(8) Classification of component services and subsequent placement services in sibling-group adoptions. An agreement that DHS regional contract- management staff will negotiate with the child-placing agency's staff to determine the most appropriate classification of component services and of subsequent placement services in a sibling group's adoption, as specified in §49.1748 of this title (relating to Purchasing Adoption Services for Sibling Groups).

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 July 6, 1990.

TRD-9006845 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Proposed date of adoption: September 15, 1990

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

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TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

Chapter 17. Division of Motor Vehicles

Dealers and Manufacturers Vehicle License Plates

- **43 TAC §§17.60-17.62, 17.65, 17.68-17.71, 17.73-17.75**

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

The State Department of Highways and Public Transportation proposes amendments to §§17.60-17.62, 17.65, 17.68-17.71, and 17.73-17.75, concerning dealers and manufacturers vehicle license plates. These amended sections allow a dealer licensed by another state to buy, sell, or exchange vehicles with a Texas licensed dealer; require the issuance of a general distinguishing number for a consignment location when a dealer consigns more than five vehicles in a calendar year; allow the use of dealer temporary cardboard tags on unregistered vehicles operated by a charitable organization; expand the definition of manufacturer to include persons, firms, or corporations who distribute new motor vehicles; allow a dealer to operate out-of-state vehicles under certain conditions; provide greater flexibility in securing compliance of the dealer license law without the necessity of formal enforcement actions; and allow the department to impose more realistic penalties in cases which advance to the formal enforcement stage. Section 17.60 is amended to include definitions of new and expanded terms. Section 17.61 is amended to provide for the issuance of a general distinguishing number when a dealer consigns more than five vehicles in a calendar year from a location different from the location for which the dealer has been issued a general distinguishing number; to allow an out-of-state licensed dealer to buy, sell, or exchange vehicles in this state with another licensed dealer without requiring such dealer to secure a general distinguishing number issued by this department; and to allow a licensed wholesale dealer to exchange the wholesale dealer general distinguishing number for another type of general distinguishing number. Section 17.62 is amended to include the term "travel trailer" in the definition of the term "house trailer" and to expand the definition of that term as it applies to the dealer rules; and to expand the language concerning the vehicle size criteria. Section 17.65 is amended by changing the section title to "Security Requirements;" by incorporating the language of repealed §17.66 and removing reference to the repealed section; by adding the provision for the recovery of attorney's fees by a person obtaining a court judgment assessing damages against the dealer's bond; and by including house trailer dealer as a dealer exempt from security requirements. Section 17. 68 is amended to provide that dealer metal plates shall be safeguarded; to remove the "buyer's" and "dealer's" reference to cardboard tags; and to provide for the use of a temporary cardboard tag on unregistered vehicles operated by a charitable organization. Section 17.69 is amended to specify that a dealer's office must be equipped with a working telephone instrument listed in the name under which the dealer does business; to provide that if the office is leased by the

dealer, it must meet existing rules relating to lease requirements; and to refine the requirements regarding the display of the dealer's sign. Section 17. 70 is amended by adding the provision that a dealer's license may be canceled if a dealer utilizes a temporary cardboard tag that fails to meet department specifications and by adding subsection (c) to provide for a system of pre-sanction citations or warning notices for use in possible inadvertent violations. Section 17.71 is amended to provide for informal resolution of violations, penalties, and/or cancellations, failing which, the department may initiate formal administrative proceedings to determine the violations and the maximum sanctions to be imposed. Section 17.73 is amended by changing the section title to "Manufacturers License Plates;" by allowing the issuance of manufacturers license plates to out-of-state manufacturers; and by allowing the use of manufacturers license plates on unregistered vehicles loaned to consumers in accordance with the Texas Motor Vehicle Commission code. Section 17.74 is amended to require a dealer to maintain a record of purchases and sales; to stipulate the data to be included in a dealer's records; and to require such records to be maintained for a minimum of 13 months. Section 17.75 is amended to require a dealer to qualify for a new general distinguishing number when there is a complete change of ownership.

Dian K. Neill, director, Division of Motor Vehicles, 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. Neill has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed amended sections.

Ms. Neill 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 section will be a more effective and uniform enforcement of the dealer license law and regulations of persons engaged in the business of buying, selling, or exchanging motor vehicles. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dian K. Neill, Director, Division of Motor Vehicles, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

The sections are proposed under Texas Civil Statutes, Articles 6666 and 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the State Department of Highways and Public Transportation and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

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

Issued in Austin, Texas on June 27, 1990.

TRD-9006821 Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Earliest possible date of adoption: August 13, 1990

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

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Dealers and Manufacturers Vehicle License Plates

• 43 TAC §17.66, §17.67

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

The State Department of Highways and Public Transportation proposes the repeal of §17.66, concerning assignment of security and letter of credit and §17.67, concerning temporary cardboard tags. Section 17.66 provides that a dealer may obtain an assignment of security or letter of credit in lieu of a surety bond as provided in Texas Civil Statutes, Article 6686, §1-A. Section 17.67 provides that the department furnish printing instructions for temporary cardboard tags to the dealer upon the issuance of a general distinguishing number and eliminates the use of homemade cardboard tags or tags with buyer's tags information on one side and dealer's tags information on the other side.

Repeal of these sections is necessary because of the contemporaneous adoption of amended §17.65, concerning bond requirements and new §17.67, concerning temporary cardboard tags, which incorporate certain of the repealed provisions in an amended form and provide additional requirements of motor vehicle dealers.

Dian K. Neill, director, Division of Motor Vehicles, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Neill has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed repeals.

Ms. Neill also has determined that for each year of the first five years the repeals are in effect their will be no public benefit anticipated as a result of enforcing the repeals. There will be no effect on small businesses as a result of enforcing the repeals. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Dian K. Neill, Director, Division of Motor Vehicles, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701

The repeals are proposed under Texas Civil Statutes, Article 6666 and 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the State Department of Highways and Public Transportation and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

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

Issued in Austin, Texas on June 28, 1990.

TRD-9006823 Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Earliest possible date of adoption: August 13, 1990

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

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• 43 TAC §17.67

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

The State Department of Highways and Public Transportation proposes new §17.67, concerning temporary cardboard tags. This new section replaces existing §17.67, concerning temporary cardboard tags, which is being contemporaneously repealed. This new section provides the specifications for the printing of temporary cardboard tags, illustrations of such cardboard tags, and instructions for the dealer's lawful display of the temporary cardboard tags on certain vehicles.

Dian K. Neill, director, Division of Motor Vehicles has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Neill has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed new section.

Ms. Neill also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more effective and uniform enforcement of the dealer license law and regulation of persons engaged in the business of buying, selling, or exchanging motor vehicles. There will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dian K. Neill, Director, Division of Motor Vehicles, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Articles 6666 and 6686, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of work of the State Department of Highways and Public Transportation and for the orderly administration of statutory provisions relating to dealers and manufacturers licenses.

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

Issued in Austin, Texas on June 28, 1990.

TRD-9006819

Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Earliest possible date of adoption: August 13, 1990

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

Withdrawn Sections

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

TITLE 7 BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 115. Dealers and Salesmen

• 7 TAC §115.1

The State Securities Board has withdrawn from consideration for permanent adoption a proposed amendment to §115.1 which appeared in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2205). The effective date of this withdrawal is July 3, 1990.

Issued in Austin, Texas, on July 3, 1990.

TRD-9006738 Denise Voigt Crawford
General Counsel
State Securities Board

Effective date: July 3, 1990

For further information, please call: (512) 474-2233

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TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 309. Operation of Racetracks

Subchapter B. Horse Racetracks

Operations

• 16 TAC §309.199

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3133). The effective date of this withdrawal is July 6, 1990.

Issued in Austin, Texas, on July 5, 1990

TRD-9006825 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

For further information, please call: (512) 476-7223

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The Texas Racing Commission has withdrawn the emergency effectiveness of an amendment to §309.199, concerning the horse racetracks. The text of the emergency amendment appeared in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3056). The effective date of this withdrawal is July 6, 1990.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006884 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 6, 1990

For further information, please call: (512) 476-7223

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Chapter 313. Officials and Rules for Horse Races

Subchapter D. Running of the Race

Pre-race Procedure

• 16 TAC §313.421

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed amendment to §313.421 which appeared in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3147). The effective date of this withdrawal is July 6, 1990.

Issued in Austin, Texas, on July 6, 1990

TRD-9006826 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 5, 1990

For further information, please call: (512) 476-7223

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The Texas Racing Commission has withdrawn the emergency effectiveness of amendment to §313.421, concerning the running of the race. The text of the emergency amendment appeared in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3070). The effective date of this withdrawal is July 6, 1990.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006885 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 6, 1990

For further information, please call: (512) 476-7223

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Board of Health

Personnel Policies and Procedures

• 25 TAC §1.171

The Texas Department of Health withdraws the emergency effectiveness of new §1.171, which was published in the March 6, 1990 issue of the *Texas Register* (15 TexReg 1219 and 15 TexReg 2953). The emergency effectiveness was renewed in the May 29, 1990 issue of the *Texas Register* (15 TexReg 2953). The effective date of this withdrawal of emergency effectiveness is 20 days after filing.

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 July 6, 1990.

TRD-9006866 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: July 27, 1990

Proposal publication date: March 6, 1990

For further information, please call: (512) 458-7301

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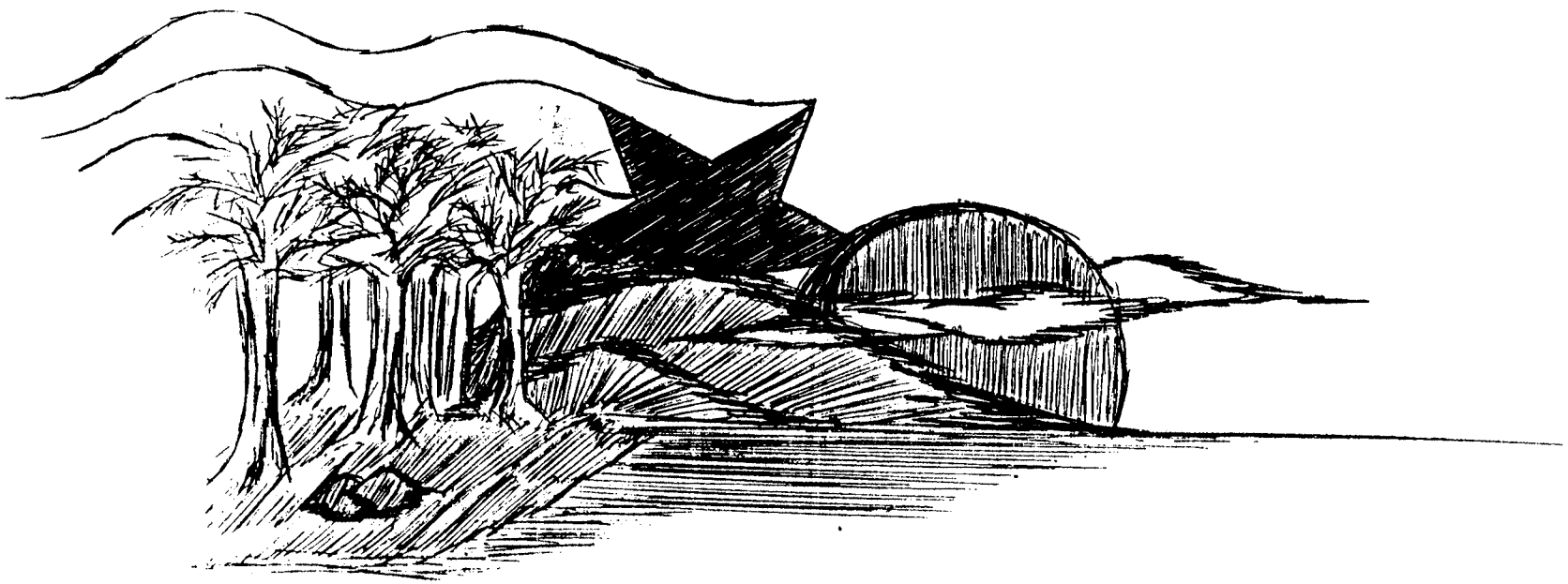

Adopted Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 115. Dealers and Salesmen

• 7 TAC §115.1

The State Securities Board adopts an amendment to §115.1, with changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2206).

The amendment allows for assistants for (unsolicited) order processing to become registered in a limited capacity that is appropriate in view of their limited activities.

The amendment creates a new category of restricted dealer registration for assistants for (unsolicited) order processing. The change is intended to clarify that, even though the assistants for order processing may not engage in customer solicitation, the dealer may.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§115.1. General

(a) (No change.)

(b) Restricted Registration.

(1) Any person or company may apply for, and the commissioner may grant, restricted registration for the purpose of effecting transactions in a particular type or category of securities, or securities representing interests in one or more types or categories of businesses. The restricted registrations are as follows:

(A)-(J) (No change.)

(K) registration to accept orders unsolicited by such person from existing customers of the dealer.

(2) (No change.)

(c)-(h) (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 July 2, 1990.

TRD-9006737 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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• 7 TAC §115.3

The State Securities Board adopts an amendment to §115.3, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2206).

The amendment eliminates the requirement that certain applicants for registration as investment advisers take an examination on general securities law when there is no need to require it.

The amendment creates an automatic waiver of the requirement that applicants seeking registration as investment advisers take an examination on general securities law if such applicants are designated by the American Institute of Certified Public Accountants as accredited personal financial specialists.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006736 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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Chapter 117. Administrative Guidelines for Registration of Real Estate Programs

• 7 TAC §§117.1, 117.2, 117.4-117.9

The State Securities Board adopts amendments to §§117.1, 117.2, and 117.4-117.9, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2206).

Adoption of the amendments allows Texas to continue to be uniform with other states in applying standards for the registration of real estate programs.

The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators Association's real estate guidelines.

No comments were received regarding adoption of the amendment.

The amendments are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006735 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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Chapter 121. Administrative Guidelines for the Registration of Oil and Gas Programs

• 7 TAC §§121.1-121.10

The State Securities Board adopts the repeal of §§121.1-121.10, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2213).

Repeal of the sections allows for Texas to continue to be uniform with other states in applying standards for registration of oil and gas programs.

Repeal of the sections allows for the simultaneous adoption of newly revised oil and gas program guidelines adopted by the North American Securities Administrators Association.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006734 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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The State Securities Board adopts new §§121.1-121.10, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2213).

Adoption of the sections allows Texas to continue to be uniform with other states in applying standards for registration of oil and gas programs.

The sections reflect the current oil and gas guidelines adopted by the North American Securities Administrators Association.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006733 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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Chapter 133. Forms

• 7 TAC §133.12

The State Securities Board adopts an amendment to §133.12, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2229).

The amendment decreases the likelihood of errors by users of the form.

The amendment eliminates misleading examples used in the form.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006732 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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• 7 TAC §133.13

The State Securities Board adopts an amendment to §133.13, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2230).

The amendment provides a mechanism for reporting the number of shares and dollar amount of securities sold within a specified time frame.

The amendment allows for inclusion of language on the form that identifies the exact time period during which the reported number of shares and dollar amount of securities were sold.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006731 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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• 7 TAC §133.24

The State Securities Board adopts an amendment to §133.24, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2230).

The amendment creates consistent reporting requirements relating to prior charges, indictments, or convictions regardless of the application form used by applicants for dealer, salesman, agent, or investment adviser registration.

The amendment reflects the same reporting requirements as to disciplinary and/or enforcement matters as exist in other agency application forms.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006730 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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• 7 TAC §133.31

The State Securities Board adopts an amendment to §133.31, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2230).

The amendment is adopted because the review of real estate program offerings will be quicker than would be the case otherwise, since the form enables the securities analysts to review such programs and process such applications more efficiently.

The amendment reflects items in the form that were revised in the most recent changes adopted by the North American Securities

Administrators Association.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 July 2, 1990.

TRD-9006729 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: July 24, 1990

Proposal publication date: April 20, 1990

For further information, please call: (512) 474-2233

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TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 303. General Provisions

Subchapter B. Powers and Duties of the Commission

• 16 TAC §303.33

The Texas Racing Commission adopts an amendment to §303.33, without changes to the proposed text as published in the April 27, 1990, issue of the *Texas Register* (15 TexReg 2400).

The amendment is adopted to facilitate the commission's ability to hear testimony from witnesses, without regard for the witnesses' ability to pay for travel to Austin.

The amendment authorizes a witness compelled to testify before the commission to receive compensation for travel expenses as the same rate as state employees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-13a, §14(1), which provide the commission with the authority to adopt rules setting a rate of compensation for witnesses in excess of the statutory limit.

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 July 5, 1990.

TRD-9006807 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: April 27, 1990

For further information, please call: (512) 476-7223

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• 16 TAC §303.35

The Texas Racing Commission adopts an amendment to §303.35, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1447).

The amendment is adopted to ensure the rules of the commission are internally consistent.

The amendment changes the title "racing official" to "racetrack official".

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006806 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Chapter 305. Licenses for Pari-Mutuel Racing

Subchapter A. General Provisions

• 16 TAC §305.12

The Texas Racing Commission adopts an amendment to §305.12, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1447).

The amendment is adopted to ensure the rules of the commission are internally consistent.

The amendment changes the title of "racing official" to "racetrack official".

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006805 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Subchapter B. Individual Licenses

General Provisions

• 16 TAC §305.34

The Texas Racing Commission adopts new §305.34, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1447).

The new section is adopted to ensure that participation in pari-mutuel racing will not interfere with the education of underage licensees.

The new section requires an applicant for a license who is less than 18 years old to provide proof of high school graduation or the equivalent, or of current enrollment in high school or the equivalent.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006804 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Subchapter C. Racetrack Licenses

General Provisions

• 16 TAC §305.68

The Greyhound Racing Section of the Texas Racing Commission adopts an amendment to §305.68, without changes to the proposed text as published in the April 27, 1990, issue of the *Texas Register* (15 TexReg 2401).

The amendment is adopted to ensure that the racetrack licensing function of the Texas Racing Commission is administered efficiently and the commission's budgetary needs are met in accordance with state law.

The amendment describes the procedures for payment of the annual renewal fee for a greyhound racetrack license and sets the amounts of the fee.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §5.01, which require the commission to prescribe annual license fees for each category of license issued under the Texas Racing Act, and §6.03, which authorize the commission to require a renewal fees for racetrack licensees.

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 July 5, 1990.

TRD-9006803 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: April 27, 1990

For further information, please call: (512) 476-7223

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• 16 TAC §305.70

The Texas Racing Commission adopts the repeal of §305.70, without changes to the proposed text as published in the April 27, 1990, issue of the *Texas Register* (15 TexReg 2401).

The section is repealed to ensure that the rules of the Texas Racing Commission are clear and internally consistent.

The repealed section requires the payment of a racetrack license fee within 10 business days after the commission order granting the license is entered. The commission has incorporated the substance of the repealed section in §§305.68, 305.69, and 305.71.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006802 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: April 27, 1990

For further information, please call: (512) 476-7223

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• 16 TAC §305.71

The Texas Racing Commission adopts new §305.71, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1448).

The new section is adopted to ensure that the racetrack licensing function of the Texas Racing Commission is administered efficiently and the commission's budgetary needs are met in accordance with state law.

The new section describes the procedures for payment of the annual renewal fee for a horse racetrack license and sets the amounts of the fee.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §5.011, which require the commission to prescribe annual license fees for each category of license issued under the Texas Racing Act, §6.03, which authorize the commission to require renewal fees for racetrack licensees.

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 July 5, 1990.

TRD-9006801 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Chapter 307. Practice and Procedure

Subchapter B. Adjudicative Procedures

Pleadings

• 16 TAC §307.72

The Texas Racing Commission adopts an amendment to §307.72, without changes to the proposed text as published in the April 27, 1990, issue of the *Texas Register* (15 TexReg 2401).

The amendment is adopted to ensure that the adjudicative procedures of the Texas Racing Commission are administered efficiently and in accordance with state law.

The amendment requires any pleading filed with the commission to contain a proposed order, containing findings of fact and conclusions of law.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, and Article 6252-13a, which provide the commission with the authority to adopt rules for adjudicative procedures

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

Issued in Austin, Texas, on July 5, 1990.

TRD-9006800 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: April 27, 1990

For further information, please call: (512) 476-7223

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Subchapter C. Proceedings by Stewards and Racing Judges

Objections and Protests

• 16 TAC §307.221

The Texas Racing Commission adopts an amendment to §307.221, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1448).

The amendment is adopted to ensure that the rules of the commission are internally consistent.

The amendment deletes the word "racing" before "official."

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006799 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Disciplinary Hearings

• 16 TAC §307.241

The Texas Racing Commission adopts an amendment to §307.241, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1448).

The amendment is adopted to ensure that the rules of the commission are internally consistent.

The amendment deletes the word "racing" before "official."

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006798 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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• 16 TAC §307.247

The Texas Racing Commission adopts an amendment to §307.247, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1449).

The amendment is adopted to ensure that the rules of the commission are internally consistent.

The amendment deletes the word "racing" before "official."

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006797 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Chapter 309. Operation of Racetracks

Subchapter B. Horse Racetracks

Racetracks

• 16 TAC §309.108

The Texas Racing Commission adopts an amendment to §309.108, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1449).

The amendment is adopted to ensure that pari-mutuel racing is safe for the licensees and the race animals.

The amendment requires an association to provide the personnel necessary to maintain the racing surface.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006796 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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• 16 TAC §309.112

The Texas Racing Commission adopts an amendment to §309.112, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1449).

The amendment is adopted to ensure that pari-mutuel racing is safe for the licensees and the race animals.

The amendment requires an association to provide at least 125 footcandles of light at the center of each turn of the racetrack.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006795 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Subchapter B. Horse Racetracks

Operations

• 16 TAC §309.195

The Texas Racing Commission adopts an amendment to §309.195, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1450).

The amendment is adopted to ensure that pari-mutuel racing is conducted with the highest integrity.

The amendment requires an association to provide one assistant starter for each horse that is to start in a race. The amendment also authorizes a Class 2 or 3 association to permit a licensed trainer or assistant trainer to serve as an assistant starter.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006794 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Chapter 311. conduct and Duties of Individual Licensees

Subchapter B. Specific Licensees

General Provisions

• 16 TAC §311.102

The Texas Racing Commission adopts an amendment to §311.102, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1451).

The amendment is adopted to ensure that pari-mutuel racing is conducted with the highest integrity.

The amendment requires both parties to the transaction transferring ownership of a race animal housed on association grounds to give written notice of the transfer to the stewards or racing judges.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006793 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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Chapter 313. Officials and Rules for Horse Races

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.112

The Texas Racing Commission adopts new

§313.112, without changes to the proposed text as published in the March 16, 1990, issue of the *Texas Register* (15 TexReg 1451).

The section is adopted to ensure that the animals racing at a pari-mutuel racetrack are fit and ready to race and that the information provided to the public about those animals will be accurate.

The section describes the procedures and requirements for having a race or workout, conducted at a facility other than a licensed pari-mutuel racetrack, recognized as official for purposes of eligibility to enter a pari-mutuel horse race.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules to administer the Texas Racing 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 July 5, 1990.

TRD-9006792 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: July 26, 1990

Proposal publication date: March 16, 1990

For further information, please call: (512) 476-7223

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Board of Health

Personnel Policies and Procedures

- **25 TAC §1.171**

The Texas Department of Health adopts new §1.171, with changes to the proposed text as published in the March 6, 1990, issue of the *Texas Register* (15 TexReg 1226). The new section establishes guidelines for the creation and operation of a sick leave pool to benefit department employees who suffer a catastrophic injury or illness. The specific guidelines cover the section's purpose, definitions, general provisions, contributions of sick leave to the pool, eligibility criteria, requests to use leave from the pool, amounts awarded, and use of approved pool leave. The new section implements the requirements of Senate Bill 357, 71st Legislature, 1989.

No comments were received as a result of publishing the section in the *Texas Register*; however, comments were received from Texas Department of Health employees after the proposed section was distributed to all central office programs, the public health regions, and the department's Employees Advisory Council. The department also solicited comments from other state agencies, some of whom have already implemented their sick leave pool policies. The comments are as follows.

A number of commentors asked questions or requested that the section be modified in various places for purposes of clarification. The department agrees with a number of these comments and has made appropriate changes. In other areas, the department felt the language was adequate as proposed.

Commenters made 36 comments which covered proposed changes in definitions (6), employee eligibility (6), and other provisions (24). Because criteria for these three areas is specified in the language of Senate Bill 357, the department made changes with which it agreed in only those matters which were left to department discretion.

The department has clarified the provisions on eligibility by dividing proposed subsection (d) covering general provisions into two new subsections: subsection (d) covering eligibility; and subsection (e) covering general provisions. The remaining subsections have been appropriately renumbered.

As additional clarification of "catastrophic illness or injury," the department added the following language to subsection (b)(1): "The condition or conditions must also cause the employee to be unable to work for one continuous month or longer. Normal pregnancies with no complications and routine surgeries with no complications are not considered by the Department of Health to be catastrophic illnesses."

Because the Workers Compensation Division of the Attorney General's Office considers sick leave pool leave used by an employee to be the same as the employee's own accrued leave (which is in accordance with provisions of Senate Bill 357), the department has added language in adopted subsection (e)(3) to require eligible employees to apply for pool sick leave before requesting extended sick leave. Language was added in adopted subsection (d)(5) which requires employees who are off work due to a catastrophic on-the-job illness or injury to exhaust all their accrued leave, just as other employees must, prior to being eligible to use pool sick leave.

Because of concerns expressed regarding an employee donating sick leave to the pool when the employee's balance is not adequate, the department added language to adopted subsection (f)(3) with states that employees may contribute a maximum of three days per fiscal year provided their sick leave balances will remain at least 80 hours after the transfer of leave to the pool.

Because of the number of commenters who felt sick leave pool time should not be granted indiscriminately to employees without regard to consideration of the quality of their work performance or their past leave usage record, the department added language in adopted subsection (g)(2)(A) and (B) which says that recommendations for approval of pool leave requests should be reserved only for employees who are meeting job performance standards and observing department policies, and who have not abused sick leave privileges. The department also added provisions to adopted subsections (h) and (i) that the amount of pool leave granted will be based on documented need and consideration of the employee's history of leave usage.

As evidence of "documented need", the department added an additional provision to adopted subsection (g)(4)(B)(ii) that says the employee or family member may be required to sign a release statement which allows the sick leave pool administrator to obtain additional medical information from the ill or injured individual's physician.

Commenters pointed out that an employee might donate sick leave to the pool in August, then exhaust his/her own sick leave balance in September or October of the following fiscal year. Under the proposed language, unless the illness was catastrophic, the employee would not be able to recover the amount of sick leave he/she had donated to the pool. In response the department has added the wording in adopted subsection (d)(3) and subsection (g)(4)(D) to allow employees who exhaust their sick leave to recover leave they donated to the sick leave pool during the current or the immediate past fiscal year. Adopted subsection (g) (4)(D) also provides that sick leave will be recovered in eight hour increments.

The department received a number of comments regarding possible depletion of the pool leave balance because the strongest eligibility criterion is that the condition be catastrophic; accordingly, the department decided to follow the provisions in some of the other state agencies' policies and reduce the proposed maximum amount of time which can be granted per request. Language in adopted subsection (h)(2) was changed to a maximum of one-third of the balance of hours in the pool or 44 days (352 hours), whichever is less. The original proposed wording had said one-third of the balance or 90 days (720 hours), whichever is less.

The following comments contained recommended changes in the subsection concerning employee eligibility and other subsections, but which cannot be changed because of specific wording in Senate Bill 357: five wanted to exclude new or temporary employees; four felt employees should be required to donate leave to the pool before being eligible to use pool sick leave; three felt employees who receive pool sick leave should have to pay it back; six felt there should be no maximum on the amount of sick leave an employee may donate to the pool, especially if the employee is resigning or retiring; three felt employees should be able to donate their time (or request other employees to do so) to their own sick leave pool; and two thought there should be no maximum on the amount of pool sick leave which can be granted.

Five commenters felt employees should be able to donate sick leave time to specified individuals. The department's original decision to prohibit this action was based on sound administrative concerns of the department and other state agencies, so this provision was not changed.

Five of the comments that were received pertained to record-keeping questions and procedures. The department agreed these items should be explained, so new provisions were added under adopted subsections (h)(2) and (3), and (i)(1)-(4). Most of the wording which was added tracks provisions set out in Senate Bill 357.

None of the commenters were against the proposed section in its entirety; comments only expressed concerns, asked questions, and made recommendations regarding specific provisions of the section.

The new section is adopted under Texas Civil Statutes, Article 6252-8e, §3 (Senate Bill 357, 71st Legislature, 1989), which requires the Board of Health to adopt rules concerning the creation and operation of a sick leave pool in the Department; and Health 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 board, the department and the commissioner of Health.

§1.171. Sick Leave Pooling.

(a) Purpose. The purpose of this section is to establish guidelines for the creation and operation of a sick leave pool to benefit certain state employees who suffer a catastrophic injury or illness.

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

(1) Catastrophic injury or illness–As defined by the Employees Retirement System of Texas, is "a severe condition or combination of conditions affecting the mental or physical health of the employee or the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the state for the employee." The condition or conditions must also cause the employee to be unable to work for one continuous month or longer. Normal pregnancies with no complications and routine surgeries with no complications are not considered by the Department of Health to be catastrophic illnesses.

(2) Employee–Each employee of the Department of Health, including the regional offices, the hospitals, and the state-paid employees in local health departments, and including those on probationary, temporary, hourly or other types of appointments, but not including the commissioner of health, who is excluded by provisions of Senate Bill 357, 71st Legislature, 1989.

(3) Immediate family–According to the Employees Retirement System of Texas, are those individuals related by kinship, adoption, marriage, or foster children who are certified by the Texas Department of Human Services and who are living in the same household or if not in the same household are totally dependent upon the employee for personal care or services on a continuing basis.

(4) Licensed practitioner–According to the Employees Retirement System of Texas, is a practitioner as defined in the Texas Insurance Code, Article 3.70-2, who is practicing within the scope of his/her license.

(5) Pool administrator–Chief of the Bureau of Personnel Management, Texas Department of Health.

(6) Senate Bill 357–Authorizing legislation for the establishment of a sick leave pool enacted by 71st Texas Legislature, 1989 (Texas Civil Statutes, Article 6252-8e).

(c) Administration of the pool. The pool administrator is responsible for developing procedures for the operation of the pool; developing forms for contributing leave to, or using leave from, the Department of Health Sick Leave Pool; and issuing memos interpreting and clarifying this section.

(d) Eligibility.

(1) All employees of the Department of Health may apply to use sick leave from the pool.

(2) Employees may use pool sick leave for their own catastrophic illness or injury or for catastrophic illness or injury in their immediate family.

(3) Employees may also apply to use pool sick leave if they contributed sick leave to the pool and then exhausted their sick leave balance in that same year or the next fiscal year. Such employees may receive only the number of hours they contributed to the pool during the current or immediate past fiscal year unless they suffer a catastrophic illness or injury.

(4) Employees with catastrophic illnesses or injuries are not required to contribute to the pool before they can use pool sick leave.

(5) Employees, including employees who are off work due to a catastrophic on-the-job injury or illness, must exhaust all accrued leave before they are eligible to use sick leave from the pool.

(e) General provisions.

(1) Employees on pool sick leave for a full calendar month accrue paid leave for that month provided they return to work following the leave.

(2) Employees who use pool sick leave are not required to pay back pool sick leave.

(3) Employees who are eligible for pool sick leave must apply to the pool and receive a determination of the amount to be transferred to their account or a denial of their request before they may request extended sick leave.

(4) Employees who are off work due to a catastrophic illness or injury of an eligible family member may not request emergency leave under extenuating circumstances unless they have first applied to the sick leave pool and have been granted or denied pool sick leave.

(f) Contributions of sick leave to the pool.

(1) Contributions to the sick leave pool are strictly voluntary.

(2) Employees who want to donate sick leave time to the pool will fill out the appropriate form and forward it through supervisory channels to the pool administrator, who will have the approved amount transferred from the employee's account to the pool.

(3) Employees may contribute a maximum of three work days (24 hours) of sick leave to the pool each fiscal year, in increments of eight hours, provided their sick leave balances will remain at least 80 hours after the transfer of leave to the pool.

(4) Employees who make contributions to the pool may not stipulate who is to receive their contributions.

(5) Employees who contribute sick leave to the pool cannot get it back unless they are eligible to use it.

(6) Employees will be encouraged to contribute sick leave to the pool at the time of their separation from state employment. They may contribute up to three days (24 hours) at that time, provided they have not already contributed for that fiscal year. If they have already contributed, they may donate only the difference between the amount already donated and the maximum of 24 hours.

(g) Requests to use sick leave from the pool.

(1) Requests for pool sick leave will be forwarded in a confidential manner through appropriate supervisory channels to the pool administrator.

(2) Recommendations for approval of pool sick leave requests should be reserved only for employees who:

(A) are meeting job performance standards and observing department policies; and

(B) have not abused sick leave privileges.

(3) Whenever possible, requests for pool sick leave should be submitted at least 10 days in advance of the exhaustion of all accrued paid entitlements (annual, compensatory, sick, as applicable) when it can be anticipated that pool sick leave will be needed.

(4) Requests will be considered by the pool administrator on a first-come, first-served basis.

(A) Employees must meet eligibility criteria set out in subsection (d) of this section.

(B) All requests for pool leave due to catastrophic illness or injury, regardless of whether due to the illness of the employee or the eligible family member, must:

(i) give a statement describing the illness or injury with sufficient information for the pool administrator to determine that the illness or injury is "catastrophic";

(ii) be accompanied by a physician's or other licensed practitioner's statement which gives the date of onset of the catastrophic illness or injury, the diagnosis and the prognosis, and the date it is anticipated the employee will be able to return to work. The employee or family member may be required to sign a release statement which allows the sick leave pool administrator to obtain additional medical information from the ill or injured individual's physician in order to facilitate determination on the request; and

(iii) include the amount of each type of paid leave entitlement the employee has already utilized for this catastrophic illness or injury, the date all paid leave will be exhausted, and the amount of pool sick leave being requested.

(C) If the request is due to the catastrophic illness or injury of an eligible family member, it must also include the relationship to the employee, where the family member resides, and if not in the same household as the employee, how the family member is totally dependent on the employee on a continuing basis.

(D) Requests by employees to retrieve from the sick leave pool the leave they donated during the current or the immediate past fiscal year must be for leave in eight-hour increments.

(h) Amount of sick leave pool time to be awarded.

(1) The amount of pool sick leave granted for each catastrophic illness or injury will be determined by the pool administrator based on documented need and consideration of the employee's history of leave usage.

(2) The amount to be awarded cannot exceed one-third of the balance of hours in the pool, or 44 days (352 hours), whichever is less. The number of hours granted for hourly and part-time employees cannot exceed the number of hours the employee was scheduled to work during the period for which the leave is requested.

(3) The employee and supervisor will be notified by the Bureau of Personnel Management of the action taken on the request, and a copy of the request form will be returned through supervisory channels.

(i) Use of approved pool sick leave.

(1) Sick leave pool hours transferred to an employee's sick leave account will be used and recorded in the same manner as the hours accrued monthly by the employee, and an employee absent on pool sick leave will be treated for all purposes as if absent on accrued sick leave.

(2) The employee will complete an AP-3 Form, titled "Request and Authorization for Leave", in order to use the approved pool sick leave which was transferred to his/her account. Use of the approved time may be intermittent, as needed.

(3) If approved pool sick leave is used on the first working day of a month or carries into a second month, and the employee returns to work during either or both months, any leave accruals which are applied to the employee's account must be used prior to resumption of use of approved pool sick leave.

(4) If an employee is granted more than 22 days (176 hours) of pool sick leave (or the equivalent number of days/hours for a part-time employee), an updated statement from the physician or other licensed practitioner must be submitted prior to the expiration of 22 days.

(5) Any unused balance of pool sick leave granted to an employee returns to the pool. The estate of a deceased employee is not entitled to payment for unused pool sick leave.

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 July 6, 1990.

TRD-9006865 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: July 27, 1990

Proposal publication date: March 6, 1990

For further information, please call: (512) 458-7301

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Chapter 145. Long-term Care

Subchapter B. Minimum Standards for Nursing Homes

- **25 TAC §§145.11-145.13, 145.15, 145.20, and 145.24**

The Texas Department of Health adopts amendments to §§145. 11-145.13, 145.15, 145.20, and 145.24. Sections 145.12, 145.13, and 145.20 are adopted with changes to the proposed text as published in the February 13, 1990, issue of the *Texas Register* (15 TexReg 760). Sections 145.11, 145.15, and 145.24, are adopted without changes and will not be republished.

The amendments clarify and update the sections to reflect current references to the recodified long term care facility licensing law and organizational unit changes. Additionally, the amendments add requirements for the implementation of universal precautions. With the continued emphasis on control of communicable diseases, i.e. Hepatitis B and human immunodeficiency virus, the department believes it is essential for long term care facilities to implement current infection control practices.

The following comments were received concerning the amendments.

Concerning §145.12, a commenter said that the statutory reference in the definition of the term "Act" needed upgrading to the current recodification of the long term care facility licensing law. The department accepts this comment and has included the current reference.

In §145.12, regarding the definition of dietitian, a commenter said that subparagraph (C) should be deleted since the Texas State Board of Examiners of Dietitians is the regulatory body responsible for identifying qualified persons as described by the subparagraph. The department accepts this recommendation and has made the appropriate wording change.

Concerning §145.13(a)(4)(B)(i)(V), a commenter recommended that the term "an anti-reflux" ventilation device be used instead of "a one-way" ventilation device. The department accepts this comment and has made the wording change.

Concerning §145.13(a)(4)(B)(i)(VII), a commenter suggested that the terminology for the type of cleaning solution to use when cleaning a contaminated hard or large surface coincide with the terminology used by the Centers for Disease Control. The department accepts this comment and has made appropriate wording changes.

Concerning §145.13(a)(4)(B)(ii)(I), a commenter recommended rewording this for clarity and conformance with accepted nursing practice. The department accepts this comment and has appropriately reworded the text.

Concerning §145.13(a)(4)(B)(ii)(III), a commenter suggested that the example relating to the performance of oral hygiene be deleted because it is already covered by subclause (II). The department accepts this comment and has revised the text.

Concerning §145.20, a commenter said that the appropriate legal citation should be Health and Safety Code, Chapter 191, Subchapter A, §191.006. The department agrees and has made the change.

Two organizations commented on the proposal: the Texas Health Care Association and the Texas State Board of Examiners of Dietitians. They gave general support to the proposal, but had specific comments on rewording certain sections.

The amendments are adopted under Health and Safety Code, §242.037, which provides

for the Texas Board of Health to adopt rules concerning sanitary and related conditions in long term care facilties; 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.

§145.12. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise and shall also apply to Subchapter Q of this chapter (relating to Planning and Construction for Nursing Homes).

Act–Health and Safety Code, Chapter 242, relating to convalescent and nursing homes and related institutions.

Barrier precautions–These precautions include the use of gloves, masks, gowns, resuscitation equipment, eye protectors, aprons, face shields, and protective clothing.

Body fluids–These substances are any secretions or emissions from the human body. Body fluids include, but are not limited to blood, semen, saliva, tears, vomitus, urine, feces, breast milk, wound drainage, spinal and amniotic fluids, vaginal secretions, menses, and mucous.

Dietetic service supervisor–

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

(E) A person who has training and experience in food service supervision and management in a military service equivalent in content to the programs in subparagraphs (A)-(D) of this definition and has had his or her training credentials evaluated and approved by the nutrition program specialist, Bureau of Long Term Care, of the licensing agency.

Dietitian–

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

Exposure–The direct contact of blood or bloody body fluids of one person with the skin or mucous membranes of another person. Other possibly infectious secretions are semen and vaginal secretions.

Facility–An institution or establishment that provides organized and structured nursing care and service, and is subject to licensure as a nursing home under Health & Safety Code, Chapter 242. Facility is also referred to as nursing home or nursing facility. Depending on context, these terms are used to represent the management, administrator, or other persons or groups involved in the provision of care of the residents; or to represent the physical building, which may consist of one or more floors or one or more units, or which may be a distinct part of a licensed hospital.

Gloves–Examination gloves of intact vinyl or latex, general purpose utility gloves or rubber household gloves.

Local health authority–The physician appointed by the governing body of a municipality or the commissioner's court of the county to administer state and local laws relating to public health in the municipality's or county's jurisdiction, as defined in Health and Safety Code, §121.021.

Nursing home–An institution or establishment that provides organized and structured nursing care and service, and is subject to licensure as a nursing home under Health & Safety Code, Chapter 242. Nursing home is also referred to as nursing facility or facility. Depending on context, these terms are used to represent the management, administrator, or other persons or groups involved in the provision of care of the residents; or to represent the physical building, which may consist of one or more floors or one or more units, or which may be a distinct part of a licensed hospital.

Universal precautions–The use of barrier precautions by long term care facility employees and/or contract agents to prevent direct contact with blood or other body fluids that are visibly contaminated with blood.

§145.13. Administrative Management.

(a) General requirements.

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

(3) Operating policies and procedures.

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

(D) The facility shall have written policies for the control of communicable diseases in employees and residents, provision of a safe and sanitary environment for residents and employees, and reporting and reviewing accidents/incidents involving residents and employees. If employees contract a communicable disease that is transmissible to residents through food handling or direct resident care, the employee shall be excluded from these services as long as an acute infection is present. The decision to return to work shall be made by the facility's administrator in conjunction with the employee's personal physician, the facility's medical director/medical advisor, local or state health authority, and in accordance with generally accepted practices. The facility must maintain evidence of compliance with local and/or state health codes or ordinances regarding employee and resident health status.

(E)-(I) (No change.)

(4) Infection control.

(A) The facility shall implement infection control procedures including, but not limited to, universal precautions. The intent is to provide protection from predictable exposure to blood or visibly blood contaminated body fluids, regardless of known or suspected human immunodeficiency virus (HIV) serologic status. It is not the intent to mandate protection from all possible or theoretical exposure to blood or body fluids contaminated with visible blood. This represents minimum precautions and facilities are free to utilize more stringent policies for the protection of their employees and residents.

(B) Facility employees and residents shall be protected from direct exposure to blood and body fluids that are visibly contaminated with blood to prevent exposure to HIV and Hepatitis B virus (HBV). The following outlines minimum requirements for specific departments in a facility.

(i) Overall facility requirements.

(I) The facility's policy regarding hepatitis B vaccinations shall address all circumstances warranting such vaccinations and identify employees at substantial risk of directly contacting blood or visibly blood contaminated fluids. All such employees shall be informed when and where hepatitis B vaccinations are available as prescribed by standard medical practice.

(II) The facility shall provide the necessary supplies and equipment for barrier precautions. Eye protectors, face masks, and gowns (aprons) shall be available for all tasks or procedures that are likely to generate sprays or splashes of blood/body fluids. These are not required for routine care.

(III) Needles and other sharp objects shall be placed in a puncture resistant container immediately after use. Needles shall not be recapped, bent, or broken prior to disposal.

(IV) Facility employees with weeping or exudative lesions or dermatitis shall use protective barriers when providing resident care and/or handling clean or soiled resident equipment or linen.

(V) When performing cardiopulmonary resuscitation (CPR) an anti-reflux ventilation device shall be used.

(VI) Linen, clothing or other materials that are visibly contaminated with blood or bloody body fluids shall not be sorted or rinsed in resident care areas, but shall be placed in bags or containers that prevent leakage

before transport for cleaning. Gloves shall be worn while bagging these materials.

(VII) To clean a surface contaminated with visible blood, the employee shall:

(-a-) wear impermeable gloves;

(-b-) if a small area, remove visible material with absorbent towels;

(-c-) if hard surface or large contaminated area:

(-1-) flood with an Environmental Protection Agency (EPA) approved germicide or a 1:100 solution of household bleach; and

(-2-) reclean area with an appropriate germicide and fresh towels;

(-d-) if rug or carpet, use a disinfectant and absorbent agent according to directions;

(-e-) place all contaminated linens in a leak-proof bag appropriately labeled or colored as containing biohazardous material. Used gloves will be separately bagged at the site in an appropriately labeled or colored bag; and

(-f-) wash hands with soap and water.

(ii) Nursing.

(I) Sterile gloves shall be worn for procedures when acceptable professional nursing standards require sterile techniques.

(II) Examination gloves shall be worn for invasive procedures and procedures involving contact with mucous membranes, unless otherwise indicated, and for other resident care that does not require the use of sterile gloves.

(III) Examination gloves shall be worn, at least, in situations where direct contact with blood or body fluids that are visibly contaminated with blood is likely. Examples of such situations include, but are not limited to: providing wound or decubitus care; cleaning up blood contaminated vomitus, urine or feces; handling items or surfaces soiled with blood or blood contaminated body fluids; and removal of impactions.

(IV) Examination gloves are not necessary for contact with intact skin or for handling unsoiled objects previously in contact with or handled by others.

(V) Examination gloves shall be removed and discarded after contact with each resident or fluid. Hands shall be washed with soap and water immediately after gloves are removed. A new set of gloves shall be used for contact with each person.

(VI) Examination gloves shall be worn by employees when drawing an individual's blood. If this procedure is provided by independent contractors, the contractee will provide all equipment and adhere to universal precautions procedures.

(iii) Dietary. All food service employees will exercise care to avoid injury to hands when preparing food. Should an injury occur, both aesthetic and sanitary considerations dictate that food contaminated with blood shall be discarded.

(iv) Housekeeping.

(I) Employees shall use general-purpose utility gloves for housekeeping chores involving potential blood contact and for cleaning and disinfection procedures.

(II) Utility gloves may be disinfected and reused, but shall be discarded if they are peeling, cracked or discolored, or if they have punctures, tears, or other evidence of deterioration.

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

§145.20. Medical Records.

(a) Each facility shall be required to secure at the time of admission of a resident the following identifying information as required under Health and Safety Code, Chapter 191, Subchapter A, §191.006. If this information is unknown, unavailable or not applicable, so state in the medical record.

(1)-(16) (No change.)

(b) (No change.)

(c) The facility shall maintain a separate medical record for each resident admitted with all entries kept current, dated, and signed. The record shall include:

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

(5) any laboratory and x-ray reports and rehabilitation reports except laboratory results for HIV testing which shall be kept separate from the active clinical record. Upon discharge, these reports become part of the resident's closed medical record;

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

(d) (No change.)

(e) The facility must develop and implement policies and procedures to safeguard the confidentiality of medical record information from unauthorized access. The facility must allow access and/or release confidential medical information under court order or by written authorization of the resident or his or her legal guardian unless the physician documents in the medical record that access to the information would be harmful to the physical, mental, or emotional health of the resident.

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

(h) When resident records are destroyed after the retention period is complete, the facility shall shred or incinerate the records in a manner which protects confidentiality. At the time of destruction, the facility shall document the following for each record destroyed:

(1) resident name;

(2) medical record number, if used;

(3) social security number; and

(4) date and signature of person carrying out disposal.

(i) The facility shall comply with the provisions of the Natural Death Act, Texas Civil Statutes, Article 4590h, for those residents with orders to withhold life sustaining procedures or treatments.

(j) In the event of closure of a facility, change of ownership or change of administrative authority, the new management shall maintain documented proof of the medical information required for the continuity of care of all residents. This documentation may be in the form of copies of the resident's medical record or the original medical record.

(k) The nursing facility must designate an employee to be responsible for the medical records.

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 July 6, 1990.

TRD-9006864

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

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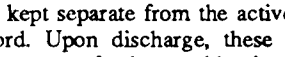
For further information, please call: (512) 458-7709



Subchapter E. Procedures on Long Term Care Facilities

- **25 TAC §§145.81-145.85, 145.87-145.90, 145.92-145.97**

The Texas Department of Health adopts amendments to §§145.81-145.85, 145.87-145.90, and 145.92-145.96 and adopts new §145.97. Sections 145.83 and

145.94 are adopted with changes to the proposed text as published in the February 13, 1990, issue of the *Texas Register* (15 TexReg 762). Sections 145.81, 145.82, 145.84, 145.85, 145.87-145.90, 145.92-145.93 and 145.95–145.97 are adopted without changes and will not be republished.

The amendments and new section reflect current title, organizational, and statutory references concerning long-term care facilities. They also implement certain provisions of Senate Bills 332 and 487 and House Bill 1466, 71st Legislature, 1989, concerning prospective facility employee criminal history checks, validation inspections to verify licensure findings, waiving of the second annual licensing inspection in certain cases, holding open hearings in facilities meeting certain criteria, and requiring facilities to submit resident death information.

The following is a summary of the comments received.

Based on department staff comments regarding §145.83(h) and (i) and §145. 94(a), the department has made several minor changes to the proposed text. In §145.83(h) the department clarifies that there are new exceptions to conducting two unannounced licensing inspections. Additionally, in §145.83(i) reference is made to §145.83(h) which allows for exceptions to conducting two unannounced licensing inspections annually. Proposed wording in 145.94(a) is repetitive and confusing concerning the criminal history checks for current employees and prospective employees of licensed long-term care facilities and similar facilities applying for a license. Accordingly, the department has reworded the subsection for clarity.

Concerning §145.97(b)(3), the Texas Health Care Association commented that the 10-day time limit for submitting resident death information is unreasonable since the death certificate is often not completed within that time frame. Although the department agrees that the 10-day time frame is restrictive, Senate Bill 487 specifically states that the resident death information will be submitted within 10 working days following the death. Therefore, the department does not accept the comment and has made no change.

The Texas Health Care Association commented on the proposal and was generally supportive, with one comment against the proposed rule on the facility reporting of resident death information.

The amendments and new section are adopted under Senate Bill 332 and House Bill 1466, 71st Legislature, 1989, relating to the requirement for criminal history checks of nurse trainees for and employees of certain facilities that provide services to the elderly or disabled and that are licensed by the Department of Health; Senate Bill 487, 71st Legislature, 1989, relating to the provision of long-term health care by the Department of Health; Health & Safety Code, Chapter 242, which provides for the Texas Board of Health to promulgate rules concerning long-term care facilities; 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.

§145.83. Inspections, Surveys, and Visits.

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

(f) Any department employee who intentionally, knowingly, or recklessly discloses to any unauthorized person the date, time, or any other fact about an unannounced inspection before the inspection occurs, commits an offense under Health and Safety Code, Chapter 242. The offense is a Class B misdemeanor, and any department employee convicted is ineligible for state employment.

(g) Persons authorized to receive advance information on unannounced inspections include:

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

(4) representatives of the Texas Department of Human Services whose programs relate to the Medicare/Medicaid Long-term Care Program.

(h) The department will conduct at least two unannounced inspections per year of each institution licensed under Health and Safety Code, Chapter 242, except as provided for in this subsection.

(1) Additional inspections may be made by the department as deemed necessary, and such additional inspections may be announced or unannounced, but must conform to subsection (e) of this section. The 12-month period beginning on October 1 of each year and ending on September 30 of the following year will be considered the annual period during which at least two unannounced inspections will be made of each licensed institution. A sufficient number of additional inspections will be conducted between the hours of 5 p.m. and 8 a.m. In randomly selected institutions, a cursory after-hours inspection will be conducted to verify staffing, assurance of emergency egress, patient/resident care, medication security, food service or nourishments, sanitation, and other items as deemed appropriate. To the greatest extent feasible, any disruption of the patients or residents shall be minimal.

(2) As provided by Senate Bill 487, §10, 71st Legislature, 1989, the department shall conduct only one unannounced inspection in any institution provided there has been no punitive action against the institution in the preceding three years. Furthermore, no change in ownership, administration, management, or director of nurses may have occurred in the preceding year. Punitive action is defined as recommended vendor hold, proposed termination (23-day or 90-day), proposed license revocation, trustee appointment, or emergency license suspension or closure.

(3) Any institution claiming exemption from the second licensing inspection shall so indicate on a separate form attached to the annual license renewal application. The department will evaluate and research the request and notify the appropriate long-term care unit if a second inspection is not required.

(4) A report will be prepared for the 72nd Legislature of any exemptions and any results of the lack of a second inspection.

(i) In each year for the two unannounced inspections, conducted in accordance with subsection (h) of this section, of each facility licensed under Health and Safety Code, Chapter 242, the department will invite to the inspections at least one person as a citizen advocate from the American Association of Retired Persons, the Texas Senior Citizens Association, the Texas Retired Federal Employees, the Texas Department on Aging certified long-term care ombudsman, or any other statewide organization for the elderly; the invitations to these organizations will be made by the department. The department will provide to these organizations basic licensing information and requirements for the organizations' dissemination to their members whom they engage to attend the inspections. Opinions, observations, and conclusions of citizen advocates, after discussion with the professional staff of the inspection team, shall be advanced if pertinent, within the field staff report and not independently or publicly. The schedule of inspections in this category will be arranged confidentially in advance with the organizations. Performing these inspections is not conditioned on the acceptance of the invitation or participation by the advocates. Advocates will provide their own transportation. The 12-month period beginning on October 1 of each year and ending on September 30 of the following year will be considered the annual period during which the unannounced inspections, in accordance with subsection (h) of this section, will be made of each licensed institution with invitation for citizen advocate participation. Invitations to citizen advocates do not apply to institutions that provide maternity care.

(j) Health and Safety Code, Chapter 242, grants department inspection, survey, and investigative personnel access to books, records, and other documents maintained by or on behalf of a facility, and authorizes the department to establish procedures to preserve during the course of any inspection, survey, or investigation, all relevant evidence of conditions that the department has reason to believe threaten the health and safety of a patient or resident, including taking photographs, and photocopying relevant documents. The facilities, their officers and employees, and the residents' attending physicians shall not be held liable civilly for surrendering records and documents that are requested and copied or photographed under this provision.

(1) (No change.)

(2) Since the taking of

photographs is a sensitive procedure, especially the photographing of individuals, the department will adhere to the following procedures.

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

(E) The log, developed film, and prints will be expeditiously forwarded to the department central office; specifically to the director, Licensing and Certification Services Division. The department regional or field office may retain a copy of the log.

(F) The director, Licensing and Certification Services Division, will maintain under lock the log, developed film, and prints.

(G) (No change.)

(H) As provided in Health and Safety Code, Chapter 242, a person or individual violating the chapter or failing to comply with a rule or regulation authorized by the chapter determined by the department to threaten the health and safety of a patient or resident, is subject to a civil penalty; therefore department staff must exercise care in conforming to these requirements.

§145.94. Investigation of Facility Employees.

(a) The Texas Department of Human Services will administer a program of investigating prospective employees or current employees of facilities licensed as or applying for a license as a nursing home, custodial care home, or other institution licensed by the Texas Department of Health under the Health and Safety Code, Chapter 242, to determine if such persons have criminal conviction records. This program of investigation is called for under Title 6, Human Resources Code, Chapter 106. The Texas Department of Human Services is entitled to obtain criminal conviction records maintained by the Texas Department of Public Safety and/or the Federal Bureau of Investigation.

(b) Except as provided by subsection (c) of this section, before a facility makes an offer of employment to a person applying for employment at the facility, the facility shall provide to the Texas Department of Human Services the name and relevant information relating to the person as required by the Texas Department of Human Services. Immediately after receiving the information from the facility, the Texas Department of Human Services shall request that the Department of Public Safety conduct a criminal conviction check on the person. If the facility is part of a larger complex of buildings, the requirement of a criminal conviction check applies to an offer of employment made to a person who will work primarily in the immediate boundaries of the facility. The requirement of a criminal conviction check does not apply to an offer of employment made to a nursing home administrator, a nurse, or other person licensed under other law. The requirement of a criminal conviction check does not apply to employees working for a contracted service, for a temporary help employment organization, or under similar arrangement. At the request of a facility, the Texas Department of Human Services shall investigate any person employed at a facility, including an administrator, nurse, or other person licensed under other law.

(c) A facility may make an offer of temporary employment to a person applying for employment at the facility pending the results of the criminal conviction check on the person. The facility shall provide to the Texas Department of Human Services the name and relevant information relating to the person not later than the 72nd hour after the hour on which the person accepts temporary employment. Since acceptance of employment is not always sure until the time a person to be employed reports for duty, the acceptance of employment on which the 72nd hour is calculated shall be the date of employment; however, a facility is encouraged to make early requests. The postmark date of a request may be used in calculating the 72nd hour. The facility may not hire a person on a permanent basis until the facility receives the results of the criminal conviction check. All requests and documented responses received from the Texas Department of Human Services shall be retained in the individual employee's permanent personnel file.

(d) Immediately after receiving the results of the criminal conviction check the Texas Department of Human Services shall notify the facility of the results and provide a copy of the results to the Texas Department of Health, as required by Health and Safety Code, §242.203. The Texas Department of Public Safety may not provide to the Texas Department of Human Services, the Texas Department of Health, or the facility, the criminal conviction records of a person being investigated, unlesss the criminal records relate to:

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

(3) a felony violation of any statute intended to control the possession or distribution of a substance included in the Health and Safety Code, Chapter 481;

(4) any felony violation of Texas Penal Code, §31.03;

(5) robbery or aggravated robbery as described by Texas Penal Code, Chapter 29; or

(6) burglary, as described by Texas Penal Code, §30.02.

(e) (No change.)

(f) A facility shall inform each applicant for employment that the facility is required to conduct a criminal conviction check before it may make an offer of employment to a person and that the facility may request a criminal conviction check on that person.

(g) Except as provided by subsections (h) and (i) of this section, if the results of a criminal conviction check reveal that an applicant for employment at a facility has been convicted of an offense listed in subsection (d) of this section, the facility may not hire the person. Except as provided by subsections (h) and (i) of this section, if the results of a criminal conviction check reveal that an employee or a person hired on a temporary basis under subsection (c) of this section has been convicted of an offense listed in subsection (d) of this section, the facility shall immediately terminate the person's employment.

(h) A facility may employ or continue employing a person convicted of a drug offense only if:

(1) the person produces evidence satisfactory to the facility that he/she has successfully completed a drug rehabilitation program; and

(2) the conviction was not for an offense under the Texas Controlled Substances Act, Chapter 481.

(i) The facility may also employ or continue employing a person convicted of a theft offense (under Texas Penal Code, §31.03.) if:

(1) the person can prove to the facility's satisfaction that the offense would have been classified as a misdemeanor if the law in effect when the facility obtains the results had applied to that offense;

(2) the offense occurred at least 10 years before the date on which the person applied for employment at the facility; and

(3) the person has not been convicted of any subsequent criminal offenses listed in Texas Penal Code, §31.03.

(j) All criminal records received by the Texas Department of Human Services are privileged information and are for the exclusive use of the Texas Department of Human Services, the Texas Department of Health, and the facility for which the Texas Department of Human Services requested the information. Except on court order or with the written consent of the person being investigated, the records or results of the investigation may not be released or otherwise disclosed to any other person or agency. Similarly, except on court order or with the written consent of the person who has been investigated in the past, the records or results of that past investigation may not be released or otherwise disclosed to any other person or agency. Since the person being investigated can consent to

release of the records or results of the investigation, the requesting facility may share that information with the person being investigated. Written consent from a person being investigated for the records or results of the investigation to be disclosed to another facility does not relieve the other facility of its duty to request its own investigation.

(k) A person commits an offense if the person releases or discloses any information received under Title 6, Human Resources Code, Chapter 106, without the authorization prescribed in subsection (j) of this section. An offense under this subsection is a felony of the second degree.

(l) A facility or any of its officers or employees shall not be held liable civilly for failure to comply with this section if the institution makes a good faith effort to comply.

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 July 6, 1990.

TRD-9006867 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: July 27, 1990

Proposal publication date: February 13, 1990

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

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• 25 TAC §§157.2-157.4

The Texas Department of Health adopts new §§157.2-157.4 and §§157.11-157.20, concerning emergency medical services (EMS). Sections 157.2, 157.3, 157.11-157.16, 157.18, and 157.19, are adopted with changes to the proposed text as published in the February 16, 1990, issue of the *Texas Register* (15 TexReg 816). Sections 157.4, 157.17, and 157.20, are adopted without changes and will not be republished.

The new sections implement the requirements of Senate Bill 312 and House Bill 791, 71st Legislature, 1989, which require the department to update and clarify existing rules and establish new requirements. The new sections are intended to provide definitions; and minimum requirements for processing of EMS provider licenses and applications for EMS personnel certification; requests for EMS training at the local level; requirements for an EMS provider license (fees); basic and advanced life support vehicle license requirements; mobile intensive care unit license requirements; requirements for a specialized vehicle license; subscription program; delegation of vehicle inspection; unannounced inspections and visits; emergency suspension, suspension, probation, and revocation of a license; and request for variances from minimum standards.

Concerning proposed §157.2, several commenters said there should be a definition of "when in service". The department agrees and has added a definition to the section.

Concerning proposed §157.3, one commenter said that there is a Board of Health rule (25 TAC §1.161) regarding the payment of the franchise tax and this should be included in this section. The department agrees and has added the reference to §157.3(g).

Concerning proposed §157.4(b)(1), one commenter said that it would be appropriate for administrators of hospitals in a hospital district to make the request for training rather than the chairman of the board of the hospital. The department disagrees as the Health and Safety Code, §773.025, states that a governmental entity that sponsors or wishes to sponsor an EMS provider may request the department's Bureau of Emergency Management to provide ECA training if it is not available locally. The hospital administrator may prepare the request, but the chairman of the board must sign the request.

Concerning proposed §157.11(a)(1)(C) and §157.11(i)(6)(A), several commenters said that the only information that should be required of an EMS provider is the name of the person responsible for the service and not the names of the stockholders. In addition, the requirements for a governmental entity were not specific. The department agrees and has changed the language to specify the name(s) of the person(s) legally responsible for the organization.

Concerning proposed §157.11(a)(1)(F)(i), one commenter said that the term, "staffing plan", was not very explanatory. The department disagrees as all definitions for Chapter 157 are contained in §157.2 and the definition of "staffing plan" is adequate.

Concerning proposed §§157.11(a)(1)(F)(ii), 157.13(c)(6), 157.14(c)(3), 157.15(a)(10)(B)(xvii) and 157.15(b)(10)(B)(xvii), one commenter questioned whether or not the protocols needed to be on file with the department or if providing evidence of them during inspection was sufficient. Another commenter said that there should be a date or requirement for the review of these protocols. The department agrees regarding the requirement for the review of the protocols and has changed the language accordingly to require that the protocols be reviewed, dated, and signed within 90 days prior to the license period. The department also has clarified the requirement which says that providing evidence of the protocols is sufficient.

Concerning proposed §157.11(a)(1)(F)(iii), one commenter said that a blank patient run report is not very specific and suggested that the language be changed to read a sample patient run report form. The department agrees and has changed the language accordingly.

Concerning proposed §157.11(a)(1)(H) and §157.11(i)(4), one commenter said that the language concerning the copy of the letter and/or agreement with the medical director was confusing and suggested that the paragraph read copy of the contract and/or letter of agreement. The department agrees and has changed the paragraph accordingly.

Concerning proposed §157.11(a)(1)(I), one commenter said that the proposed language would prevent him from operating at the advanced level on a part-time basis with an advanced level person and an emergency care attendant (ECA). The department agrees and has added clarifying language for the basic life support (BLS) provider who intermittently provides advanced level care.

Concerning proposed §157.11(a)(1)(L), one commenter noted that small rural operations are so small that one person is always in charge of the operations, making the need for operational policies minimal and would be a burden to the organizations to add this requirement. The department disagrees as operational policies allow for better work flow and patient care if everyone is aware of the expected response. The department is aware that some EMS firms may not have operational policies in place; this is why the providers have until January 1, 1992, to submit evidence of such policies. In addition, the department will have some sample operational policies for the providers to use in developing their own policies.

Concerning proposed §157.11(c)(3)(C)(i), one commenter suggested adding "in accordance with minimum Unites States Department of Transportation (DOT) standards" to the requirements for a fire extinguisher. The department disagrees as there are other state regulations regarding types of fire extinguishers on emergency vehicles and the suggested language could cause a conflict.

Concerning proposed §157.11(c)(3)(C)(iii), one commenter said that other state regulations require three warning devices as vehicles and this clause should have the same requirement. The commenter also suggested removing flares as an example of a warning device as they are dangerous. The department agrees and has changed the language accordingly.

Concerning proposed §§157.11(e)(1)(E)(ii), 157.12(c)(2), 157.15(a)(5)(A)(v) (II), 157.15(a)(10)(B)(iii), 157.15(b)(5)(A)(v)(II), §157.15(b)(10)(B)(iii), several commenters said this requirement limited the provider to some of the most troublesome and inefficient devices on the market and did not include other devices which the commenters thought were better. The department agrees and has removed from the sections the requirements concerning operated by electric (battery) or gas pressured power source, and has clarified the sections for nonacceptable types of suction equipment.

Concerning proposed §§157.11(e)(1)(E)(iii), 157.12(c)(3), 157.15(a)(5)(A)(v) (III), 157.15(a)(10)(B)(vi), 157.15(b)(5)(A)(v)(III), and 157.15(b)(10)(B)(vi), several commenters said that the requirement for a pediatric size bag valve mask (BVM) unit is adding an extra piece of equipment that is not necessary as the adult BVM can be used for the pediatric patient, and space in an ambulance or air vehicle is of concern. One commenter said that the infant BVM should not be required. The department disagrees in that the tidal volume necessary for pediatric and infant patients is significantly less than the tidal volume for an adult patient and using an adult bag valve on either the pediatric or infant patients could be dangerous.

Concerning §157.11(e)(1)(E)(v) and §157.12(c)(5), several commenters said that

a consideration should be made for vehicles which have on board piped-in oxygen and that requiring these vehicles to carry two portable tanks of this size would greatly reduce space. One commenter said that interstate commerce commission (ICC) and DOT regulations require that oxygen supply companies check inspection stamps before filling cylinders and that inspection dates are required to be stamped on the cylinder and not just attached. The department agrees with the first comment and has added the language, "or one portable medical grade "D" cylinder or equivalent oxygen unit with regulator attached and piped-in medical grade at least "M" cylinder (107 cubic feet) oxygen unit". The department disagrees with the second comment in that DOT regulations require that the owner of the oxygen cylinder keep the inspection stamp current and many EMS providers do not own the oxygen unit. In addition, oxygen refill companies may refill an outdated cylinder because they are not required to check the inspection stamp and this requirement adds another safety check for the EMS provider.

Concerning proposed §157.11(e)(1)(E)(viii) and §157.12(c)(19), one commenter said that they should also require the large adult size cuff in addition to the ones listed. The department disagrees as these are minimum requirements and do not preclude additional equipment as deemed necessary by the local EMS provider.

Concerning proposed §157.11(g), one commenter said that there was not flexibility in the licensing of a provider to allow for various levels of service, e.g. a tiered system, in an organization. The department agrees and has added the clarifying language, "a license may be issued for various levels of service. Vehicle authorizations may be issued for the following types or combination of types of vehicles: BLS vehicles; ALS vehicles; MICU vehicles; and Specialized EMS vehicles. A vehicle authorization may be used interchangeably between vehicles in a fleet. However, the number of vehicles in operation at any given time may not exceed the number of vehicle authorizations".

Concerning proposed §157.11(i)(2), one commenter said that there were no specifics for the annual run response response summary and is concerned that the department will make this report burdensome on the small provider. The department disagrees and is requesting written comments on the proposed form which has been distributed. In addition, participation in the TEXEMS program will fulfill this requirement.

Concerning proposed §157.11(i)(6)(A), one commenter stated that requiring notification to the bureau within 30 days of any change in staffing plan is burdensome on the provider as the staffing plan may change frequently and the provider would be continuously providing reports. The department agrees and has deleted the requirement and renumbered the subsequent paragraphs.

Concerning proposed §157.11(i)(6)(B), one commenter said that requiring notification to the bureau of any change in treatment or transport protocols and/or standing orders was unnecessary as the bureau would be notified of any change in the medical director; otherwise the requirement is to review the protocols/standing orders prior to the license date. The department agrees and has deleted the requirement and renumbered the subsequent paragraphs.

Concerning proposed §157.11(i)(6)(D), one commenter said that in the rural areas communication equipment is constantly changing between providers and that requiring notification would be a lot of extra paper work. The department disagrees but has added clarifying language to adopted §157.11(i)(6)(B) to explain the type of changes in equipment required to be reported.

Concerning proposed §157.11(i)(7), one commenter said that the 90 day time frame for substitution of a vehicle was prohibitive as some circumstances may result in long term substitution. The department disagrees and realizes a vehicle may need to be substituted for longer than 90 days; however, if the vehicle is substituted longer than 90 days, the vehicle needs to be added to the EMS providers license.

Concerning proposed §157.11(j), one commenter said that the providers in the rural areas can rarely afford new vehicles and buy used vehicles and that the cost of complying with this rule could be cost prohibitive. The commenter recommends that the department allow the use of magnetic signs. The department disagrees as the subsection as written does not prohibit the use of magnetic signs.

Concerning proposed §157.11, one commenter said that there should be a phase in time for compliance with these rules for an EMS provider whose vehicle permits expire at the same time as the effective date of these rules. The department agrees and has added subsection (n) to adopted §157.11.

Concerning §§157.12, 157.13, 157.14, and 157.15, one commenter said that the title for these sections should read "...vehicle license requirements. The department agrees and has changed the titles accordingly. Also, the department has made corresponding changes concerning cross-references to these titles in adopted §157.11.

Concerning proposed §157.12(a)(1), one commenter is concerned that requiring this level of service 24 hours per day, seven days per week will not allow the service who operates only certain hours of the day to continue to do so. Another commenter is concerned that if the 24 hours per day, seven days per week is not required then the community will not know the hours of operation. The department agrees with the first comment and has deleted the requirement. The department agrees with second comment and has added clarifying language to the paragraph.

Concerning proposed §157.12(b), several commenters said that requiring federal specification requirements for new vehicles will limit new technology and flexibility to build ambulances on smaller and more cost efficient chassis. The department disagrees as the intent is that the new vehicles will meet the federal specification with regard to type and there are no requirements in the rule concerning the other specifications.

Concerning proposed §157.12(c), several commenters said that the department should add latex gloves, goggles, and the "Emergency Response Guide Book" as required equipment. The department agrees as the additional equipment is considered as standard for infection control and hazardous material handling and has added new paragraph (24) covering two pair protective goggles; new paragraph (25) covering one box latex gloves; and new paragraph (26) covering one current copy of the DOT document titled "Emergency Response Guide Book".

Concerning proposed §157.12(c)(16), one commenter said that two pairs of bandage scissors should not be required as only one pair can be used at a time. The department disagrees as two EMS personnel are required to be on a vehicle and this is not a change from current standards.

Concerning proposed §§157.12(c)(17), 157.15(a)(10)(D)(iii), and 157.15(b)(10)(D)(iii) several commenters said that a commercial obstetrics kit is not labeled with an expiration date and that requirement for the commercial kit should be deleted. The department agrees and has changed the sections to require that a commercial kit is acceptable, and a non-commercial kit shall be autoclaved or otherwise suitably sterile with expiration date attached, shall be labeled, and shall include the items listed in the sections.

Concerning proposed §157.12(c)(20), one commenter questioned why a doppler was acceptable for a helicopter and not for a ground vehicle. The department disagrees because the section does not prohibit the use of a doppler on a ground vehicle.

Concerning proposed §157.12(c)(21), one commenter says that it is difficult to keep a penlight that works, so why require something that is never going to work, and most EMS personnel carry penlights anyway. The department disagrees as a penlight is the preferable equipment to check pupillary response and the rule requires that the equipment be clean and in working order.

Concerning proposed §157.12(c)(23), one commenter said that a cellular phone would be a nice addition to a two-way radio but should not replace the latter as cellular phone service has many limitations such as range and the availability of lines. The department disagrees as cellular phone communications is the coming technology and should be an option for an EMS provider.

Concerning proposed §§157.13, 157.14, and 157.15, one commenter said that there is a Board of Health rule (25 TAC §1.137) which requires EMS to have rules regarding the disposal of needles and other sharps and the department should include those requirements in these sections. The department agrees and has added requirements in the sections concerning the disposition of special waste, as follows: new subsection (c) has been added to §157.13 and §157.14; new subsection (a)(10) has been added to §157.15; and subsequent subsections and paragraph, as appropriate, have been renumbered.

Concerning proposed §157.13(c)(2), one commenter said that research is showing that 50% dextrose may be necrotic to tissue and therefore it might be contraindicated in cases of unknown coma and should not be required. The department disagrees as many drugs intended for IV use, including 50% dextrose, can be necrotic to tissue if an infiltration

occurs, but that should not prevent the administration of the drug. The EMS personnel are responsible for establishing patient intravenous (IV) lines and checking the patency of the line prior to the administration of any IV medication.

Concerning proposed §157.13(c)(3) and (c)(7)(C), one commenter said that these paragraphs seem to be in conflict. In one paragraph advanced airway equipment is required, whereas, in the other paragraph, it says if authorized. The commenter believes that advanced airway equipment should be a minimum requirement for the ALS vehicle. The department agrees and has deleted the provision from final §157.13(d)(7)(C) and has added clarifying language in final §157.13(d)(3).

Concerning proposed §157.13(c)(4), one commenter said that requiring the demand valve oxygen unit is requiring unnecessary equipment as this unit can do nothing more than a bag valve mask unit can do. The department disagrees as the tidal volume is greater with a demand valve unit than with a bag valve mask which is dependent on the person using it and is usually not completely collapsed. Also, the demand valve unit can be used to supplement patient respirations as the patient is operating the machine and this function is very difficult to accomplish with the bag valve mask.

Concerning proposed §157.15, several commenters said that universal precaution equipment should be added as required equipment. The department agrees and has added new subsections (a)(11)(B)(xxii)-(xxiii) and (b)(11)(B)(xx) -(xxi) covering two pair protective goggles and one box of latex gloves to Subparagraph (B) as required equipment.

Concerning proposed §157.15(a)(1)(A), one commenter said that governmental air ambulance services may voluntarily give up their DOT Part 135 certificate and be regulated by public safety flight operations rules, but the subparagraph as written does not allow this. The department agrees and has clarified the language in this subparagraph and in §157.15(a)(11)(A)(ii)-(iii).

Concerning proposed §157.15(a)(2)(B)(ii)-(iii) and §157.15(b)(2)(B)(ii) -(iii), one commenter said that the license fee required for an EMS provider license was not clear as to what the fee would be if the helicopter or fixed-wing aircraft was leased from a pool. The department agrees and has added clarifying language to the subparagraph.

Concerning proposed §157.15(a)(5)(A)(v)(V), one commenter said that portable oxygen is not being required on helicopters but that portable oxygen is required on ground ambulances. The department disagrees as a helicopter is not the primary response vehicle and will be responding in a secondary capacity to provide additional assistance and transportation.

Concerning proposed §157.15(a)(10)(A)(ii)(I), one commenter said that the staffing requirement for a helicopter should be the same as for a ground vehicle. The department disagrees as many helicopter services operate with physicians and nurses on board. The rule requires at least one of the medical flight crew to be an EMT-P.

Concerning proposed §157.15(a)(10)(D) and (b)(10)(D), a commenter said that the subparagraph should be (C). The department agrees and has made the changes.

Concerning proposed §157.15(a)(10)(D), one commenter said that the subparagraph was too detailed in what needs to be carried and how it needs to be carried and recommended that the subparagraph simply require equipment. The department disagrees as weight is of concern on the helicopter and carrying equipment not needed for a particular call may overweigh the vehicle. Also the size of helicopters used in the state vary and space considerations are necessary.

Concerning proposed §157.15(a)(5)(A)(v)(I) and §157.15(a)(10)(B)(xvi), one commenter said that adult size cervical spine immobilization devices come in short, regular and long sizes. The department disagrees because, depending on the manufacturer, the sizing nomenclature changes. However, all manufacturers have a reference to small, medium, and large sizes.

Concerning proposed §157.15(a)(10)(D)(i), one commenter said that (VI) was omitted. The department agrees with the comment and has added a subclause to adopted §157.15(a)(11)(C)(VI) triangular bandages.

Concerning proposed §157.15(a)(10)(D)(iv)(II), one commenter said that infectious disease experts are against the use of the DeLee suction device as it puts the rescuer at unnecessary risk. The department disagrees as the DeLee suction device is still an accepted piece of equipment for the suctioning of infants in the prehospital setting.

Concerning proposed §157.16, one commenter said that an EMS provider who provides subscription service should have authorization from a governmental entity to provide this type of service. The department agrees and has added appropriate language to §157.16(a).

Concerning proposed §157.16(d), one commenter said that the wording "shall meet" all state and federal regulations should say "shall comply with". The department agrees and has changed the subsection accordingly.

Concerning proposed §157.16(e), one commenter said that the contractual liability insurance should also be issued by a company licensed by or eligible to do business in Texas. The department agrees and has changed the subsection accordingly.

Concerning proposed §157.16(g), one commenter suggested that the subsection should read, "an EMS provider who provides subscription service shall not deny emergency medical services to nonsubscribers or subscribers of non-current status for the reason of their being a nonsubscriber or a subscriber of non- current status". The department disagrees as there are other reasons why EMS should not be denied and the subsection as written provides that EMS shall be available to all persons in the subscription area.

Concerning proposed §157.18(a), several commenters expressed concern about the wording regarding night and weekend inspections and suggested that we add the words "at any hospital" so that an inspection couldn't be done at their homes at 3 a.m. The department disagrees because the subsection as written is sufficient to preclude such an inspection. The wording says that the department may conduct night or weekend inspections to determine vehicle and staffing compliance. In §157.11(i)(8), a vehicle must be staffed and equipped "when in service", which indicates that the vehicle must be "on a run".

Concerning proposed §157.18(c), several commenters said that patient care and personnel records are confidential and that department access to patient files should be only on a need to know basis and that there should not be access to personnel files. The department disagrees as Senate Bill 312 allows department access to records and other documents that are related to patient care or to EMS personnel to the extent necessary to enforce the Medical Services Act, Health and Safety Code, Chapter 773, and the sections in this chapter. Senate Bill 312 further states that a person who holds a license or certification or is an applicant for a license and certification is considered to have given consent to any representative of the department entering or inspecting a vehicle or place of business. Personnel files would not be related to patient care but personnel records, e.g. name and certification level of personnel on duty or providing care, would be related to patient care.

Concerning proposed §157.19(b)(1)(A)(vi), one commenter said that the clause should read: "operate any vehicle which not staffed and equipped in accordance with the Act and rules adopted thereunder". The department disagrees but has edited the clause for clarity.

Concerning proposed §157.19(b)(1)(A)(viii), one commenter said that if he is licensed to provide basic life support (BLS) and is also allowed to provide advanced life support (ALS) when he has the proper staff and equipment, then he would be in violation if he did not provide ALS on a full time basis because it is not authorized. The department disagrees as the EMS provider would be licensed to provide BLS and his vehicle authorization is for BLS; however, §157.11(a)(1)(I) allows a BLS provider to intermittently provide ALS care on a part-time basis when advanced level personnel are available and the provider has the equipment and medical director necessary for the advanced level of care.

In addition, staff has made some editing changes to further clarify §§157. 2, 157.3, 157.11-157.16, and 157.18-157.19.

No groups or associations commented against the rules in their entirety; however, several organizations recommended changes to certain subsections and clarifying language in other subsections. The organizations commenting on the rules were North Runnels EMS, San Antonio EMS, City of Austin EMS, Barcheers EMS, Aransas County EMS, Moore County Hospital District, Seminole EMS, Kingswood Area EMS, Gruver EMS, Harlingen EMS, Ballinger EMS, City of Dallas Fire Department, Grayson County EMS Committee, Texas Ambulance Association, Houston EMT Association, California Medical Products, Weatherford Hospital District Life Care EMS, Crossroads Ambulance, St. Michael Hospital EMS, Jersey Village Fire Department, Appolo Ambulance–Life Line

Ambulance, North Richland Hills Fire Department, Travis County EMS, and City of South Houston EMS Department.

None of commenters were opposed to proposal in its entirety, but they had questions, concerns, and recommendation about specific provisions

• **25 TAC §§157.2-157.4**

The new sections are adopted under the Emergency Medical Services Act, Health and Safety Code, Chapter 773, which provides the Texas Board of Health with the authority to adopt rules to implement the Act; §21.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health; and Senate Bill 312 and House Bill 791, 71st Legislature, 1989, which require the department to update and clarify existing rules and to establish new requirements through rulemaking.

§157.2. Definitions. The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

Act–Emergency Medical Services Act - Health and Safety Code, Chapter 773.

Advanced life support (ALS)–Emergency prehospital care that uses invasive medical acts. The provision of advanced life support shall be under the medical supervision and control of a licensed physician.

Advanced life support (ALS) vehicle–A vehicle that is designed for transporting the sick and injured and that meets the requirements of a basic life support vehicle and has sufficient equipment and supplies for providing intravenous therapy and endotracheal or esophageal intubation or both.

Basic life support (BLS)–Emergency prehospital care that uses noninvasive medical acts. The provision of basic life support may be under the medical supervision and control of a licensed physician.

Basic life support (BLS) vehicle–A vehicle that is designed for transporting the sick or injured and that has sufficient equipment and supplies for providing basic life support.

Board–The Texas Board of Health.

Bureau–The Bureau of Emergency Management of the Texas Department of Health.

Bureau chief–The chief of the Bureau of Emergency Management of the Texas Department of Health.

Candidate–An individual who is requesting emergency medical services personnel certification from the Texas Department of Health.

Certificant–Emergency medical services personnel with current certification from the Texas Department of Health.

Course medical director–A physician licensed to practice in Texas who shall provide direction over all instruction and clinical practice required in an EMT-I and EMT-P training course.

Department–The Texas Department of Health.

Emergency care attendant (ECA)–An individual who is certified by the department as minimally proficient to provide emergency prehospital care by providing initial aid that promotes comfort and avoids aggravation of an injury or illness.

Emergency medical services (EMS)–Services used to respond to an individual's perceived need for immediate medical care and to prevent death or aggravation of physiological or psychological illness or injury.

Emergency medical services and trauma care system–An arrangement of available resources that are coordinated for the effective delivery of emergency health care services in geographical regions consistent with planning and management standards.

Emergency medical services personnel–

(A) emergency care attendant (ECA);

(B) emergency medical technician (EMT);

(C) emergency medical technician-intermediate (EMT-I); or

(D) emergency medical technician-paramedic (EMT-P).

Emergency medical services provider–A person who uses or maintains emergency medical services vehicles and emergency medical services personnel to provide emergency medical services. See §157.11 of this title (relating to Requirements for an EMS Provider License) regarding fee exemption.

Emergency medical services volunteer provider–An emergency medical services which has at least 75% of the total personnel as volunteers and is recognized as a nonprofit corporation by the Internal Revenue Service, §501(c)(3). See §157.11 of this title (relating to Requirements for an EMS Provider License) regarding fee exemption.

Emergency medical services volunteer–Emergency medical services personnel who provide emergency prehospital care without remuneration, except for reimbursement for expenses.

Emergency medical technician (EMT)–An individual who is certified by the department as minimally proficient to perform emergency prehospital care that is necessary for basic life support and that includes the control of hemorrhaging and cardiopulmonary resuscitation.

Emergency medical technician - intermediate (EMT-I)–An individual who is certified by the department as minimally proficient in performing skills required to provide emergency prehospital care by initiating under medical supervision certain procedures, including intravenous therapy and endotracheal or esophageal intubation or both.

Emergency medical technician - paramedic (EMT-P)–An individual who is certified by the department as minimally proficient to provide emergency prehospital care by providing advanced life support that includes initiation under medical supervision of certain procedures, including intravenous therapy, endotracheal or esophageal intubation or both, electrical cardiac defibrillation or cardioversion, and drug therapy.

Emergency medical services vehicle–

(A) basic life support vehicle;

(B) advanced life support vehicle;

(C) mobile intensive care unit; or

(D) specialized emergency medical services vehicle.

Emergency prehospital care–Care provided to the sick and injured before or during transportation to a medical facility, including any necessary stabilization of the sick or injured in connection with that transportation.

Fleet–For the purpose of determining fees, a fleet is twenty or more EMS vehicles operated by an EMS provider in any given service area.

Governmental entity–A county, a city or town, a school district, or a special district or authority created in accordance with the Texas Constitution, including a rural fire prevention district, a water district, a municipal utility district, and a hospital district.

Industrial ambulance–Any vehicle owned and operated by an industrial facility including both ground vehicles at industrial sites used for the initial transport or transfer of the unstable urgently sick or injured and ground vehicles at industrial sites used to transport persons at those sites who become sick, injured, wounded, or otherwise incapacitated in the course of their employment from job site to an appropriate medical facility; provided, however, that the vehicle is not available for hire or use by the general public except when assisting the local community in disaster situations or when existing ambulance service is not available.

Medical supervision–Direction given to emergency medical services personnel by a licensed physician under the terms of the Medical Practice Act, (Texas Civil Statutes, Article 4495b) and rules promulgated by the Texas State Board of Medical Examiners pursuant to the terms of the Medical Practice Act.

Mobile intensive care unit (MICU)–A vehicle that is designed for transporting the sick or injured and that meets the requirements of the advanced life support vehicle and has sufficient equipment and supplies to provide cardiac monitoring, defibrillation, cardioversion, drug therapy, and two-way radio communication.

Operational policies–Policies and procedures which are the basis for the operation of the service and include, but are not limited to such areas as vehicle maintenance, complaint investigation, multicasualty incidents, hazardous materials; but do not include personnel or financial policies.

Person–An individual, corporation, organization, government, governmental subdivision or agency, business, trust, partnership, association, or any other legal entity.

Recertification–The procedure for renewal of emergency medical services certification.

Reciprocity–The recognition of certification or privileges granted to an individual from another state.

Service area–A trade, market, patient flow, or other catchment area in which an emergency medical services provider provides emergency prehospital care.

Shall–Mandatory requirements.

Sole provider–The only emergency medical services provider in a service area.

Specialized emergency medical services vehicle–A vehicle that is designed for transporting the sick or injured by means of air, water, or ground transportation, that is not a basic life support or advanced life support vehicle or a mobile intensive unit, and that has sufficient equipment and supplies to provide for the specialized needs of the patient transported. The term includes fixed wing aircraft, helicopters, boats, and ground transfer vehicles used for transporting the sick or injured.

Staffing plan–A document which indicates the overall shift patterns of EMS personnel.

Trauma patient–Any critically injured person who has been evaluated by a physician, a registered nurse, or emergency medical services personnel and found to require medical care in a trauma facility.

Trauma facility–A health care facility that is capable of comprehensive treatment of seriously injured persons and which is a part of an emergency medical services and trauma care system.

When in service–The period of time when an EMS vehicle is at the scene or when enroute to a facility with a patient.

§157.3. Processing EMS Provider Licenses and Applications for EMS Personnel Certification.

(a) Purpose. The purpose of this section is to set out the time periods by which the department processes applications for EMS provider licenses and EMS personnel certification.

(b) First time period. The first period is a time from the date of receipt of an application to the date of issuance of a written notice that the application is complete or that additional specific information is required. An appointment for the inspection of an EMS provider may be in lieu of the notice of acceptance of a complete application. The time periods for each application are as follows.

(1) EMS provider licenses. The time periods are 21 days for the letter of application acceptance for EMS provider license, 21 days for the letter of deficiency, and 45 days after passing vehicle inspection for the issuance of the EMS provider license.

(2) EMS personnel certificates. The time periods are 21 days for the letter of application acceptance for testing for EMS personnel certification, 21 days for the letter of deficiency, and 45 days after testing for the issuance of EMS personnel certificate.

(c) Second time period. The second period is a time from the date of receipt of the last item necessary to complete the application, including inspection or testing, to the date of issuance of written notice approving or denying the application. The denial time periods include notification of the proposed decision and the opportunity for an informal or formal hearing. The time periods for each application are as follows.

(1) EMS provider license.

(A) The time period for the initial letter of approval for a license is 45 days.

(B) The time period for the letter of denial for a license is 120 days. The time period includes the applicant requests for a variance from minimum standards and the review necessary for this request.

(C) The time period for the issuance of a license is 45 days.

(2) EMS personnel certificates.

(A) The time period for the letter of approval for an examination is 45 days.

(B) The time period for the letter of denial for an examination is 180 days. This time limit reflects the applicant being investigated for acceptance for examination based on a criminal conviction or statutory action under the Health and Safety Code, Chapter 773 and rules adopted thereunder.

(C) The time period for the issuance of a certificate is 45 days.

(d) Reimbursement of fees.

(1) In the event the application is not processed in the time periods as stated in subsections (b) and (c) of this section, the applicant has the right to request of the bureau chief full reimbursement of all filing fees paid in that particular application process. If the bureau chief does not agree that the established periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied.

(2) Good cause for exceeding the period established is considered to exist if:

(A) the number of applications for licenses, registrations, certifications, and permits as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter the preceding year;

(B) another public or private entity utilized in the application process caused the delay; or

(C) other conditions existed giving good cause for exceeding the established periods.

(e) Appeal. If the request for full reimbursement authorized by subsection (d) of this section is denied, the applicant may then appeal to the commissioner of health for a resolution of the dispute. The applicant shall give written notice to the commissioner that he requests full reimbursement of all filing fees paid because his application was not processed within the adopted time period. The bureau chief shall submit a written report of the facts related to the processing of the application and good cause for exceeding the established time periods. The commissioner will make the final decision and provide written notification of his decision to the applicant and the bureau chief.

(f) Contested case hearing. If at any time during the processing of the application during the second time period, a contested case hearing becomes involved, the time periods in §1.34 of this title (relating to Time Periods for Conducting Contested Case Hearing) are applicable.

(g) Application for EMS provider license by a corporation. An applicant for an EMS provider license who is a corporation under the Texas Business Corporation Act, Texas Civil Statutes, Article 2.45, shall provide the department with an affidavit issued by the comptroller's office attesting to the applicant's good

standing under the Tax Code, Texas Codes Annotated, Chapter 171; and shall comply with department requirements regarding payment of franchise taxes by corporations contracting with the department or applying for a license from the department as described in §1.161 of this title (relating to Board 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 July 9, 1990.

TRD-9006919 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: August 1, 1990

Proposal publication date: February 16, 1990

For further information, please call: (512) 458-7550

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Emergency Medical Services Provider Licenses

• 25 TAC §§157.11-157.20

The new sections are adopted under the Emergency Medical Services Act, Health and Safety Code, Chapter 773, which provides the Texas Board of Health with the authority to adopt rules to implement the Act; §21.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health; and Senate Bill 312 and House Bill 791, 71st Legislature, 1989, which require the department to update and clarify existing rules and to establish new requirements through rulemaking.

§157.11. Requirements for An EMS Provider License.

(a) License application process shall be as follows.

(1) Initial application process.

(A) An EMS provider shall request an application form from the bureau.

(B) The EMS provider shall submit the completed, signed and dated application and the nonrefundable license fee, if any, as provided in subsection (b) of this section.

(C) The EMS provider shall submit a legal document which records the name of the business and specifies the name(s) of the person(s) legally responsible for the organization.

(D) The EMS provider shall complete and submit the radio/electronic communication capability form.

(E) The EMS provider shall submit names of all employees and indicate paid or non-paid, level of certification, and identification number.

(F) An EMS provider shall provide evidence of:

(i) staffing plan;

(ii) treatment and transport protocols and/or standing orders, reviewed, dated, and signed within 90 days prior to the license period; original signature of medical director required at advanced levels;

(iii) a sample patient run report form; and

(iv) a run review process which shall consist of evaluation and action.

(G) The EMS provider shall provide proof of vehicle liability insurance as required by state law.

(H) An EMS provider who is operating at an advanced level either on a full-time or part-time basis shall submit a copy of the contract and/or letter of agreement with the medical director.

(I) The BLS EMS provider who operates intermittently at an advanced level on a part-time basis, i.e. when advanced level personnel are available, shall be responsible for having the equipment, and medical director necessary for the level of advanced care.

(J) An EMS provider claiming volunteer status shall submit verification and letter of governmental sponsorship or recognition.

(K) The EMS provider shall submit a list of all vehicles including reserve vehicles with the vehicle identification number (VIN).

(L) Each EMS provider shall have current operational policies in place and shall submit evidence of such by January 1, 1992.

(2) License renewal process.

(A) The bureau shall notify the EMS provider 60 days prior to the expiration date of the provider license. If a provider does not receive notice of expiration from the bureau, it is the duty of the provider to notify the bureau and request a license renewal application. Failure to apply for renewal shall result in expiration of the license.

(B) The EMS provider shall submit the completed application and the nonrefundable license fee, if any, as provided in subsection (b) of this section. An application shall be submitted at least 30 days prior to the expiration date.

(C) The EMS provider shall submit a revised/verified radio/electronic communication capability form.

(D) The EMS provider shall provide proof of vehicle liability insurance as required by state law.

(b) License fees shall be as follows.

(1) Fees shall be $100 for each EMS vehicle operated by the provider, not inclusive of reserve vehicles, or a maximum of $2000 during the two-year registration period; except however, an EMS provider who exclusively uses volunteers and has no more than five full-time staff or their equivalent to provide emergency prehospital care is exempt from the fees.

(2) If a license is issued for less than a two-year period under subsection (f) of this section, the following fees per vehicle shall apply:

(A) $100 if the license is valid for 19-24 months;

(B) $75 if the license is valid for 13-18 months;

(C) $50 if the license is valid for 7-12 months; or

(D) $25 if the license is valid for six months or less.

(3) If the EMS provider has met the maximum $2,000 fee during a license period, no fee shall be required for additional vehicles added during the license period.

(c) Vehicle inspections shall be as follows.

(1) Prior to the issuance of a license, each of the EMS provider's vehicles shall be inspected by the department.

(2) Each vehicle shall have a current motor vehicle certificate of inspection prior to the department's inspection.

(3) The inspection shall include:

(A) visual and physical inspection of each vehicle for the purpose of determining compliance with the vehicle specifications as described in §157.12 of this title (relating to Basic Life Support Vehicle License Requirements), §157.13 of this title (relating to Advanced Life Support Vehicle License Requirements), §157.14 of

this title (relating to Mobile Intensive Care Vehicle License Requirements), or §157.15 of this title (relating to Requirements for a Specialized Vehicle License);

(B) visual and physical inspection of the equipment on each vehicle for the purpose of determining compliance with the vehicle equipment specifications as described in §157.12 of this title (relating to Basic Life Support Vehicle License Requirements), §157.13 of this title (relating to Advanced Life Support Vehicle License Requirements), §157.14 of this title (relating to Mobile Intensive Care Vehicle License Requirements), or §157.15 of this title (relating to Requirements for a Specialized Vehicle License);

(C) visual inspection of safety equipment as follows:

(i) one fire extinguisher securely mounted and readily accessible;

(ii) two "No Smoking" signs, one mounted in patient compartment and one in the cab which are easily visible from each entry way;

(iii) a minimum of three visible warning devices on the vehicle, i.e. reflective triangles, etc. which are safe and effective and visible for at least 500 feet; and

(iv) one functional flashlight (excluding penlight).

(d) A vehicle shall fail the inspection if the requirements in subsection (c) of this section are not met and an EMS provider license shall not be issued. The department shall give the EMS provider a written report at the time of the inspection indicating the deficiencies.

(e) A provisional license may be issued as follows.

(1) The department may issue a 60-day provisional license if:

(A) it finds that the public interest and the community needs would be served;

(B) staffing requirements are met;

(C) vehicle specifications are met;

(D) the required fee is received and any part of application process is incomplete; and

(E) the following equipment is present:

(i) one small, one medium, and one large size extrication cervical collar (soft foam rubber cervical collars are not acceptable);

(ii) one portable suction unit with connecting tubing and suction tips (bulb syringes, syringes, or foot pump not acceptable);

(iii) three bag valve mask units in adult, pediatric, and infant sizes with appropriate size masks which can be used with an external oxygen supply;

(iv) oropharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(v) two portable medical grade "D" cylinders or equivalent oxygen units with one regulator or one portable medical grade "D" cylinder or equivalent oxygen unit with one regulator and piped in medical grade at least "M" cylinder (107 cubic feet) oxygen unit in working order with current inspection stamp, and adequate tubing and semi-open valveless, transparent masks in adult, pediatric, and infant sizes;

(vi) padded board, cardboard, or aluminum splints as follows:

(I) two at least 15 inches long by at least three inches wide;

(II) one at least 48 inches long by at least three inches wide; or

(III) may be, but not limited to, any of the following types of splints:

(-a-) inflatable splints;

(-b-) foam-type rapid splints;

(-c-) wire ladder splints;

(-d-) commercial fracture pack;

(vii) long and short spine boards to include:

(I) one long six-foot board or commercial device; and

(II) one short spine board or commercial device; or

(III) commercial device which serves the purpose of both spine boards described in subclauses (I) and (II) of this clause;

(viii) sphygmomanometer with adult, pediatric, and infant size cuffs;

(ix) stethoscope;

(x) one multilevel stretcher with two clean sheets and two clean blankets; and

(xi) dressing and bandaging materials.

(2) A second 60-day provisional license may be issued if:

(A) written documentation is submitted showing that equipment repair and/or part is back ordered; or

(B) written documentation is submitted showing that equipment was ordered but not received.

(f) An EMS provider who meets the requirements of this section shall be issued a license valid for a period of two years, except that the department may issue an initial license for less than two years in order to conform expiration dates to existing inspection schedules for a locality. An initial license shall be valid upon the date of issuance. A renewed license shall be valid on the day after the expiration of the previous license.

(g) A license may be issued for various levels of service. Vehicle authorizations may be issued for the following types or combination of types of vehicles:

(1) BLS vehicles;

(2) ALS vehicles;

(3) MICU vehicles; and

(4) specialized emergency medical services vehicles. A vehicle authorization may be used interchangeably between vehicles in the fleet. However, the number of vehicles in operation at any given time shall not exceed the number of vehicle authorizations.

(h) A license is not transferable from one EMS provider to another.

(i) Responsibilities of the EMS provider during the license period shall include:

(1) notification of the bureau if a vehicle is added with submission of the prorated license fee, if applicable, after which the vehicle shall be inspected to determine compliance with §157.12 of this title (relating to Basic Life Support Vehicle License Requirements), §157.13 of this title (relating to Advanced Life Support Vehicle License Requirements), §157.14 of this title (relating to Mobile Intensive Care Vehicle License Requirements), or §157.15 of this title (relating to Requirements for a Specialized Vehicle License);

(2) completion of the annual run response summary;

(3) notification of the bureau within 30 days of a change in the provider name. If ownership changes a new application and fee is required for an EMS provider license;

(4) notification of the bureau within one working day of any change in medical director and written notification within 30 days of the change in medical director and submission of a copy of the contract and/or letter of agreement with the medical director;

(5) notification of bureau within 48 hours of any permanent or long term change in level of service provided. A new application and prorated license fee, if applicable shall be submitted. Inspection shall be required if level of service is increased, e.g., BLS to ALS. A replacement vehicle authorization shall be issued;

(6) notification of the bureau within 30 days of any changes in:

(A) name(s) of the person(s) legally responsible for the organization; or

(B) communication status, capability, or equipment i.e. base stations or frequency;

(7) notification of the bureau if a vehicle is substituted for 15 days or longer. No vehicle shall be substituted longer than 90 days; and

(8) that a vehicle when in service is staffed and equipped in accordance with the Act and the rules adopted thereunder for each level of care provided.

(j) The EMS provider shall have the name of the service prominently displayed on the sides of the vehicle.

(k) The vehicle authorization shall be prominently displayed in the patient compartment and the licensure decal shall be displayed on the lower right rear window.

(l) An EMS provider shall not advertise as a volunteer provider unless at least 75% of all personnel are volunteer.

(m) An EMS provider who has a check returned for "insufficient funds" shall be subject to revocation of the EMS provider license and this may be used as grounds for nonrenewal of the EMS provider license.

(n) An EMS provider whose current vehicle permit expires prior to September 1, 1990, shall have until November 1, 1990, to meet the requirements of this section.

§157.12. Basic Life Support Vehicle License Requirements.

(a) Staffing requirements. When in service, a basic life support vehicle shall be staffed with at least two emergency care attendants. However, a basic life support provider who does not provide service 24 hours per day, seven days per week, shall publish notice of the hours of operation in the local media and all advertising shall contain the hours of operation.

(b) Vehicle specifications. After June 30, 1990, all vehicles which have not previously been issued a vehicle authorization under the current EMS provider license shall meet the current document entitled "Federal Specification Ambulance Emergency Medical Care Vehicle" as published by the General Service Administration as regard to type (I, II, III).

(c) Required equipment. The following BLS required equipment must be clean and in working order to provide safe transport for patients in the individual service areas:

(1) one small, one medium, and one large size extrication cervical collar (soft foam rubber cervical collars are not acceptable);

(2) one portable suction unit with connecting tubing and suction tips (bulb syringes, syringes, or foot pump not acceptable);

(3) three bag valve mask units in adult, pediatric, and infant sizes with appropriate size masks which can be used with an external oxygen supply;

(4) oropharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(5) two portable medical grade "D" cylinders or equivalent oxygen units with one regulator or one portable medical grade "D" cylinder or equivalent oxygen unit with one regulator and piped in medical grade at least "M" cylinder (107 cubic feet oxygen unit in working order with current inspection stamp, and adequate tubing and semi-open valveless, transparent masks in adult, pediatric, and infant sizes;

(6) two multi-trauma dressings approximately 10-inch by 30-inch in size;

(7) a minimum of five dozen sterile gauze pads;

(8) 12 soft roller adhering bandages;

(9) six sterile petroleum jelly impregnated gauze or suitable occlusive dressing;

(10) four rolls of adhesive tape;

(11) four sterile burn sheets;

(12) one traction splint with all attachments suitable for an adult and pediatric patient or one adult and one pediatric traction splint;

(13) padded board, cardboard, or aluminum splints as follows:

(A) two at least 15 inches long by at least three inches wide;

(B) one at least 48 inches long by at least three inches wide; or

(C) may be, but not limited to, any of the following types of splints:

(i) inflatable splints;

(ii) foam-type rapid splints;

(iii) wire ladder splints;

(iv) commercial fracture pack;

(14) long and short spine boards to include:

(A) one long six-foot board or commercial device; and

(B) one short spine board or commercial device; or

(C) commercial device which serves the purpose of both spine boards described in subparagraphs (A) and (B) of this paragraph;

(15) 12 triangular bandages;

(16) two bandage scissors (table shears are not acceptable);

(17) sealed obstetrics kit. A commercial kit is acceptable. A non- commercial kit shall be autoclaved or otherwise suitably sterile with the expiration date attached and shall be labeled and include the following:

(A) sterile gloves;

(B) one disposable sheet;

(C) cleansing cloths;

(D) umbilical clamps;

(E) nylon cord tie-offs;

(F) disposable scalpel;

(G) bulb aspirator;

(H) four inch by four inch sterile gauze pads;

(I) obstetrical pad;

(J) receiving blanket;

(K) disposable towels; and

(L) plastic bag;

(18) nonporous infant insulating device;

(19) sphygmomanometer with adult, pediatric, and infant size cuffs;

(20) stethoscope;

(21) penlight;

(22) one multilevel stretcher with two clean sheets and two clean blankets;

(23) two-way radio or cellular phone communication capability between vehicle and dispatch, hospital, or law enforcement. (Citizen's band radio is not acceptable);

(24) two pair protective goggles;

(25) one box latex gloves; and

(26) one current copy of the DOT document titled "Emergency Response Guide Book".

§157.13. Advanced Life Support Vehicle License Requirements.

(a) Staffing requirements. The requirements for staffing an advanced life support (ALS) vehicle shall be as follows.

(1) The EMS provider shall be capable of providing ALS level of care 24 hours per day, seven days per week and the provider shall make available such records or information as requested by the department to confirm the availability of certified EMS personnel to provide ALS level of care.

(2) When in service, an ALS vehicle shall be staffed with two EMS personnel, one of whom shall be at least an EMT and the other shall be at least an EMT-I.

(3) A medical director is required.

(b) Vehicle specifications. After June 30, 1990, all vehicles which have not previously been issued a vehicle authorization under the current EMS provider license shall meet the current document entitled "Federal Specification Ambulance Emergency Medical Care Vehicle" as published by the General Service Administration as to type (I, II, III).

(c) Special waste. The EMS provider shall have puncture proof containers on all vehicles for the disposal of sharps and shall have an arrangement with a hospital for the exchange of full containers or shall comply with the department rules regarding special waste in §§1.131-1.137 of this title (relating to Definition, Treatment, and Disposition of Special Waste from Health Care Related Facilities).

(d) Required equipment. ALS required equipment shall include all BLS equipment as provided in §157.12 of this title (relating to Basic Life Support Vehicle License Requirements) and the following which shall be in sufficient quantities, clean, and in working order:

(1) intravenous fluids with administration sets for volume replacement or to keep vein open in quantities and types as in EMS provider's medical treatment protocols/standing orders;

(2) 50% Dextrose;

(3) esophageal intubation devices and/or endotracheal tubes in sizes specified by the medical director with laryngoscope and blades in adult, pediatric, and infant sizes;

(4) demand valve oxygen unit or a mechanically operated positive pressure ventilation device which is capable of manual or automatic operation;

(5) intravenous catheters and/or butterflies;

(6) one copy of the medical treatment protocols/standing orders reviewed, dated and signed with original signature of the EMS provider's medical director within 90 days prior to the license period;

(7) a list signed by the medical director which contains the following items as identified in the medical treatment protocols/standing orders:

(A) types and quantities of intravenous solutions;

(B) quantities and sizes of intravenous catheters and butterflies;

(C) quantities and sizes of endotracheal tubes and/or esophageal intubation devices; and

(D) any specialized equipment required in medical treatment protocols/standing orders.

§157.14. Mobile Intensive Care Unit License Requirements.

(a) Staffing requirements. The requirements for staffing a mobile intensive care unit (MICU) shall be as follows.

(1) The EMS provider shall be capable of providing MICU level of care 24 hours per day, seven days per week and the provider shall make available such records or information as requested by the department to confirm the availability of certified EMS personnel to provide MICU level of care.

(2) When in service, MICUs shall be staffed with at least two EMS personnel, one of whom shall be an EMT-P and the other shall be at least an EMT.

(3) A medical director is required.

(b) Vehicle specifications. After June 30, 1990, all vehicles which have not previously been issued a vehicle authorization under the current EMS provider license shall meet the current document entitled "Federal Specification Ambulance Emergency Medical Care Vehicle" as published by the General Service Administration as regard to type (I, II, III).

(c) Special waste. The EMS provider shall have puncture proof containers on all vehicles for the disposal of sharps and shall have an arrangement with a hospital for the exchange of full containers or shall comply with the department rules regarding special waste in §§1.131-1.137 of this title (relating to Definition, Treatment, and Disposition of Special Waste from Health Care Related Facilities).

(d) Required equipment. MICU required equipment shall include all equipment as provided in §157.12 of this title (relating to Basic Life Support Vehicle License Requirements and §157.13 of this title (relating to Advanced Life Support Vehicle License Requirements) and the following which shall be in sufficient quantities, clean and in working order:

(1) cardiac monitor with defibrillator and electrodes;

(2) drugs as prescribed by the service's medical director;

(3) one copy of the medical treatment protocols/standing orders reviewed, dated and signed with original signature of the EMS provider's medical director within 90 days prior to the license period; and

(4) quantities and types of drugs included in the list as required in §157.13(d)(7) of this title (relating to Advanced Life Support Vehicle License Requirements).

§157.15. Requirements for a Specialized Vehicle License.

(a) Helicopter emergency medical services (EMS) vehicle.

(1) General requirements shall be as follows.

(A) The aircraft operator shall comply with all applicable federal regulations regarding helicopter operations.

(B) The helicopter shall have the following specifications:

(i) be configured in such a way that the medical attendants have adequate access for the provision of patient care within the cabin to give cardiopulmonary resuscitation;

(ii) allow supine loading of the patient by two attendants;

(iii) have radio communication with hospitals and public safety vehicles;

(iv) be equipped with radio headsets that insure internal crew communication and transmission to appropriate agencies; and

(v) have hooks and/or other appropriate devices for hanging the intravenous fluid bags.

(2) Requirements for an EMS provider license shall be as follows.

(A) General. An EMS provider who provides helicopter service shall be licensed to provide advanced life support.

(B) Initial application process. The EMS provider shall meet the requirements of §157.11(a)(1)(A)-(F) of this title (relating to Requirements for an EMS Provider License) and in addition shall:

(i) provide proof of vehicle liability insurance as required by United States Department of Transportation (DOT), Part 298 requirements for liability insurance for aircraft; and

(ii) submit a list of all helicopters with the registration number or N number for the helicopter(s) in the possession of the provider. The license fee as required in §157.11(b) of this title (relating to Requirements for an EMS Provider License) shall be based on the number of helicopters;

(iii) if the helicopter is leased from a pool, provide letter of agreement that all helicopters shall meet the specifications of paragraph (1)(B) of this subsection. The license fee as required in §157.11(b) of this title (relating to Requirements for an EMS Provider License) shall be based on each complete set of equipment.

(C) License renewal process. The EMS provider shall meet the requirements of §157.11(a)(2)(A)-(C) of this title (relating to Requirements for an EMS Provider License) and in addition, shall provide proof of vehicle liability insurance as required by DOT, Part 298 requirements for liability insurance for aircraft.

(3) Inspections shall be as follows.

(A) Prior to the issuance of a license, each of the EMS provider's helicopter patient care equipment shall be inspected by the department.

(B) The inspection shall include visual and physical inspection of equipment for the purpose of compliance with the equipment specifications of these sections. If the vehicle is rented or leased, all equipment shall be available for inspection prior to the issuance of a license.

(4) Inspection failure shall be as follows.

(A) An EMS provider shall fail the inspection if the requirements in paragraphs (1)-(3) of this subsection are not met and an EMS provider license shall not be issued.

(B) The department shall give the EMS provider a written report at the time of the inspection indicating the deficiencies.

(5) A provisional license may be issued as follows.

(A) The department may issue a 60-day provisional license if:

(i) it finds that the public interest and the service needs would be served;

(ii) staffing requirements are met;

(iii) vehicle specifications are met;

(iv) the required fee is received and any part of application process is incomplete; and

(v) the following equipment is present:

(I) cervical spinal immobilization devices in small, medium, and large sizes;

(II) one portable suction unit with connecting tubing and suction tips (bulb syringes, syringes, or foot pump not acceptable);

(III) three bag valve mask units in adult, pediatric, and infant sizes with the appropriate masks which can be used with an external oxygen supply;

(IV) oropharyngeal/nasopharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(V) medical grade oxygen with adequate tubing; if in cylinders shall be in working order with current inspection stamp and capable of being strapped down;

(VI) semi-open valveless, transparent oxygen masks in adult, pediatric, and infant sizes;

(VII) three splints which may be, but not limited to, any of the following types:

(-a-) inflatable splints;

(-b-) foam-type rapid splints;

(-c-) wire ladder splints; or

(-d-) commercial fracture pack;

(VIII) one each long and short spine immobilization device;

(IX) sphygmomanometer with adult, pediatric, and infant cuffs;

(X) stethoscope (a doppler or electronic stethoscope is acceptable);

(XI) one stretcher capable of being secured to the aircraft frame, with restraining belts to safely secure the patient to the stretcher and with clean sheets and blanket; and

(XII) dressing and bandaging materials.

(B) A second 60-day provisional license may be issued if:

(i) written documentation is submitted showing that equipment repair and/or part is back ordered; or

(ii) written documentation is submitted showing that equipment was ordered but not received.

(6) An EMS provider who meets the requirements of this section shall be issued a license valid for a period of two years, except that the department may issue an initial license for less than two years in order to conform expiration dates to existing inspection schedules for a locality. An initial license shall be valid upon the date of issuance. A renewed license shall be valid on the day after the expiration of the previous license.

(7) A license is not transferable from one EMS provider to another.

(8) The EMS provider shall meet the responsibilities required in §157.11(i) of this title (relating to Requirements for an EMS Provider License).

(9) The vehicle authorization shall be prominently displayed in the patient compartment.

(10) The EMS provider shall have puncture proof containers on all vehi-

cles for the disposal of sharps and shall have an arrangement with a hospital for the exchange of full containers or shall comply with the department rules regarding special waste in §§1.131-1.137 of this title (relating to Definition, Treatment, and Disposition of Special Waste from Health Care Facilities).

(11) Staffing and equipment shall be as follows.

(A) Staffing shall be.

(i) The medical director shall:

(I) be a physician licensed to practice medicine in Texas; and

(II) be knowledgeable and experienced in emergency trauma, critical care, and the effect of flight on the patient. If the medical director is not experienced in this area, he shall request aeromedical consultation by a physician knowledgeable about the effect of flight.

(ii) The medical flight crew, excluding the pilot, shall:

(I) consist of at least one EMT-P;

(II) show proof of additional training in flight physiology and aircraft and flight safety; and

(III) be familiar with survival techniques appropriate to the terrain as described in the federal regulations as in paragraph (1)(A) of this subsection.

(iii) The helicopter pilot shall comply with the applicable federal regulations as described in paragraph (1)(A) of this subsection.

(B) The equipment required for each flight, except when transporting a neonate or a patient in a hyperbaric chamber, shall be as follows:

(i) medical grade oxygen with adequate tubing; if in cylinders shall be in working order with current inspection stamp and capable of being strapped down;

(ii) semi-open valveless, transparent oxygen masks in adult, pediatric, and infant sizes;

(iii) one portable suction unit with connecting tubing (bulb syringes, syringes, or foot pump not acceptable);

(iv) two soft suction catheters;

(v) two tonsil tip suction catheters;

(vi) three bag valve mask units in adult, pediatric and infant sizes with the appropriate masks which can be used with an external oxygen supply;

(vii) one stretcher capable of being secured to the aircraft frame, with restraining belts to safely secure the patient to the stretcher;

(viii) clean sheets and blanket;

(ix) receptacle for emesis;

(x) sphygmomanometer with adult, pediatric, and infant cuffs;

(xi) stethoscope (a doppler or electronic stethoscope is acceptable);

(xii) penlight;

(xiii) three splints which may be, but not limited to, any of the following types:

(I) inflatable splints;

(II) foam-type rapid splints;

(III) wire ladder splints; or

(IV) commercial fracture pack;

(xiv) oropharyngeal/nasopharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(xv) one each long and short spine immobilization device;

(xvi) cervical spinal immobilization devices in small, medium, and large sizes;

(xvii) one copy of the medical treatment protocols/standing orders reviewed, dated and signed with original signature of the medical director within 90 days prior to the license period;

(xviii) esophageal intubation devices and/or endotracheal tubes with laryngoscope handle and blades in adult, pediatric and infant sizes;

(xix) intravenous fluids in non-breakable containers with administration sets and intravenous catheters and/or needles in quantities and types as prescribed by the medical director;

(xx) cardiac monitor with defibrillator and the following additional equipment:

(I) one spare electrocardiogram electrode for each lead;

(II) a spare roll of electrocardiogram recording paper; and

(III) drugs in quantities and types as prescribed by the medical director;

(xxi) a list signed by the medical director which contains the following items as identified in the medical treatment protocols/standing orders:

(I) quantities and types of intravenous fluids;

(II) quantities and sizes of intravenous catheters and/or needles;

(III) quantities and sizes of esophageal intubation devices and/or endotracheal tubes;

(IV) quantities and types of drugs; and

(V) any specialized equipment required in medical treatment protocols/standing orders;

(xxii) two pair protective goggles; and

(xxiii) one box latex gloves.

(C) Additional equipment to be carried to meet the special medical needs of the patient shall be:

(i) dressings and supply kit to include:

(I) two multi-trauma dressings approximately 10 inches by 30 inches in size;

(II) sterile gauze pads in sizes and quantities as determined by the medical director;

(III) soft roller adhering bandages in sizes and quantities as determined by the medical director;

(IV) three sterile petroleum jelly impregnated gauze or suitable occlusive dressings;

(V) adhesive tape;

(VI) triangular bandages; and

(VII) one bandage scissors;

(ii) burn kit, to be carried when required, to include:

(I) sterile burn sheets;

(II) sterile gloves; and

(III) 12 four inch by four inch sterile gauze pads;

(iii) sealed obstetric kit to be carried with all pregnant patients. A commercial kit is acceptable. A non-commercial kit shall be autoclaved or otherwise suitably sterile with expiration date attached and shall be labeled and include the following:

(I) sterile gloves;

(II) one disposable sheet;

(III) cleansing cloths;

(IV) umbilical clamps;

(V) nylon cord tie-offs;

(VI) disposable scalpel;

(VII) bulb aspirator;

(VIII) four inch by four inch sterile gauze pads;

(IX) obstetrical pad;

(X) receiving blanket;

(XI) disposable towels; and

(XII) plastic bag;

(iv) pediatric kit, to be carried when the patient is under 12 years of age and always with the obstetric kit, to include:

(I) two bulb syringes;

(II) one DeLee suction device;

(III) one pediatric laryngoscope handle with blades;

(IV) one each pediatric endotracheal tubes in sizes 2.5, 3.0, 3.5, and 4.0 French with stylet;

(V) one ediatric Magill forceps; and

(VI) two pediatric drip intravenous tubings.

(b) Fixed-wing aircraft EMS vehicle.

(1) General requirements shall be as follows.

(A) The aircraft operator shall in all operations comply with all Federal Aviation Regulations (FAR), Part 135 or Part 91 which the department adopts by reference. Copies of the Federal Aviation Regulations are on file in the Bureau of Emergency Management offices, 1100 West 49th Street, Austin, Texas, 78756, and may be reviewed during normal working hours.

(B) The fixed-wing aircraft shall have the following specifications:

(i) be configured in such a way that the medical attendants have adequate access for the provision of patient care within the cabin to give cardiopulmonary resuscitation;

(ii) allow supine loading of the patient by two attendants;

(iii) have radio communication with hospitals and public safety vehicles;

(iv) be equipped with radio headsets that insure internal crew communication and transmission to appropriate agencies; and

(v) have hooks and/or other appropriate devices for hanging the intravenous fluid bags.

(2) Requirements for an EMS provider license shall be as follows.

(A) General. An EMS provider who provides fixed-wing aircraft service shall be licensed to provide advanced life support.

(B) Initial application process. The EMS provider shall meet the requirements of §157.11(a)(1)(A)-(F) of this title (relating to Requirements for an EMS Provider License) and in addition shall:

(i) provide proof of vehicle liability insurance as required by DOT, Part 298 requirements for liability insurance for aircraft; and

(ii) submit a list of all fixed-wing aircraft with the registration number or N number for the fixed-wing aircraft in the possession of the provider. The license fee as required in §157.11(b) of this title (relating to Requirements for an EMS Provider License) shall be based on the number of fixed-wing aircraft;

(iii) if the fixed-wing aircraft is leased from a pool, provide letter of agreement that all fixed-wing aircraft shall meet the specifications of paragraph (b)(1)(B) of this subsection. The license fee as required in §157.11(b) of this title (relating to Requirements for an EMS Provider License) shall be based on each complete set of equipment.

(C) License renewal process. The EMS provider shall meet the requirements of §157.11(a)(2)(A)-(C) of this title (relating to Requirements for an EMS Provider License) and in addition, shall provide proof of vehicle liability insurance as required by DOT, Part 298 requirements for liability insurance for aircraft.

(3) Inspections shall be as follows.

(A) Prior to the issuance of a license, each of the EMS provider's fixed-wing aircraft patient care equipment shall be inspected by the department.

(B) The inspection shall include visual and physical inspection of equipment for the purpose of compliance with the equipment specifications of these sections. If the vehicle is rented or leased, all equipment shall be available for inspection prior to the issuance of a license.

(4) Inspection failure shall be as follows.

(A) An EMS provider who provides fixed-wing aircraft service shall fail the inspection if the requirements in paragraphs (1)-(3) of this subsection are not met and an EMS provider license shall not be issued.

(B) The department shall give the EMS provider a written report at the time of the inspection indicating the deficiencies.

(5) A provisional license may be issued as follows.

(A) The department may issue a 60-day provisional license if:

(i) it finds that the public interest and the service needs would be served;

(ii) staffing requirements are met;

(iii) vehicle specifications are met;

(iv) the required fee is received and any part of application process is incomplete; and

(v) the following equipment is present:

(I) cervical spinal immobilization devices in small, medium, and large sizes;

(II) one portable suction unit with connecting tubing and suction tips (bulb syringes, syringes or foot pump not acceptable);

(III) three bag valve mask units in adult, pediatric and infant sizes with the appropriate size masks which can be used with an external oxygen supply;

(IV) oropharyngeal/nasopharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(I) medical grade oxygen with adequate tubing; if in cylinders shall be in working order with current inspection stamp and capable of being strapped down;

(VI) semi-open valveless, transparent oxygen masks in adult, pediatric, and infant sizes;

(VII) three splints which may be, but not limited to, any of the following types:

(-a-) inflatable splints;

(-b-) foam-type rapid splints;

(-c-) wire ladder splints; or

(-d-) commercial fracture pack;

(VIII) one each long and short spine immobilization device;

(IX) sphygmomanometer with adult, pediatric, and infant cuffs;

(X) stethoscope (a doppler or electronic stethoscope is acceptable);

(XI) one stretcher capable of being secured to the aircraft frame, with restraining belts to safely secure the patient to the stretcher and with clean sheets and blanket; and

(XII) dressing and bandaging materials.

(B) A second 60-day provisional license may be issued if:

(i) written documentation is submitted showing that equipment repair and/or part is back ordered; or

(ii) written documentation is submitted showing that equipment was ordered but not received.

(6) An EMS provider who meets the requirements of this section shall be issued a license valid for a period of two years, except that the department may issue an initial license for less than two years in order to conform expiration dates to existing inspection schedules for a locality. An initial license shall be valid upon the date of issuance. A renewed license shall be valid on the day after the expiration of the previous license.

(7) A license is not transferable from one EMS provider to another.

(8) The EMS provider shall meet the responsibilities required in §157.11(i) of this title (relating to Requirements for an EMS Provider License).

(9) The vehicle authorization shall be prominently displayed in the patient compartment.

(10) The EMS provider shall have puncture proof containers on all vehicles for the disposal of sharps and shall have an arrangement with a hospital for the exchange of full containers or shall comply with the department rules regarding special waste in §§1.131-1.137 of this title (relating to Definition, Treatment, and Disposition of Special Waste from Health Care Facilities).

(11) Staffing and equipment requirements shall be as follows.

(A) Staffing shall be as follows:

(i) the medical director shall:

(I) be a physician licensed to practice medicine in Texas; and

(II) be knowledgeable and experienced in emergency trauma, critical care, and the effect of flight on the patient. If the medical director is not experienced in this area, he shall request aeromedical consultation by a physician knowledgeable about the effect of flight;

(ii) the medical flight crew, excluding the pilot, shall:

(I) consist of at least one EMT-P;

(II) show proof of additional training in flight physiology and aircraft and flight safety; and

(III) be familiar with survival techniques appropriate to the terrain as in FAR, Part 135 as adopted by reference in paragraph (1)(A) of this subsection.

(iii) the fixed-wing aircraft pilot shall comply with Federal Aviation Regulations, as adopted by reference in paragraph (1)(A) of this subsection.

(B) The equipment required for each flight, except when transporting a neonate or a patient in a hyperbaric chamber, shall be as follows:

(i) medical grade oxygen with adequate tubing; if in cylinders shall be in working order with current inspection stamp and capable of being strapped down;

(ii) semi-open valveless, transparent oxygen masks in adult, pediatric, and infant sizes;

(iii) one portable suction unit with connecting tubing (bulb syringes, syringes or foot pump not acceptable);

(iv) two soft suction catheters;

(v) two tonsil tip suction catheters;

(vi) three bag valve mask units in adult, pediatric, and infant sizes with the appropriate masks which can be used with an external oxygen supply;

(vii) one stretcher capable of being secured to the aircraft frame, with restraining belts to safely secure the patient to the stretcher;

(viii) clean sheets and blanket;

(ix) receptacle for emesis;

(x) sphygmomanometer with adult, pediatric, and infant cuffs;

(xi) stethoscope (a doppler or electronic stethoscope is acceptable);

(xii) penlight;

(xiii) oropharyngeal/nasopharyngeal airways (nonmetallic) in adult, pediatric, and infant sizes;

(xvi) one copy of the medical treatment protocols/standing orders reviewed, dated and signed with original signature of the medical director within 90 days prior to the license period;

(xvii) esophageal intubation devices and/or endotracheal tubes with laryngoscope handle and blades in adult and pediatric sizes;

(xviii) intravenous fluids in non-breakable containers with administration sets, intravenous catheters, and/or needles in quantities and types as prescribed by the medical director;

(xix) a list signed by the medical director which contains the following items as identified in the medical treatment protocols/standing orders:

(I) quantities and types of intravenous fluids;

(II) quantities and sizes of intravenous catheters and/or needles;

(III) quantities and sizes of esophageal intubation devices and/or endotracheal tubes;

(IV) quantities and types of drugs; and

(V) any specialized equipment required in medical treatment protocols/standing orders;

(xx) two pair protective goggles; and

(xxi) one box latex gloves.

(C) Additional equipment to be carried to meet the special medical needs of the patient shall be:

(i) a trauma kit to include:

(I) three splints which may be, but not limited to, any of the following types of splints:

(-a-) inflatable splints;

(-b-) foam-type rapid splints;

(-c-) wire ladder splints; or

(-d-) commercial fracture pack;

(II) two multi-trauma dressings approximately 10 inches by 30 inches in size;

(III) sterile gauze pads in sizes and quantities as determined by the medical director;

(IV) soft roller adhering bandages in sizes and quantities as determined by the medical director;

(V) three sterile petroleum jelly impregnated gauze or suitable occlusive dressings;

(VI) adhesive tape in sizes and quantities as determined by the medical director;

(VII) triangular bandages;

(VIII) one bandage scissors;

(IX) one each long and short spine immobilization device; and

(X) cervical spinal immobilization devices in small, medium, and large sizes;

(ii) burn kit, to be carried when required, to include:

(I) sterile burn sheets;

(II) sterile gloves; and

(III) 12 four inch by four inch sterile gauze pads;

(iii) sealed obstetric kit to be carried with all pregnant patients. A commercial kit is acceptable. A non-commercial kit shall be autoclaved or otherwise suitably sterile with expiration date attached and shall be labeled and include the following:

(I) sterile gloves; able sheet;

(III) cleansing cloths;

(IV) umbilical clamps;

(I) nylon cord tie-offs;

(VI) disposable scalpel;

(VII) bulb aspirator;

(VIII) four inch by four inch sterile gauze pads;

(IX) obstetrical pad;

(X) receiving blanket;

(XI) disposable towels; and

(iv) a pediatric kit, to be carried when the patient is under 12 years of age and always with the obstetric kit, to include:

(I) two bulb syringes;

(II) one DeLee suction device;

(III) one pediatric laryngoscope handle with blades;

(IV) one each pediatric endotracheal tubes in sizes 2.5, 3.0, 3.5, and 4.0 French with stylet;

(V) one pediatric Magill forceps; and

(VI) two pediatric drip intravenous tubings; and

(v) a medical kit to be carried when the patient is suspected of having a cardiac condition to include:

(I) cardiac monitor with defibrillator;

(II) drugs in quantities and types as prescribed by the medical director;

(III) one spare electrocardiogram electrode for each lead; and

(IV) spare roll of electrocardiogram recording paper.

§157.16. Subscription Program.

(a) An EMS provider who operates or intends to operate a subscription program for the provision of emergency medical services shall meet all the requirements for an EMS provider license as established by the Act and rules adopted thereunder. In addition, the EMS provider shall have a written authorization from the governmental entity for the provision of emergency prehospital care within that governmental service area.

(b) The EMS provider shall submit a copy of the contract for subscription service and/ or the application used to enroll participants.

(c) The EMS provider shall submit a copy of the advertising used to promote the subscription service at the time of application for an EMS provider license. The EMS provider shall maintain a current file of all advertising for the service.

(d) The EMS provider shall comply with all state and federal regulations regarding billing and reimbursement for participants in the subscription service.

(e) The EMS provider shall secure a surety bond in the amount equal to the amount to be collected or shall purchase and maintain contractual liability insurance and submit to the department evidence of such. The surety bond or contractual liabil-

ity insurance must be issued by a company licensed by or eligible to do business in the State of Texas.

(f) The requirement for the surety bond or contractual liability insurance may be waived if the provider submits satisfactory evidence of self insurance or the provider has a contract for service with a governmental entity which insures the contract.

(g) An EMS provider who provides subscription service shall not deny emergency medical services to non-subscribers or subscribers of non-current status.

§157.18. Unannounced Inspections and Visits.

(a) The department shall conduct routine unannounced inspections on at least 10% of the licensed EMS providers annually. To determine vehicle and staffing compliance, night or weekend inspections may be conducted.

(b) Department personnel may perform unannounced inspections in response to a complaint. If the department substantiates the complaint, disciplinary action as authorized by §157.19 of this title (relating to Emergency Suspension, Suspension, Probation, and Revocation of a License) may be taken.

(c) Records or other documents related to patient care or to emergency medical services personnel maintained by the provider may be reviewed by the department during an unannounced inspection.

(d) All reports, records, and working papers used or developed in an investigation authorized under this section are confidential and may only be used for determining violations or deficiencies and for disciplinary action.

(e) Any violations or deficiencies noted during an unannounced inspection shall result in a written warning specifically outlining the violations or deficiencies. If the violations or deficiencies are not corrected, the department may take disciplinary action as authorized by §157.19 of this title (relating to Emergency Suspension, Suspension, Probation, and Revocation of a License).

(f) Unannounced inspections may not be delegated to another agent.

§157.19. Emergency Suspension, Suspension, Probation, and Revocation of a License.

(a) Emergency suspension.

(1) The bureau chief shall issue an emergency order to suspend any certificate or license issued under this Act if the bureau chief has reasonable cause to believe that the conduct of any certificate holder or license holder creates an imminent danger to the public health or safety.

(2) An emergency suspension is effective immediately without a hearing upon notice to the certificate holder or license holder. In the case of a provider who is exempt from the payment of fees under the Health and Safety Code, §773.057, notice must also be given to the sponsoring governmental entity.

(3) On written request of the certificate holder or license holder, the department shall conduct a hearing not earlier than the 10th day nor later than the 30th day after the date on which a hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and an appeal from a disciplinary action related to the hearing are governed by §§1.21-1.34 of this title (relating to Formal Hearing Procedures) and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, as amended.

(b) Nonemergency suspension.

(1) Reasons for suspension. An EMS provider license may be suspended for, but not limited to, the following reasons:

(A) the EMS provider fails to:

(i) notify the bureau of a vehicle which is added or operates a vehicle without a vehicle authorization;

(ii) submit annual run response summary;

(iii) notify the bureau of change in the provider name or file a new application if change in ownership;

(iv) notify the bureau of any change in medical director;

(v) notify the bureau of any permanent or long-term change in level of service provided;

(vi) operate a vehicle staffed and equipped in accordance with the Act and rules adopted thereunder;

(vii) display the vehicle authorization in the patient compartment and/or the licensure decal on the lower right rear window;

(viii) provide care at level authorized;

(ix) allow inspection of the place of business and/or inspection of an EMS vehicle; or

(x) notify the bureau of change in communication status, capability, or equipment;

(B) the EMS provider commits an offense of a different nature within 12 months of a previous suspension; or

(C) the EMS provider provides an unauthorized level of service.

(2) Notification. If the bureau proposes to suspend a license, the bureau shall notify the provider by registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the provider has an opportunity to request a hearing.

(3) Hearing request.

(A) The provider may request a hearing within 15 days after the date of the notice. This request shall be in writing and submitted to the bureau chief. If a hearing is requested, the hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(B) If the EMS provider does not request a hearing, in writing, after being sent the notice of opportunity, the provider is deemed to have waived the opportunity for a hearing and the license shall be suspended at least 10 days.

(C) If the provider requests a hearing and the findings are upheld, the license shall be suspended for at least 10 days.

(c) Probation. For just and sufficient reasons presented by the provider, the department may probate the suspension. Examples of just and sufficient cause may include:

(1) history of previous exemplary service;

(2) extenuating circumstances which affected the actions of the provider; and

(3) considerations of the local service area and needs.

(d) Revocation.

(1) Reasons for revocation. An EMS provider license may be revoked for, but not limited to, the following reasons:

(A) operating the service while under suspension of a license;

(B) tampering, altering, or changing a license issued by the department;

(C) failing to correct deficiencies during the period of suspension;

(D) any repeat offense, within 12 months of the initial suspension;

(E) any third offense which may cause suspension which occurs within a 12-month period of a previous suspension;

(F) issuing a check for an EMS provider license which has been returned to the department for insufficient funds;

(G) a history of staff violations which result in disciplinary action as described in §157.21 of this title (relating to Criteria for Decertification, Emergency Suspension, Suspension, and Probation of Certificate); or

(H) continued disregard of violations noted on unannounced inspections and/or not correcting deficiencies noted on unannounced inspections as required in §157.18 of this title (relating to Unannounced Inspections and Visits).

(2) Notification. If the bureau proposes to revoke a license, the bureau shall notify the provider by registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the provider has an opportunity to request a hearing in accordance with §§1.21-1.34 of this title (relating to Formal Hearing Procedures).

(3) Hearing request. If the provider does not request a hearing, in writing within 15 days, after being sent the notice of opportunity, the provider is deemed to have waived the opportunity for a hearing and the license shall be revoked.

(4) Reapplication. One year after the revocation of the EMS provider license, the person may petition the bureau, in writing, for reapplication of an EMS provider license. However, the department may deny the application if the reason for the revocation continues to exist. If the application is allowed, the person shall meet the requirements in §157.11 of this title (relating to Requirements for an EMS Provider License).

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 July 9, 1990.

TRD-9006950 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: August 1, 1990

Proposal publication date: April 10, 1990

For further information, please call: (512) 458-7550

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Chapter 157. Emergency Medical Care

Emergency Medical Services

- **25 TAC §§157.62, 157.66-157.73, 157.75, 157.83**

The Texas Department of Health adopts the the repeal of §§157.62, 157. 66-157.73, 157.75, and 157.83, without changes to the proposed text as published in the February 16, 1990, issue of the *Texas Register* (15 TexReg 829).

The repeals allow for the adoption of new sections to bring them into compliance with recent legislative changes. Senate Bill 312 and House Bill 791, 71st Legislature, 1989, require the department to update and clarify existing rules and to establish new requirements through rulemaking.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Emergency Medical Services Act, Health and Safety Code, Chapter 773, which provides the Texas Board of Health with the authority to adopt rules to implement the Act; §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health; and Senate Bill 312 and House Bill 791, 71st Legislature, 1989, which require the department to update and clarify existing rules and to establish new requirements through rulemaking. Personnel Certification.

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 July 9, 1990.

TRD-9006909 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: August 1, 1990

Proposal publication date: February 16, 1990

For further information, please call: (512) 458-7550

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Chapter 337. Water Hygiene

Public Water Systems

- **25 TAC §§337.205-337.207**

The Texas Department of Health adopts amendments to §§337.205-337.207, with changes to the proposed text as published in the April 10, 1990, issue of the *Texas Register* (15 TexReg 2021).

The amendments add requirements for third party certification for all direct and indirect additives used for treating drinking water; revise requirements for third party certification of pipes and related components; and revise certification requirements for coating material. The amendments fill the void in product certification that was left when the United States Environmental Protection Agency no longer certified direct or indirect additives; and will assist the prevention of potential contamination of water supplies by chemicals unknown quality.

The following comments were received regarding the proposed amendments.

One commenter suggested that the wording in §337.205(g) and §337.206(h)(2) (B) be changed to clarify who would be recognized as certifiers of products. While it is the intent of the department to recognize only third party certifiers, recognition will be based on guidelines established by the Association of State Drinking Water Administrators (ASDWA). The department believes that these guidelines will insure consistent approvals from state to state; therefore no wording change was made.

Two commenters stated that the cost of third party certification would be unreasonable just to do business in Texas. While the department agrees that there will be some cost to certification of products, Texas is not the only state that will be requiring such certification, thus creating a broader base for recovering initial costs. Results of an ASDWA survey of each state on this matter indicated 43 of the 48 states that responded would be requiring certification for conformance to ANSI/NSF 60 and 61. Of the 43 states to require certification for conformance to ASNI/NSF 60 and 61, 43 stated they would accept certification by National Sanitation Foundation (NSF), 25 would accept certification by Underwriters Laboratory (UL). At this time, NSF and UL are the only agencies to approach the department which meet the ASDWA guidelines.

Several commenters suggested changes to the wording to clarify whether systems would have to retrofit existing systems with certified products. The department agrees that this clarification is needed and has made the appropiate changes in each section.

The commenters were Herman B. Taylor Construction Company; Compressed Gas Association; Macedonia-Eylau Municipal Utility District; Diamont Treatment Systems; Hercules, Incorporated; Kanies Center; Carrington Associates; Midland Treatment Systems; and the Texas Chemical Council. Most commenters either favored the proposed changes or did not understand the changes. Individual correspondence has been directed to those with questions about the rule changes.

The amendments are proposed under the Health and Safety Code, §341.002, which provides the Texas Board of Health with the authority to adopt rules covering public water systems, and establish standards and procedures for the management and control of sanitation and for health protection measure; 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.

§337.205. Water Treatment.

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

(g) Effective January 1, 1992, all chemicals and any additional or replacement process media used in treatment of water supplied by public water systems must conform to Standard 60 of the American National Standards Institute/National Sanitation Foundation (ANSI/NSF) for direct additives and ANSI/NSF Standard 61 for indirect additives. Conformance with these standards must be obtained by certification of the product by an agency recognized by the department.

§337.206. Water Distribution.

(a) Design and standards. All potable water distribution systems including pump stations, mains, ground, and elevated storage, shall be designed, installed, and constructed in accordance with current AWWA standards with reference to materials to be used and construction procedures to be followed. In the absence of AWWA standards, departmental review may be based upon ASTM, commercial, and other recognized standards utilized by design engineers.

(1) Effective January 1, 1992, all newly installed pipes and related products must conform to ANSI/NSF Standard 61 and must be certified by an agency recognized by the department.

(2) All plastic pipe proposed for use in public water systems must bear the National Sanitation Foundation Seal of Approval and have an ASTM design pressure rating of at least 150 psi or a standard dimension ratio of 26.

(3) No pipe which has been used for any purpose other than the conveyance of drinking water shall be accepted and relocated for use in any public drinking water supply.

(b)-(g) (No change.)

(h) Water hauling. When drinking water is distributed by tank truck or trailer, in lieu of distribution piping, it must be accompanied in the following manner.

(1) (No change.)

(2) The equipment used to haul the water must be approved by this department and must be constructed as follows.

(A) (No change.)

(B) The tank shall be watertight and of an approved material which is impervious and easily cleaned and disinfected. Any paint or coating and any plastic or fiberglass materials used as contact surfaces must be approved by either the United States Environmental Protection Agency, the United States Food and Drug Administration, the United States Public Health Service, or the National Sanitation Foundation. Effective January 1, 1992, any newly installed surfaces must conform to ANSI/NSF Standard 61 and be certified by an agency recognized by the department.

(C) -(L) (No change.)

§337.207. Water Storage.

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

(c) Design and construction of clear wells, standpipes, reservoirs, and elevated tanks. All facilities for potable water storage shall be covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current AWWA standards and shall be provided with the minimum number, size, and type of roof vents, manways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these sections. Bolted tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D103. The roof of all tanks shall be designed and erected so that no water ponds at any point on the roof and, in addition, no area of the roof shall have a slope of less than 3/4 inch in 12 inches.

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

(8) All clear wells, ground reservoirs, standpipes, and elevated tanks shall be painted, disinfected, and maintained in strict accordance with current AWWA standards. However, no temporary coatings, wax grease coatings, or coating materials containing lead will be allowed. No other coatings will be allowed which are not approved for use (as a contact surface with potable water) by the United States Public Health Service (USPHS), the United States Environmental Protection Agency (EPA), National Sanitation Foundation (NSF), or the United States Food and Drug Administration (FDA). Effective January 1, 1992, all newly installed coatings must conform to ANSI/NSF Standard 61 and must be certified by an agency recognized by the department.

(9)-(11) (No change.)

(d)-(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 July 6, 1990.

TRD-9006893 Robert A. MacLean, M.D.
Deputy Commissioner for Professional Services
Texas Department of Health

Effective date: August 1, 1990

Proposal publication date: April 10, 1990

For further information, please call: (512) 458-7533

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 291. Water Rates

The Texas Water Commission (TWC) adopts §§291.1-291.16, 291.21-291.32, 291.41-291.45, 291.71-291.75, 291.81-291.89, 291.91-291.95, 291.102-291.118. Sections 291.3, 291.30, 291.41, 291.45, 291.71, 291.85, and 291.86 are adopted with changes to the proposed text as published in the May 15, 1990, issue of the *Texas Register* (15 TexReg 2723). Sections 291.1, 291.2, 291.4-291.16, 291.21-291.29, 291.31, 291.32, 291.42-291.44, 291.72-291.75, 291.81-291.84, 291.87-291.89, 291.91-291.95, and 291.102-291.118, are adopted without changes and will not be republished. The TWC is continuing to consider the adoption of §§291.121-291.127, these sections are neither being adopted nor rejected at this time.

In response to the publication of the proposed chapter, the commission received written comments from five commentors: Texoma Services Corporation; Booth & Newsom; Texas Municipal League; Clark, Thomas, Winters & Newton; and one individual. Based on these comments, the staff is recommending the adoption of Subchapters A, B, C, D, E, F, and G of Chapter 291 with certain modifications as spelled out below. The following is a discussion of the comments received and the staff's response.

Booth & Newsom suggests a modification to the definition of "water supply or sewer service corporation" in §291.3. Booth & Newsom believe member-owned corporations should have the same option available to business corporations where a person who is not a shareholder can be elected as a director. This practice is utilized so the board of directors can benefit from the person's expertise and objective opinions, as in the case of electing legal counsel as an officer. The staff agrees and has modified the pertinent portion of the definition to read as follows: "A majority of the directors and officers of the corporation must be members of the corporation" rather than "All the directors and officers of the corporation must be members of the corporation."

Texas Municipal League (TML) raised a concern regarding §291.30, relating to escrow of proceeds received under a rate increase. TML submits that, given the new definition of "retail public utility" in proposed §291.3, municipally-owned utilities would be subject to the escrow provisions of §291. 30. TML comments that no statutory authority exists for requiring municipalities to escrow their rates and suggests deletion of the phrase "retail public" wherever it appears in §291.30. The staff has amended §291.30 accordingly.

TML comments that §291.41(e), relating to appeals under §13.043 of the Texas Water Code, authorizes recovery of expenses incurred in an appeal in circumstances not allowed under the Code. TML states that the proposed rules fail to distinguish between the recovery allowed in appeals brought pursuant to the Texas Water Code, §13.043(a) and (b). TML suggests amendment of this rule to specify the recovery allowed in each type of appeal. The staff agrees and has amended §291.41(e)(1), added (e)(2) and renumbered the remaining subsections of the provision to effectuate this change.

TML raised a question concerning §291.45(a) relating to rates charged by a municipality to a district. The proposed rule essentially tracks the Texas Water Code, §13.044(a). However, there is an instance in which the rule changes a "the" to an "a". TML feels this reversal could lead to confusion if a district happened to be within one municipality but received water or sewer service from another. The staff agrees and has modified §291.45(a) accordingly.

TML raises two points concerning §291.71. Section 291.71(a) states that its requirements apply to all water and sewer service providers. TML contends that since the corresponding reporting requirements in Chapter 13 of the Texas Water Code refer to "water and sewer utilities" and "utilities", neither of which include municipally owned utilities, the term "service providers" should be changed to "utilities" to avoid confusion. The staff is in agreement and has amended §291.71(a) to reflect this clarification. TML's second point concerns §291.71(h). TML contends that this provision should not apply to municipalities, that its statutory authority is unclear, and that it should be deleted. The staff agrees and has deleted the phrase "including municipally owned utilities" from §291.71(h).

TML's final comment concerns the absence of an introductory statement in Subchapter E, Customer Service and Protection. TML suggests that a provision detailing the applicability of Subchapter E, similar to that found in §291.91 of Subchapter F would facilitate interpretation of the provision. The staff disagrees. This provision is clear in its application and does not require modification.

Texoma Services Corporation (Texoma) questioned whether §291.85(e), relating to costs a utility must bear for extensions of service, pertained to area outside the certificated area, whether a developer could require a certificate holder to bear the cost of providing water service to a new development by platting his subdivision within 200 feet of the certificated area, whether a certificate holder is required to serve outside its certificated area in these situations and whether future development within a certificated area would require the certificate holder to incur extension costs merely because someone plats a new subdivision within 200 feet of the certificate holder's service lines. The staff agrees that there is potential for confusion with the rule as proposed and has amended §291.85(e) to address the above concerns.

Texoma also expressed a concern with §291.86(c). This provision allows utilities to charge customers a one time penalty of $2.00 or 5.0%, whichever is larger, on delinquent bills. Texoma asked if it would be appropriate to charge the stated $2.00 fee even in instances where the calculated percentage penalty is higher. Texoma states it can recover its cost of delinquent billing with the flat rate and improve customer relations by providing the customer with a less confusing delinquent penalty methodology. The staff is in agreement and has amended the pertinent portion of the provision to read as follows: "A one-time penalty of either $2.00 or 5.0% may be made on delinquent bills."

Finally, Texoma expressed concern with §291.87(i)(2) which reads "a reconnect fee charged for restoring water service after disconnection for nonpayment of monthly charges shall not exceed $25." Texoma argued that the $25 amount set out in the rule would be insufficient to recover the utility's cost of reconnection and that the costs due to delinquent customers will be subsidized by good customers. The staff realizes that in some cases the $25 fee will not be sufficient to recover a utility's costs; however, the utility will be able to recover any additional costs through its rates. The utility will not be losing money as a result of this rule. Moreover, the staff believes that water service is such a necessity that the cost for a customer to reconnect must be limited to a reasonable amount when the disconnection is a result of nonpayment. The fee should be a sufficient to discourage nonpayment when a customer has the money, but at the same time, the should fee not work an excessive hardship on those whose nonpayment is the result of simply not having the money to pay the bill. The staff feels that the $25 limit accomplishes this, and therefore, has not proposed any change to the rule as a result of this comment.

The individual objects to the prohibition on retail public utilities collecting standby fees. References to standby fees appear in four places in proposed Chapter 291.

Section 291.83(c) states "the following shall not constitute sufficient cause for refusal of service to a present customer or applicant: ...(8) failure to pay standby fees." Section 291.85(c) states "Utilities shall not charge disconnect fees, membership fees, application fees or standby fees." Section 291.86(o) states "Utilities may not charge service call fees, field collection fees, or standby fees..." Section 291.87(d) states "Utility service may not be disconnected for any of the following reasons: ...(9) failure to pay standby fees."

Davis contends that standby fees are vital to providing water service, particularly in rural areas. Davis submits that standby fee prohibitions should only apply prospectively, that any prohibition on standby fees applied retrospectively should not apply to existing situations unless and until 25% of the properties served are enrolled as water users. Finally, Davis argues that standby fees should be part of an approved tariff and collected thereunder, avoiding the need for water providers to utilize the court system to have their standby fee contracts enforced.

The commission staff disagrees. The commission is charged with establishing water rates which are just and reasonable. A rate is a compensation charged by a water provider for a service, product or commodity. Under this definition of rate, a standby fee is not a duly authorized rate because it is not collected in exchange for a service, product or commodity. Further, there is no statutory provision in Chapter 13 of the Texas Water Code which authorizes utilities to charge standby fees. In the case of municipal utility districts and water control and improvement districts, the Texas Water Code, §50.056, authorizes the commission to approve standby fees but only after notice and hearing.

In addition, the staff feels that there are several other problems involved with allowing utilities to include standby fees on their tariffs. The first is notice. In some cases, a utility includes a standby fee on its tariff as part of a rate increase application. Notice of the rate increase is only required to go to current customers however, these are not the persons who will be paying the standby fee. Moreover, if the current customers do not protest the application, the standby fee could end up being approved without a hearing. Second, there are no clear guidelines for who would be required to pay a standby fee if it is included in the utility's approved tariff. Would all landowners within the utility's certificate of convenience and necessity boundaries be required to pay the standby fee? Some utilities have very large certificated areas which they are unable to serve at present. Third, how should the standby fee revenue be treated? Is it ordinary income or is it customer contributed capital like a surcharge? Fourth, how do you determine a rate of return for a utility that collects a standby fee? Generally, a rate of return is a measure of the risk of the utility investment, but if the utility is collecting a standby fee, it is offsetting that risk by shifting costs to landowners.

Finally, the staff would note that the proposed rules do not prohibit a developer from entering into a contract with a purchaser of property which would obligate the purchaser to pay a standby fee to the seller of the property. Indeed, if the purchaser has entered into a contract, many of the notice problems are resolved. The staff feels, however, that it is inappropriate for a utility as part of its utility business to attempt to enforce the purchaser's contract with the developer. The court, not the commission, is the proper forum for enforcing contracts. In the past, the commission has heard complaints which involved disputes over whether a legally binding contract existed between the seller and purchaser. The staff does not believe that the commission should be ruling on the legal sufficiency of contracts. Nor can the commission ensure that each person charged a standby fee has actually entered into a contract. Because the staff believes that existing contracts can be enforced through the courts and the proposed Chapter 291 will not prohibit this enforcement, there is no need for a grandfather provision relating to standby fees.

Lastly, Clark, Thomas, Winters & Newton commented on Subchapter H, §§291.121-291.127, Submetering. This comment is not addressed at this time because the TWC is neither adopting nor rejecting §§291.121-291.127 by this action. The TWC is continuing to consider these section.

Subchapter A. General Provision

• 31 TAC §§291.1-291.16

The new sections are adopted under the authority of House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provide the commission with rulemaking authority relating to the regulation and supervision of retail public utilities' rates, fees, operations, and services.

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

Affected person–Any retail public utility affected by any action of the regulatory authority; any person or corporation, whose utility service or rates are affected by any proceeding before the regulatory authority; or any person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition.

Affiliated interest or affiliate

(A) any person or corporation owning or holding directly or indirectly 5.0% or more of the voting securities of a utility;

(B) any person or corporation in any chain of successive ownership of 5.0% or more of the voting securities of a utility;

(C) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by a utility;

(D) any corporation 5.0% or more of the voting securities of which is owned or controlled directly or indirectly by any person or corporation that owns or controls directly or indirectly 5.0% or more of the voting securities of any utility or by any person or corporation in any chain of successive ownership of 5.0% of those utility securities;

(E) any person who is an officer or director of a utility or of any corporation in any chain of successive ownership of 5.0% or more of voting securities of a public utility;

(F) any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a utility or over which a utility exercises such control or that is under common control with a utility, such control being the possession directly or indirectly of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means; or

(G) any person or corporation that the commission, after notice and hearing, determines is exercising substantial influence over the policies and action of the utility in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated within the meaning of this section, even though no one of them alone is so affiliated.

Agency–Any state board, commission, department, or officer having statewide jurisdiction (other than an agency wholly financed by federal funds, the legislature, the courts, the Industrial Accident Board, and institutions for higher education) which makes rules or determines contested cases.

Allocations–For all retail public utilities, the division of plant, revenues, expenses, taxes, and reserves between municipalities, or between municipalities and unincorporated areas, where such items are used for providing water or sewer utility service in a municipality or for a municipality and unincorporated areas.

Base rate–The portion of a consumer's utility bill which is paid for the opportunity of receiving utility service, excluding stand-by fees, which does not vary due to changes in utility service consumption patterns.

Class of service or customer class–A description of utility service provided to a customer which denotes such characteristics as nature of use or type of rate.

Code–The Texas Water Code.

Commission–The Texas Water Commission.

Corporation–Any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers and privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations unless expressly provided otherwise in the Texas Water Code.

Customer–Any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency provided with services by any retail public utility.

Customer service line or pipe–The pipe connecting the water meter to the customer's point of consumption or the pipe which conveys sewage from the customer's premises to the service provider's service line.

Executive director–The executive director of the Texas Water Commission.

Facilities–All the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.

Incident of tenancy–Water or sewer service, provided to tenants of rental property, for which no separate or additional service fee is charged other than the rental payment.

License–The whole or part of any commission permit, certificate, registration, or similar form of permission required by law.

Licensing–The commission process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license, certificates of convenience and necessity, or any other authorization granted by the Texas Water Commission pursuant to its authority under the Texas Water Code.

Main–A pipe operated by a utility service provider which is used for transmission or distribution of water or to collect or transport sewage.

Member–A person holding a membership in a water supply or sewer service corporation who is record owner of a fee simple title to property in an area served by a water supply or sewer service corporation. The term does not include a person or entity that holds an interest in property solely as security for the performance of an obligation, or that only builds on or develops the property for sale to others. In determining member control of a water supply or sewer service corporation, a person is entitled to only one vote regardless of the number of memberships the person owns.

Membership fee–A fee assessed each water supply or sewer service corporation service applicant which entitles the applicant to one connection to the water or sewer main of the corporation. The amount of the fee is generally defined in the corporation's bylaws and payment of the fee provides for issuance of one membership certificate in the name of the applicant, for which certain rights, privileges, and obligations are allowed pursuant to said bylaws. The fee should not exceed approximately 12 times the monthly base rate for water or sewer service. The membership fee shall not include any materials, labor, or services required for or provided by the installation of a metering device for the delivery of service, capital recovery, extension fees, buy-in fees, impact fees, or contributions in aid of construction.

Municipality–A city, existing, created, or organized under the general, home rule, or special laws of this state.

Municipally-owned utility–Any retail public utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

Permanent installation–Any installation that is constructed or placed on and permanently affixed to a foundation, and which is, or will be, used or occupied on a permanent full-time basis. A manufactured home or prefabricated structure shall qualify as a permanent installation only if it is installed on a foundation system according to regulations of the Texas Department of Licensing and Regulation or is otherwise impractical to move and has the wheels, axles, and hitch or towing device removed, and if it is connected to a permanent water and sewer system.

Person–Any natural person, partnership, cooperative corporation, association, or public or private organization of any character other than an agency or municipality.

Potable water–Water that is used for or intended to be used for human consumption or household use.

Premises–A tract of land or real estate including buildings and other appurtenances thereon.

Public utility–The definition of public utility is that definition given to water and sewer utility in this subchapter.

Purchased sewage treatment–Sewage treatment purchased from a source outside the retail public utility's system to meet system requirements.

Purchased water–Raw or treated water purchased from a source outside the retail public utility's system to meet system demand requirements.

Rate–Includes every compensation, tariff, charge, fare, toll, rental, and classification or any of them demanded, observed, charged, or collected, whether directly or indirectly, by any retail public utility, or water or sewer service supplier, for any service, product, or commodity described in the Texas Water Code, §13.002(23), and any rules, regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification.

Ratepayer–Each person receiving a separate bill shall be considered as a ratepayer, but no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. A complaint or a petition for review of a rate change shall be considered properly signed if signed by any person, or spouse of any such person, in whose name utility service is carried.

Reconnect fee–A fee charged for restoration of service where service has previously been provided. It may be charged to restore service after disconnection for reasons listed in §291.87 of this title (relating to Discontinuance of Service) or to restore service after disconnection at the customer's request.

Retail public utility–Any person, corporation, public utility, water supply, or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

Retail water or sewer utility service–Potable water service or sewer service, or both, provided by a retail public utility to the ultimate consumer for compensation.

Service–Any and all acts done, rendered, or performed and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by retail public utilities or water or sewer service suppliers in the performance of their duties under the Texas Water Code to their customers, employees, other utilities, and the public, as well as the interchange of facilities between two or more of the utilities or water or sewer service suppliers.

Service line or pipe–A pipe connecting the utility service provider's main and the water meter or for sewage, connecting the main and the point at which the customer's service line is connected, generally at the customer's property line.

Sewage–Ground garbage, human and animal, and all other waterborne type waste normally disposed of through the sanitary drainage system.

Tap fee–A tap fee is the charge to new customers for initiation of service where no service previously existed. A tap fee for water service may include the cost of physically tapping the water main and installing meters, meter boxes, fittings, and other materials and labor. A tap fee for sewer service may include the cost of physically tapping the main and installing the utility's service line to the customer's property line, fittings, and other material and labor. Water or sewer taps may include setting up the new customer's account, and allowances for equipment and tools used. Extraordinary expenses such as road bores and street crossings and grinder pumps may be added if noted on the utility's approved tariff. Other charges, such as extension fees, buy-in fees, impact fees, or contributions in aid of construction (CIAC) are not to be included in a tap fee.

Tariff–The schedule of a retail public utility containing all rates, tolls, and charges stated separately by type or kind of service and the customer class, and the rules and regulations of the retail public utility stated separately by type or kind of service and the customer class.

Test year–The most recent 12-month period for which representative operating data for a retail public utility are available. A utility rate filing must be based on a test year that ended less than 12 months before the date on which the utility made the rate filing.

Utility–The definition of utility is that definition given to water and sewer utility in this subchapter.

Water and sewer utility–Any person, corporation, cooperative corporation, or any combination of those persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the production, transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

Water rationing–Restrictions implemented to reduce the amount of water which may be consumed by customers of the system due to emergency conditions or drought.

Water supply or sewer service corporation–Any nonprofit, member-owned, member-controlled corporation organized and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Texas Civil Statutes, Article 1434a), that provides potable water or sewer service for compensation. A majority of the directors and officers of the corporation must be members of the corporation.

Wholesale water or sewer service–Potable water or sewer service, or both, provided to a person, political subdivision, or municipality who is not the ultimate consumer of the service.

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 July 9, 1990.

TRD-9006913 Jim Haley
Director, Legal Division
Texas Water Commission

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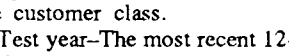
Proposal publication date: May 15, 1990

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



Subchapter B. Rates, Rate Making, and Rate/Tariff Changes

• 31 TAC §§291.21-291.32

The new sections are adopted under House Bill 1808, 71st Legislature, 1989, which, in pertinent part, amended the Texas Water Code, Chapter 13, and the Texas Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities's rates, fees, operations, and services

§291.30. Escrow of Proceeds Received Under Rate Increase.

(a) Rates received during the pendancy of a rate proceeding.

(1) During the pendency of its rate proceeding, a utility may be required to deposit all or part of the rate increase into an interest-bearing escrow account with a federally insured financial institution, under such terms and conditions as determined by the commission.

(2) The utility shall file an original and three copies of a completed escrow agreement between the utility and the financial institution with the commission for review and approval by the executive director or his designated representative.

(3) If necessary to meet the utility's current operating expenses, or for other good cause shown, the executive director may authorize the release of funds to the utility from the escrow account during the pendency of the proceeding.

(4) The executive director, except for good cause shown, shall give all parties-of-record at least 10 days notice of an intent to release funds from an escrow account. Any party may file a motion with the commission to enjoin the executive director's proposed release of escrow funds or to establish different terms and conditions for the release of escrowed funds.

(5) Upon the commission's establishment of final rates, all funds remaining in the escrow account shall be released to the utility or ratepayers in accordance with the terms of the commission's order.

(b) Surcharge revenues granted by commission order at the conclusion of a rate proceeding.

(1) A utility may be required to deposit all or part of surcharge funds authorized by the commission into an interest-bearing escrow account with a federally insured financial institution, under such terms and conditions as determined by the commission.

(2) Prior to collecting any surcharge revenues that are required to be escrowed, the utility shall file an original and three copies of a completed escrow agreement between the utility and the financial institution with the commission.

(3) In order to allow the utility to complete the improvements for which surcharge funds were granted, the executive director or his designated representative may authorize the release of funds to the utility from the escrow account after receiving a written request including appropriate documentation.

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 July 9, 1990.

TRD-9006912 Jim Haley
Director, Legal Division
Texas Water Commission

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Proposal publication date: May 15, 1990

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

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Subchapter C. Ratemaking Appeals

• 31 TAC §§291.41-291.45

The new sections are adopted under House Bill 1808, 71st Legislature, 1989, which, in pertinent part, amended the Texas Water Code, Chapter 13, and the Texas Water, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities's rates, fees, operations, and services.

§291.41. Appeal of Ratemaking Pursuant to the Texas Water Code, §13. 043.

(a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission. This subsection does not apply to a municipally-owned utility, but does include privately-owned utilities operating within the corporate limits of a municipality. An appeal under this subsection may be initiated by filing with the commission a petition signed by a responsible official of the party to the rate proceeding or its authorized representative and accompanied by the filing fee as required by the Texas Water Code, §5.235, and by serving a copy of the petition on all parties to the original proceeding. The appeal must be initiated within 90 days after the date of notice of the final decision of the governing body.

(b) An appeal under the Texas Water Code, 13.043(b), must be initiated within 120 days after the effective day of the rate change. An appeal is initiated by filing an original and four copies of a petition for review with the commission and by filing a copy of the petition with the entity providing service and the governing body whose decision is being appealed if it is not the entity providing service not less than 30 days prior to filing with the commission. The petition must be signed by the lesser of 10,000 or 10% of the ratepayers whose rates have been changed and who are eligible to appeal under subsection (c) of this section.

(c) Retail ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water or sewer utility rates to the commission:

(1) a nonprofit water supply or sewer service corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Texas Civil Statutes, Article 1434a);

(2) a utility under the jurisdiction of a municipality inside the corporate limits of the municipality;

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality; and

(4) a district or authority created under the Texas Constitution, Article III, §52, or Article XVI, §59, that provides water or sewer service to household users. For the purposes of this subchapter, ratepayers who reside outside the boundaries of the district or authority shall be considered a separate class from ratepayers who reside inside those boundaries.

(d) In an appeal under the Texas Water Code, §13.043(b), each person receiving a separate bill is considered a ratepayer, but one person may not be considered more than one ratepayer regardless of the number of bills the person receives. The petition for review is considered properly signed if signed by a person, or the spouse of the person, in whose name utility service is carried.

(e) The commission shall hear an appeal under this section de novo and fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken. The commission may:

(1) in an appeal under the Texas Water Code §13.043(a), include reasonable expenses incurred in the appeal proceedings;

(2) in an appeal under the Texas Water Code §13.043(b), included reasonable expenses incurred by the retail public utility in the appeal proceedings;

(3) establish the effective date;

(4) order refunds or allow surcharges to recover lost revenues;

(5) consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred in the appeal proceedings;

(6) establish interim rates to be in effect until a final decision is made.

(f) A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, may appeal to the commission, a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after notice of the decision is received from the provider of the service by filing a petition by the retail public

utility and accompanied by the filing fee as required by the Texas Water Code, §5.235.

(g) An appeal under the Texas Water Code, §13.043(g), must be initiated within 90 days after written notice of the amount to be paid to obtain service is provided to the applicant or member of the water supply or sewer service corporation's decision affecting the amount to be paid to obtain service as requested in the applicant's initial request for that service. The appeal must be accompanied by a $100 filing fee as required by the Texas Water Code, §5.235.

§291.45. Rates Charged by a Municipality to a District.

(a) A district created pursuant to the Texas Constitution, Article XVI, §59, which district is located within the corporate limits or the extraterritorial jurisdiction of a municipality and which receives water or sewer service or whose residents receive water or sewer service from the municipality may by filing a petition with the commission appeal the rates charged by the municipality if the resolution, ordinance, or agreement of the municipality consenting to the creation of the district required the district to purchase water or sewer service from the municipality.

(b) The commission shall hear the appeal de novo and the municipality shall have the burden of proof to establish that the rates are just and reasonable.

(c) After the commission establishes just and reasonable rates, the municipality may not increase those rates without approval of the commission. A municipality desiring to increase rates must provide the commission with updated information in a format specified in the current rate data package developed by the Rates Section.

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

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TRD-9006911 Jim Haley
Director, Legal Division
Texas Water Commission

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

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Subchapter D. Records and Reports

• 31 TAC §§291.71-291.75

The new sections are adopted under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities's rates, fees, operations, and services.

§291.71. General Reports.

(a) Who shall file. The recordkeeping, reporting, and filing requirements listed in this section shall apply to all water and sewer utilities operating in the State of Texas to the extent authorized by the Texas Water Code (the code), Chapter 13.

(b) Initial reporting. Periodic reporting shall commence with an initial filing, unless otherwise specified in this subchapter, such that the initial annual report shall reflect the transactions and condition of the utility for the most recent fiscal quarter ending on or prior to January 1, 1988. All initial reports shall, unless otherwise specified in this section, be filed within 90 days of this date or after issuance of commission instructions or forms.

(c) Report attestation. All reports submitted to the commission shall be attested to by an officer or manager of the utility under whose direction the report is prepared, or if under trust or receivership, by the receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in responsible charge of the utility's operation.

(d) Due dates of reports. All reports must be received by the commission on or before the following due dates unless otherwise specified in this subchapter:

(1) annual service and financial reports--on or before the date specified by the executive director;

(2) special or additional reports--as may be prescribed by the commission.

(e) Contents of report. The annual report shall be submitted on forms prescribed by the commission and shall disclose the information required on the forms and may include:

(1) the rates that are subject to the original or appellate jurisdiction of the commission for any service, product, or commodity offered by the utility;

(2) rules and regulations relating to or affecting the rates, utility service, product, or commodity furnished by the utility;

(3) all ownership and management relationships among the utility and other entities, including individuals;

(4) all transactions with affiliates, including, but not limited to, payments for costs of any services, interest expense, or for any property, right, or thing;

(5) information on receipts and disbursements of revenues;

(6) all payments of compensation (other than salary or wages subject to the withholding of federal income tax) for legislative matters in Texas or for representation before the Texas Legislature or any governmental agency or body; and

(7) a verified or certified copy of the appropriate permit, issued by the conservation, reclamation, or subsidence district, for each utility which withdraws groundwater from conservation, reclamation, or subsidence districts.

(f) Gross receipts assessment reporting. All utilities subject to the requirements of the code, §§13.451-13.453, shall file a gross receipts assessment report with the state comptroller reflecting those gross receipts subject to the assessment stipulated in the code on a form prescribed by the state comptroller. These reports shall be required on an annual basis for those companies that have elected to remit their assessment annually and on a quarterly basis for those companies that have elected to remit their assessment quarterly. Such reports and assessments shall be remitted in accordance with the code, §§13.451-13.453.

(g) Information omitted from reports. The commission may waive the reporting of any information required in this subchapter if it determines that it is either impractical or unduly burdensome on any utility to furnish the requested information. If any such information is omitted by permission of the commission, a written explanation of the omission must be stated in the report.

(h) Special and additional reports. Each utility shall report on forms prescribed by the commission special and additional information as requested which relates to the operation of the business of the utility.

(i) Report amendments. Corrections of reports resulting from new information or errors shall be filed on a form prescribed by the commission.

(j) Penalty for refusal to file on time. In addition to penalties prescribed by law, the commission may disallow for ratemaking purposes the costs related to the activities for which information was requested and not timely filed.

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

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Director, Legal Division
Texas Water Commission

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Subchapter E. Customer Service and Protection

• 31 TAC §§291.81-291.89

The new sections are adopted under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 13, and the Texas Water Code, 5.103, 5. 105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities's rates, fees, operations, and services.

§291.85. Requests for Service.

(a) Water customers.

(1) New taps. The fees for initiation of service, where no service previously existed, charged by a water utility shall be in accordance with the following.

(A) The fee charged by a utility for connecting a customer's premises to the system (i.e., tap fee) shall be as stated on the approved tariff and shall be limited to the average of actual costs of materials, labor, and administrative costs for such service connections.

(B) The fee charged for all service connections (i.e., taps) requiring meters larger than 3/4 inch shall be limited to the actual cost of making the individual service connection. The customer shall be given an itemized statement of the costs.

(C) An additional fee may be charged if stated on the approved tariff for a tap expense not normally incurred, such as a road bore for customers outside of subdivisions or residential areas.

(2) Service connections for water taps.

(A) The utility shall furnish and install, for the purpose of connecting its distribution system to the customer's property, the service pipe from its main to the meter location on the customer's property. For all new installations, a utility-owned cut-off valve shall be provided on the utility side of the meter. Utilities without customer meters shall provide and maintain a cut-off valve on the customer's property as near the property line as possible. This does not relieve the utility from the obligation to comply with §291.88 of this title (relating to Meters).

(B) The customer shall be responsible for furnishing and laying the necessary customer service pipe from the meter location to the place of consumption and shall keep the customer service line in good repair. For new taps, customers may be required to install a customer owned cut-off valve on the customer's side of the meter or connection. For utilities without customer meters, customer responsibility shall begin at the discharge side of the utility's cut- off valve.

(3) Location of meters.

(A) Meters shall be readily accessible for maintenance and reading and, so far as practicable, the location should be on the customer's property at a point mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from damage.

(B) One meter is required for each residential, commercial, or industrial facility. An apartment building or a trailer or mobile home park may be considered to be a single commercial facility for the purpose of these sections.

(b) Sewer customers.

(1) New taps. The fees for initiation of service, where no service previously existed, charged by a sewer utility shall be in accordance with the following.

(A) The fee charged by a utility for connecting a customer's premises to the system (i.e., tap fee) shall be as stated on the approved tariff and shall be limited to the average of actual costs of materials, labor, and administrative costs for such service connections.

(B) The fee charged for all nonstandard service connections shall be set at the actual cost of making the individual service connection. The customer shall be given an itemized statement of the costs.

(C) An additional fee may be charged if stated on the approved tariff for a tap expense not normally incurred, such as a grinder pump or a road bore for customers outside of subdivisions or residential areas.

(D) Tap fees for sewer systems designed to receive effluent from a receiving tank located on the customer's property, whether fed by gravity or pressure into the utility's sewer main, may include charges to install a receiving tank on the customer's property which meets the minimum standards set by the utility and authorized by the commission. The tank may include grinder pumps, etc. to pump the effluent into the utility's main. Ownership of the receiving tank and appurtenances will be as specified in the utility's approved tariff.

(2) Service connections for sewer taps.

(A) The utility shall furnish and install, for the purpose of connecting its collection system to the customer's service line, the service pipe from its main to the customer's property line.

(B) The customer shall be responsible for furnishing and laying the necessary customer service line from the property line to the residence.

(3) Customer maintenance.

(A) The customer service line and appurtenances shall be constructed in accordance with the laws and regulations of the State of Texas, local plumbing codes, or, in the absence of such local codes, the National Plumbing Code, or other standards as prescribed by the commission.

(B) It shall be the customer's responsibility to maintain the customer service line and appurtenances in good operating condition, i.e., clear of obstruction, defects, or blockage. If the utility can provide evidence of excessive infiltration or inflow into the customer's service line or failure to provide proper pretreatment, the utility may, with the written approval of the executive director, require that the customer repair the line or eliminate the infiltration or inflow or take such actions necessary to correct the problem. If the customer fails to correct the problem within a reasonable time, the utility may disconnect the service after proper notice.

(C) If the customer retains ownership of receiving tanks located on the customer's property, routine maintenance and repairs are the customer's responsibility and may be performed by anyone selected by the customer who is competent to perform such repairs. The utility may require in its approved tariff that parts and equipment meet the minimum standards set by the utility to insure proper and efficient operation of the sewer system.

(c) Other fees.

(1) Utilities shall not charge disconnect fees, membership fees, application fees, or standby fees.

(2) Other fees may be charged if approved by the commission or the executive director or his designated representative and included on the approved tariff.

(d) Line extension and construction charges. Every utility shall file its extension policy with the commission as part of its tariff. The policy shall be consistent, nondiscriminatory, and subject to the approval of the commission. No contribution in aid of construction may be required of any customer except as provided for in the approved extension policy.

(1) Contributions in aid of construction that are required through an approved extension policy shall not be required of individual residential customers

for production, storage, treatment, or transmission facilities,

(2) Developers may be required through an approved extension policy to provide contributions in aid of construction in amounts to furnish the development with facilities to provide for reasonable local demand requirements and which is also compliant with Texas Department of Health or Texas Water Commission minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or Texas Water Commission minimum design criteria. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property.

(e) Cost utilities shall bear.

(1) Within its certificate area, a utility shall be required to bear the cost of the first 200 feet of any water main or sewer collection line necessary to extend service to an individual residential customer within a platted subdivision, unless the utility can document;

(A) that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility; and

(B) that the residential customer requesting service purchased the property after the developer was notified of the need to provide facilities to the utility.

(2) If the requirement is included in the utility's approved tariff, the customer may be charged the remaining costs of extending service to his property, provided, however, that the customer may be required to pay only the cost equivalent to the cost of connecting to the nearest transmission or distribution line, whether or not that line has adequate capacity to serve that customer. The utility shall bear the full cost of any oversizing of water mains or sewer collection lines necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional production, storage, or treatment facilities unless that customer places unique, non-standard service demands upon the systems, in which case, the customer may be charged the full cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

(3) For purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

(f) Response to request for service.

(1) Every retail public utility shall serve each qualified applicant for service within its certificated area as soon as is practical after receiving a completed application. A qualified applicant is an applicant who has met all of the retail public utility's requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service.

(A) Upon request for service by an applicant, the retail public utility must make available and accept a completed written application for service.

(B) Where service has previously been provided, a utility must reconnect the service within one working day after the applicant has submitted a completed application for service and met any other requirements in the utility's approved tariff.

(C) A request for service that requires a tap but does not require line extensions, construction, or new facilities shall be filled within five working days after a completed application has been accepted.

(D) If construction is required to fill the order and if it cannot be completed within 30 days, the utility shall provide a written explanation of the construction required and an expected date of service.

(E) Except for good cause shown, the failure to provide service within 30 days of an expected date or within 180 days of the date a completed application was accepted from a qualified applicant shall constitute refusal to serve, and consideration may be given to assessing administrative penalties or revoking the certificate of convenience and necessity or to granting a certificate to another utility to serve the applicant. The time requirements set forth herein are not applicable in the event that the utility is prevented from extending service by legal impediment.

(2) The cost of extension and any construction cost options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants shall be provided to the customer in writing upon assessment of the costs of necessary line work, but before construction begins.

(g) Applicants for service from a water supply or sewer service corporation. An applicant for service from a water supply or sewer service corporation may appeal to the commission a decision of the water supply or sewer service corporation affecting the amount to be paid to obtain service in addition to the regular membership or tap fees. If the applicant makes a deposit with the corporation in an amount determined by the executive director, the corporation shall provide service to the applicant pending final disposition of the appeal. If the commission finds the amount charged to be unreasonable, it shall establish the fee to be paid and establish conditions for the applicant to pay any additional amounts due. Any portion of a deposit found to be due the applicant shall be promptly repaid with interest thereon.

§291.86. Billing.

(a) Authorized rates. Bills shall be calculated according to the rates approved by the commission and listed on the utility's approved tariff. Unless specifically authorized by the commission, a utility may not apply a metered rate to customers in a subdivision or geographically defined area unless all customers in the subdivision or geographically defined area are metered.

(b) Due date. The due date of the bill for utility service shall not be less than 16 days after issuance. Payment for utility service is delinquent if the full payment, including late fees, is not received at the utility or at the utility's authorized payment agency by 5 p.m. on the due date. The postmark, if any, on the envelope of the bill, or the recorded date of mailing by the utility, if there is no postmark on the envelope, shall constitute proof of the date of issuance. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next work day after the due date.

(c) Penalty on delinquent bills for retail service. A one-time penalty of either $2.00 or 5.0% may be made on delinquent bills. If, after receiving a bill including a late fee, a customer pays the bill in full except for the late fee, the bill may be considered delinquent and subject to termination after proper notice. An additional late fee may not be applied to a subsequent bill for failure to pay the prior late fee. The penalty on delinquent bills may not be applied to any balance to which the penalty was applied in a previous billing. No such penalty may be collected unless a record of the date of mailing is made at the time of the mailing and maintained at the principal office of the utility.

(d) Deferred payment plan. A deferred payment plan is any arrangement or agreement between the utility and a customer in which an outstanding bill will be paid in installments that extend beyond the due date of the next bill. The utility shall offer, upon request, a deferred payment plan to any residential customer who has expressed an inability to pay all of his or her bill if the customer's bill exceeds the average monthly bill for that customer for the previous 12 months by three times and if that customer has not been issued more than two disconnection notices at any time during the preceding 12 months. In all other cases, the utility is encouraged to offer a

deferred payment plan to residential customers who cannot pay an outstanding bill in full but are willing to pay the balance in reasonable installments. A deferred payment plan may include a finance charge which shall not exceed an annual rate of 10% simple interest and must be clearly stated on the deferred payment agreement.

(e) Rendering and form of bills.

(1) Bills for water and sewer service shall be rendered monthly unless otherwise authorized by the commission, or unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle may be billed with the following month's bill. Bills shall be rendered as promptly as possible following the reading of meters. One bill shall be rendered for each meter.

(2) Information to be included on the bill. The customer's bill shall show all the following information, if applicable (and shall be arranged so as to allow the customer to readily compute his bill with a copy of the applicable rate schedule which shall be mailed on request to the customer):

(A) if the meter is read by the utility, the date and reading of the meter at the beginning and at the end of the period for which the bill is rendered;

(B) the number and kind of units metered;

(C) the applicable rate schedule title or code;

(D) the total amount due for water service and separately stated, the total amount due for sewer service;

(E) the due date of the bill;

(F) the date by which customers must pay the bill in order to avoid addition of a penalty;

(G) the total amount due as penalty for nonpayment within a designated period;

(H) a distinct marking to identify an estimated bill;

(I) any conversions from meter reading units to billing units, or any other calculations to determine billing units from recording or other devices, or any other factors used in determining the bill;

(J) the gallonage used in determining sewer usage; and

(K) the local telephone number or toll-free number where the utility can be reached.

(f) Charges for sewage service. It is not a requirement for the utility to use meters to measure the quantity of sewage disposed by individual customers. When a sewer utility is operated in conjunction with a water utility which serves the same customers, the charge for sewage disposal service may be based on the consumption of water as registered on the customer's water meter. Where measurement of water consumption is not available, the utility shall use the best means available for determining the quantity of sewage disposal service used. A method of separating customers by class shall be adopted so as to apply rates which will accurately reflect the cost of service to each class of customer.

(g) Overbilling and underbilling. If billings for utility service are found to differ from the utility's lawful rates for the services being purchased by the customer, or if the utility fails to bill the customer for such service, a billing adjustment shall be calculated by the utility. If the customer is due a refund, an adjustment shall be made for the entire period of the overcharges. If the customer was undercharged, the utility may backbill the customer for the amount which was underbilled. The backbilling shall not exceed six months unless such undercharge is a result of meter tampering, bypass, or diversion by the customer as defined in §291.88 of this title (relating to Meters). If the underbilling is $25 or more, the utility shall offer to such customer a deferred payment plan option for the same length of time as that of the underbilling. In cases of meter tampering, bypass, or diversion, a utility may, but is not required to, offer a customer a deferred payment plan.

(h) Estimated bills. When there is good reason for doing so, a water or sewer utility may submit estimated bills, provided that an actual meter reading is taken every two months and appropriate adjustments made to the bills.

(i) Prorated charges. When a bill is issued for a period of less than one month, charges will be computed as follows. For metered service, service shall be billed for the base rate as shown in the utility's tariff prorated for the number of days service was provided plus the volume metered in excess of the prorated minimum volume allowed in the base rate. For flat-rate service, the charge shall be prorated on the basis of the proportionate part of the period during which service was rendered. Surcharges approved by the commission do not have to be prorated on the basis of the number of days service was provided.

(j) Prorated charges due to utility service outages. In the event that utility service is interrupted or seriously impaired for more than 24 consecutive hours, the utility shall prorate the base charge to the customer to reflect this loss of service. The base charge to the customer shall be prorated on the basis of the proportionate part of the period during which service was interrupted.

(k) Disputed bills.

(1) A customer may advise a utility that a bill is in dispute by written notice or in person during normal business hours. A dispute must be registered with the utility prior to the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by the sections in this chapter.

(2) Notwithstanding any other section of this chapter, the customer shall not be required to pay the disputed portion of a bill which exceeds the amount of that customer's average monthly usage at current rates pending the completion of the determination of the dispute. For purposes of this section only, the customer's average monthly usage at current rates shall be the average of the customer's gross utility service for the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage shall be estimated on the basis of usage levels of similar customers and under similar conditions.

(3) Notwithstanding any other section of this chapter, a utility customer's service shall not be subject to discontinuance for nonpayment of that portion of a bill under dispute pending the completion of the determination of the dispute. The customer is obligated to pay any billings not disputed as established in §291.87 of this title (relating to Discontinuance of Service).

(l) Notification of alternative payment programs or payment assistance. Anytime a customer contacts a utility to discuss his or her inability to pay a bill or indicate that he or she is in need of assistance with his or her bill payment, the utility or utility representative shall inform the customer of all available alternative payment and payment assistance programs available from the utility, such as deferred payment plans, as applicable, and of the eligibility requirements and procedure for applying for each.

(m) Adjusted bills. There shall be a presumption of reasonableness of billing methodology by a sewer utility for winter average billing or by a water utility with regard to a case of meter tampering, bypassing, or other service diversion if any of the following methods of calculating such bills are used:

(1) estimated bills based upon service consumed by that customer at that location under similar conditions during periods preceding the initiation of meter tampering or service diversion. Such estimated bills shall be based on at least 12 consecutive months of comparable usage

history of that customer, when available, or lesser history if the customer has not been served at that site for 12 months; this subsection, however, does not prohibit utilities from using other methods of calculating bills for unmetered water when the usage of other methods can be shown to be more appropriate in the case in question;

(2) estimated bills based upon that customer's usage at that location after the service diversion has been corrected;

(3) calculation of bills for unmetered consumption over the entire period of meter bypassing or other service diversion, if the amount of actual unmetered consumption can be calculated by industry recognized testing procedures; or

(4) a reasonable adjustment is made to the sewer bill if a water leak can be documented during the winter averaging period and winter average water use is the basis for calculating a customer's sewer changes. If the actual water loss can be calculated, the consumption shall be adjusted accordingly. If not, the prior year average can be used if it is available. If the actual water loss cannot be calculated and the customer's prior year's average is not available, then a typical average for other customers on the system with similar consumption patterns may be used.

(n) Equipment damage charges. A utility may charge for all labor, material, equipment, and other costs necessary to repair or replace all equipment damaged due to meter tampering or bypassing, service diversion, or the discharge of wastes which the system cannot properly treat. The utility may charge for all costs necessary to correct service diversion or unauthorized taps where there is no equipment damage, including incidents where service is reconnected without authority. An itemized bill of such charges must be provided to the customer. A utility may not charge any additional penalty or any other charge other than actual costs unless such penalty has been expressly approved by the commission and filed in the utility's tariff.

(o) Fees. Utilities may not charge service call fees, field collection fees, or standby fees. Except as provided in §291.87(i) of this title (relating to Discontinuance of Service), related to reconnect fees, other fees listed on a utility's approved tariff may be charged.

(p) Payment with cash. When a customer pays any portion of a bill with cash, the utility must issue a written receipt for the payment.

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

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Director, Legal Division
Texas Water Commission

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Subchapter F. Quality of Service

• 31 TAC §§291.91-291.95

The new sections are adopted under the House Bill 1808, 71st Legislature, 1989, which, in pertinent part, amended the Texas Water Code, Chapter 13, and the Texas Water Code, §§5.103, 5.105, and 13.041, which provides the commission with rulemaking authority relating to the regulation and supervision of retail public utilities's, rates, fees, operations, and services.

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

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Director, Legal Division
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Subchapter G. Certificates of Convenience and Necessity

• 31 TAC §§291.102-291.118

The new sections are adopted under House Bill 1808, 71st Legislature, 1989, amending the Texas Water Code, Chapter 3, and the Water Code, §§5.103, 5.105, and 13.041, which provides the commission with the rulemaking authority relating to the regulation and supervision of retail public utilities's rates, fees, operations, and services.

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 15. Drivers License Rules

Examination Requirements

• 37 TAC §15.54, §15.56

The Texas Department of Public Safety adopts amendments to §15.54 and §15.56, with changes to the proposed text as published in the May 29, 1990, issue of the *Texas Register* (15 TexReg 2992).

Adoption of the amendments promulgates the vehicle inspection items to be inspected prior to a road test for a driver's license and the rejection standards of a road test to promote vehicle safety and to improve driver skills.

The amendment to §15.54 adds and deletes language in paragraph (2)(A)(iii) regarding out-of-state registration plates for service members, spouse, and dependent children while the service person is serving overseas. Texas registration must be current or valid dealer plates and both plates displayed if required by statute in paragraph (2)(F). Language is added and deleted in paragraph (3)(B) and (C) regarding items to be inspected in Class C vehicles and Class A or B vehicles that are over 80 inches wide. Paragraph (3)(C) is adopted with changes by adding language to reference subparagraph (B) as additional inspection items. This was incorrectly published in the *Texas Register*. Language is added to paragraph (3)(D)(i) to clarify alternately flashing red warning lamps on school buses. Paragraph (3)(F) is new language applicable to inspection items on trailers and semitrailers and subparagraphs (F) and (G) are designated as (G) and (H) with language added and deleted applicable to motor-driven cycles, motorcycles, and mopeds. The amendment to §15.56 adds and deletes language in paragraph (2)(C) regarding stalling of a vehicle. Paragraph (5)(F) is added as a rejection standard for refusing to wear a seat belt when required or has no physician's statement for waiver. Paragraph (6) is added as a rejection standard for inability to perform certain items and is adopted with changes. The department finds it necessary to clarify paragraph (6)(B) by adding language requiring applicants for a commercial driver's license (CDL) to perform the pre-trip inspection of brake operation in Class A and B vehicles. Non-CDL applicants are not required to perform this task.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6687b, §1A and the Texas Government Code, §411.004(3), which provide the Texas Department of Public Safety with the authority to adopt rules that it determines necessary to effectively administer this Act.

§15.54. Vehicle Inspection. The department inspects vehicles prior to road

testing to determine if such vehicle meets the requirements of law and is safe to operate on a public street or highway.

(1) (No change.)

(2) Registration plates.

(A) Out-of-state registration plates. Military personnel stationed within Texas may display on their vehicles current license plates from their state of legal residence or current plates from the state of their last duty station.

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

(iii) The same privileges and restrictions as outlined in this paragraph apply to the service member's spouse and dependent children while the service person is serving overseas as a member of the United States armed forces.

(iv)-(v) (No change.)

(B)-(E) (No change.)

(F) Current registration. Texas registration must be current registration or valid dealer plates. If two plates are required by statute, both plates must be properly displayed.

(3) Vehicle inspection.

(A) (No change.)

(B) Vehicle inspection for roads tests in Class C vehicles and Class A and B vehicles under 80 inches wide. The following will be inspected:

(i) two headlights;

(ii) two tail lamps-one for 1959 model or earlier passenger car or truck;

(iii) two rear red reflectors;

(iv) two stop lamps-one for 1959 model or earlier passenger car;

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

(viii) turn signal lamps-1960 or later models;

(ix) windshield wiper;

(x) seat belts-required for front seat in passenger cars and light trucks to 1,500 pounds GVW where the vehicle was originally equipped with seat belt anchors;

(xi) one way glass or glass coating material;

(xii) vehicle inspection certificates;

(xiii) registration;

(xiv) registration receipts if used for Commercial Driver's License (CDL) test.

(C) Vehicle inspection for road tests in Class A or B vehicles 80 inches or over in width. In addition to items inspected in subparagraph (B) of this paragraph, the following will be inspected:

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

(vi) fire extinguisher-required on buses, taxis, and vehicles which carry hazardous materials;

(vii) registration receipts if used for CDL test;

(viii) emergency flares, fuses, or reflectors;

(ix) four-way emergency flashers.

(D) School bus inspection. In addition to equipment inspected in subparagraphs (B) and (C) of this paragraph, school bus inspection includes the following:

(i) red warning lamps (two front and two rear alternately flashing);

(ii)-(iii) (No change.)

(E) (No change.)

(F) Trailers and semitrailers. Trailers and semitrailers 80 or more inches in width shall be inspected for the following:

(i) registration receipts if used for CDL test;

(ii) clearance lamps;

(iii) side marker lamps;

(iv) four-way emergency flashers;

(v) mud flaps-required when there are four or more tires on the rearmost axle.

(G) Motor-driven cycles and motorcycles. Equipment inspected on motor-driven cycles and motorcycles includes the following:

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

(vi) head lamp-multiple beam for motorcycle and single or multiple beam for motor-driven cycle;

(vii) exhaust system;

(viii) vehicle inspection certificate;

(ix) registration.

(H) Mopeds. Equipment inspected on mopeds includes the following:

(i)-(iv) (No change.)

§15.56. Road Test. The department administers a road test to determine an applicant's ability to exercise ordinary and reasonable control of a motor vehicle; such applicant must meet a predetermined score. Rejection standards for road test are as follows.

(1) (No change.)

(2) Dangerous action.

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

(C) driver stalls vehicle in middle of busy intersection so as to obstruct traffic;

(D)-(F) (No change.)

(3)-(4) (No change.)

(5) Lack of cooperation or refusal to perform.

(A)-(E) (No change.)

(F) refuses to wear seat belt when required and has no physician's statement for waiver.

(6) Inability to perform:

(A) identify controls on a Class M vehicle;

(B) pre-trip inspection of brake operation in Class A and B vehicles. Commercial Driver License (CDL) applicants must perform this task. Non-CDL applicants are not required to perform this task.

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 July 3, 1990.

TRD-9006874

Joe E. Milner
Director
Texas Department of Public Safety

Effective date: July 27, 1990

Proposal publication date: May 29, 1990

For further information, please call: (512) 465-2000

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter B. Medicare and Third-party Resources

• 40 TAC §15.203

The Texas Department of Human Services adopts new §15.203, concerning Medicare and third-party resources. The new section is a result of federal mandate that provides for a new eligibility group.

The new section is justified to comply with federal requirements.

The new section will function by requiring the department to pay the Medicare Part A premium for certain qualified disabled and working people.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. To comply with federal requirements, this new section is adopted to be effective July 1, 1990.

§15.203. Qualified Disabled and Working Individuals (QDWI) (Type Program 25).

(a) Eligibility. Public Law 101-239, the Omnibus Budget Reconciliation Act of 1989, requires the department to pay Medicare Part A premiums for certain clients. The department uses Supplemental Security Income (SSI) policy to determine eligibility for Type Program 25. If a client is eligible for the QDWI program, the department pays only his monthly Medicare Part A premium. No other benefits are available to the client. The client does not receive the medical care identification card or the medical eligibility verification form. The department pays Medicare Part A premiums for clients who:

(1) have not reached age 65;

(2) are entitled to enroll in Medicare Part A under the Social Security Act, §1818A;

(3) are not otherwise eligible for Medicaid;

(4) have monthly incomes equal to or less than 200% of the federal poverty level; and

(5) have countable resources equal to or less than twice the limits for the SSI program.

(b) Medical effective date. The medical effective date is influenced by whether the client enrolls for Medicare coverage during the initial enrollment period but before his present Medicare entitlement ends, after the initial enrollment period begins but after his entitlement ends, or following the initial enrollment period. The department considers the date the client enrolled for continuation of his Medicare entitlement when determining the medical effective date. The medical effective date does not precede the earliest date the client is entitled to reinstatement of his Part A coverage. The following applies when determining the medical effective date.

(1) The initial enrollment period for a client who has been notified that his free entitlement to Medicare Part A coverage will end is a seven- month period. The enrollment period begins the month the client is notified.

(2) In the case of an individual who enrolls in an initial enrollment period before meeting QDWI criteria and applies for QDWI benefits, the medical effective date is the first day of the month he meets the QDWI criteria.

(3) If the client enrolls in the first month that he meets all QDWI criteria except for reinstatement (fourth month of the initial enrollment period), and applies for QDWI benefits, the medical effective date is the first of the following month.

(4) If the client enrolls in the second month that he meets all QDWI criteria except for reinstatement (fifth month of the initial enrollment period) and applies for QDWI benefits, the medical effective date is the second month after enrollment.

(5) If the client enrolls in the third or fourth month that he meets all QDWI criteria except for reinstatement (sixth or seventh month of the initial enrollment period) and applies for QDWI benefits, the medical effective date is the first day of the third month following the month he enrolled.

(6) If the client enrolls during the general enrollment period, the medical effective date is always July 1.

(c) Notification. The department notifies QDWI clients of the eligibility decision on the eligibility notice-qualified disabled and working individuals form. The department also uses the eligibility notice form for active QDWI cases that involve adverse action. The requirements for the 12-day notification period and continuing benefits pending a hearing must be followed for adverse action on QDWI benefits.

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

Issued in Austin, Texas, on July 6, 1990.

TRD-9006883

Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Effective date: July 1, 1990

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

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Chapter 27. Intermediate Care Facilities for Mentally Retarded

Subchapter UUUU. Support Documents

• 40 TAC §27.9801

The Texas Department of Human Services (DHS) adopts an amendment to §27. 9801, without changes to the proposed text as published in the April 20, 1990, issue of the *Texas Register* (15 TexReg 2269).

The purpose of the amendment is to extend the Intermediate Care Facility for Mentally Retarded (ICF/MR) Case Mix Pilot Project to December 31, 1991.

The extension will allow DHS time to study the existing case mix methodology and to research and develop a new methodology.

During the 30-day comment period, the department received one comment from Texas Association of Private ICF-MR Providers (TAPP) regarding the extension of the Intermediate Care Facility for the Mentally Retarded (ICF-MR) case mix pilot project from June 1990, to December 31, 1991. TAPP addressed several points of interest that the department is responding to.

Comment: TAPP indicated that the department has had sufficient time to study the current methodology and propose a new one.

Response: The department and the Texas Department of Mental Health and Mental Retardation (TDMHMR) entered into a settlement agreement in 1985 with six ICFs-MR serving children as a result of the Royal Thomas lawsuit. The premise of the lawsuit was that the flat rate did not cover the cost of caring for children and that children were more costly to care for than the adult ICF-MR population. The settlement agreement required TDHS to reimburse these six facilities under a facility-by-facility reimbursement methodology while TDMHMR and the department researched a case-mix payment system for all ICFs-MR and recommended a pilot reimbursement methodology that complied with the outcome of the research results.

In order to meet the intent of the settlement agreement, the department is extending the expiration date from June 1990 to December 31, 1991. The purpose of the pilot project was to test certain aspects of a case mix system for possible statewide implementation in all ICFs-MR. Much of the information gained thus far in the pilot project has indicated that the specific methodology of the pilot project is inappropriate to implement statewide at this time. This extension will allow the department to work with TDMHMR and Advocacy Incorporated, the representative for the special six facilities, to more fully study the case-mix option for the entire ICF-MF program and to develop a payment system that is simple to implement and equitable in payment.

Comment: TAPP pointed out that since the implementation of the case mix pilot project, all facilities, without exception, have had reductions in reimbursement.

Response: The department's records show that three of the six facilities are receiving case mix rates which are higher than those they would have received under the facility-by-facility methodology using the most current cost reports. The special six facilities are subject to two special rate adjustments that are automatically applied in the event a facility would receive lower revenues under case mix rates than under individual facility rates. If the facility qualifies for both adjustments, the larger of the two is applied. The intent of this system is to ensure that the facility is reimbursed at a minimum the amount of their allowable cost as reported and inflated from their most recent cost report. This system does not guarantee that their profit will be constant.

Comment: TAPP stated that the department used the pretext of a pilot project to circumvent the court and the protections provided by the Boren amendment at the federal level in order to reimburse these six ICFs-MR facilities at a lower rate.

Response: It is the opinion of the department's legal staff that all aspects of the lawsuit have been met and that the department is attempting to act in the best interest of all parties involved.

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

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

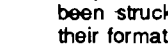
Issued in Austin, Texas on July 6, 1990.

TRD-9006847 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Effective date: September 1, 1990

Proposal publication date: April 20, 1990

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



Chapter 49. Child Protective Services

Subchapter O. Foster and Adoptive Home Development

• 40 TAC §49.1501,§49.1502

The Texas Department of Human Services adopts amendments to §49.1501 and §49.1502, without changes to the proposed text published in the January 23, 1990, issue of the *Texas Register* (15 TexReg 325).

The amendments are justified to promote uniformity in the treatment of children in the department's managing conservatorship and to reduce the likelihood of physically abusive discipline.

The amendments will function by establishing a uniform policy regarding discipline of children who are in placement with nonrelatives.

The department received four written comments on the proposed amendments during the public comment period and three spoken comments at a public hearing on February 12, 1990. The commenters included two individuals and representatives of the following organizations: the Hendrik Home for Children, the National Foster Parents Association, the Sherwood and Myrtie Foster Home for Children, and Texas State Foster Parents, Inc. A summary of the comments and the department's responses follows.

All of the commenters supported the amendments as proposed. Two of the commenters additionally recommended that the department strengthen the proposed policy by prohibiting all physical discipline of children in the department's managing conservatorship. Four of the commenters recommended that the department refrain from prohibiting physical discipline.

Of the commenters who favored prohibiting physical discipline of children in the department's conservatorship, one pointed out that each of the department's regional offices already prohibits physical discipline in its region. The commenter noted that the department offers, to foster parents, training in alternative forms of discipline; and the commenter added that a statewide prohibition would help to shelter foster parents from accusations of abuse. The commenter encouraged the department to offer liability insurance to foster parents if the department decides not to prohibit physical discipline statewide. In conclusion, the commenter stated that, when children have a history of abuse or neglect, physical discipline reinforces the damaging experiences of their past.

The other commenter who recommended prohibiting physical discipline did so for several reasons. The commenter argued that it is unfair for "big people" to strike "little people," that it is inappropriate for language-speakers to rely on a nonverbal form of discipline, and that it is wrong to deliberately inflict pain. The commenter cited a study by Ralph S. Welch, Ph.D., who found that nearly all the youths he evaluated on behalf of a Connecticut juvenile court over a 10-year period had been struck with a belt or its equivalent in their formative years. Dr. Welch's study concluded that severe parental punishment is probably the single most significant predictor of delinquency that has been found. The commenter also cited a 1989 study by the United States Children's Bureau which found that licensing requirements in 39 states prohibit corporal punishment. Finally, the commenter attached two supporting documents: a statement by the San Diego County, California, Department of Social Services that defends California's prohibition of physical discipline of children in foster care; and a National Foster Parent Association resolution that urges the universal abolition of corporal punishment of children.

Of the commenters who opposed prohibiting physical discipline of children in the department's conservatorship, one stated that the responsibility for deciding on appropriate forms of discipline should rest with the caregiver rather than with the state.

Another commenter opposed a prohibition on the grounds that it would unrealistically tie the hands of foster parents. The commenter added that spankings can be administered in love and that they can help to establish boundaries. Finally, the commenter noted that prohibiting the spanking of foster children would create a stressful dual-discipline policy in foster families in which the parents spank their natural children.

Another commenter opposed a ban on physical discipline as unrealistic, impractical, and unbiblical. The commenter stated that discipline should be based on individual needs rather than on a blanket policy.

Another commenter supported the proposed amendments because they standardize the department's policies for discipline of children in conservatorship. The same commenter appeared to oppose prohibiting physical discipline on the grounds that discipline problems are the cause of more than 50% of the breakdowns in foster home placements.

All of the comments–pro and con–addressed the question of whether or not to prohibit physical discipline of children in the department's managing conservatorship. This issue is not directly raised in the proposed amendments. Accordingly, the department is not revising the proposed amendments in response to the comments. However, the department will take the comments into account in its future considerations of discipline policies for children in conservatorship.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children. The amendments are also proposed under the Texas Family Code, Title 2, which authorizes the department to enforce laws and regulations governing the parent-child relationship.

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.

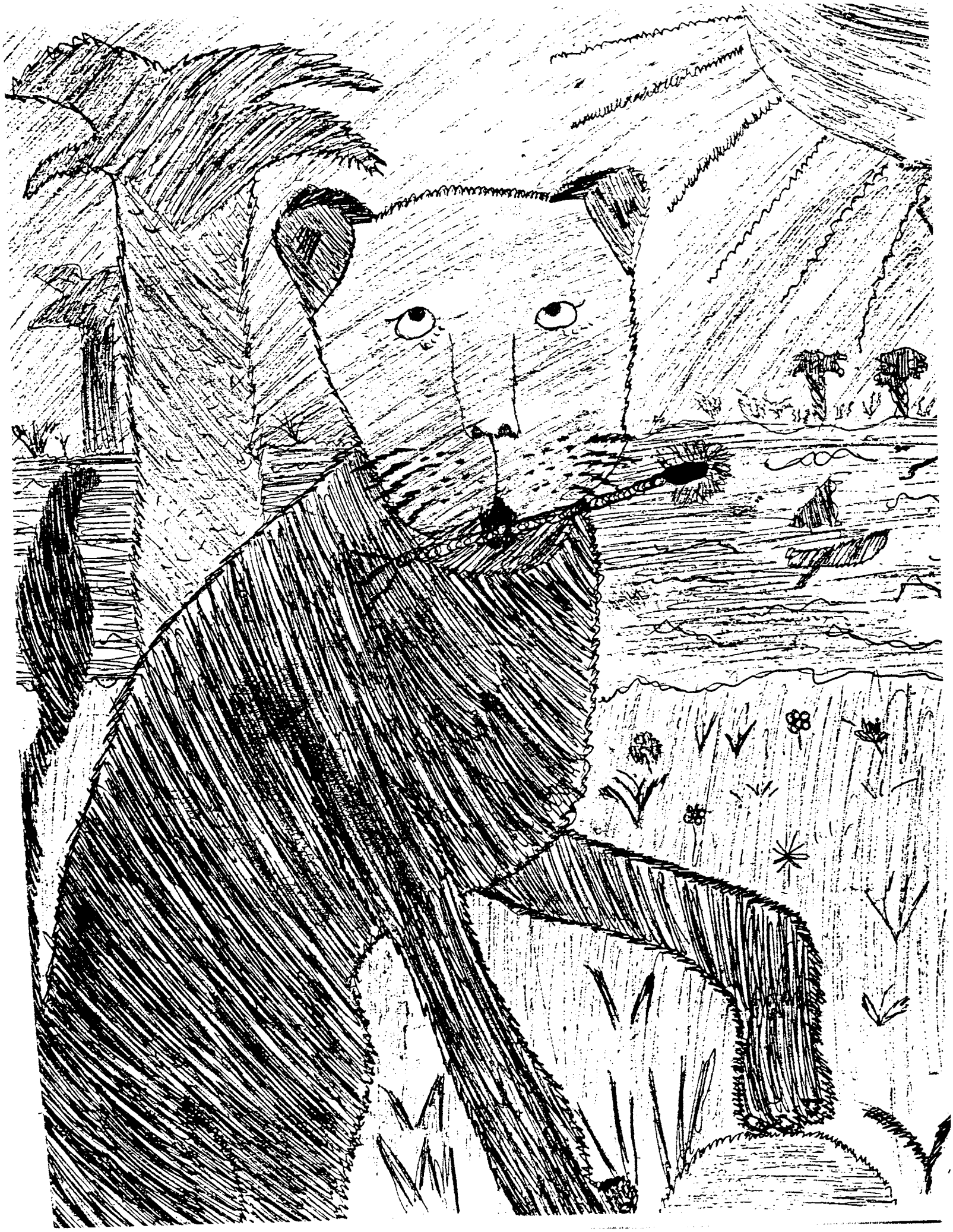
Issued in Austin, Texas, on July 9, 1990.

TRD-9006904 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Effective date: August 15, 1990

Proposal publication date: January 23, 1990

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 outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register.*

Texas Department of Agriculture

Monday, July 23, 1990, 10 a.m. The Agriculture Resource Protection Authority of the Texas Department of Agriculture will meet at 611 South Congress Avenue, Room 201, Austin. According to the agenda summary, the department will hear opening remarks from Commissioner Hightower; review public comments received and consideration of adoption of proposed rules; and announcements.

Contact: Richard M. Lannen, 1700 Pacific Avenue, LB 48, Dallas, Texas 75201, (214) 969-0090.

Filed: July 6, 1990, 9:43 a.m.

TRD-9006841

Friday, July 20, 1990, 10 a.m. The Peanut Producers Board of the Texas Department of Agriculture will meet at the Holiday Inn, 2865 West Washington (Highway 377), Stephenville. According to the complete agenda, the board will install new directors; elect officers; recognize past board members; review audit report; discussion and action on setting assessment rate; and other business.

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817) 734-2853.

Filed: July 9, 1990, 3:08 p.m.

TRD-9006928

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State Banking Board

Tuesday, July 17, 1990, 11:30 a.m. The Texas State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will approve minutes; consider interim charter application; change of domicile application; charter applications; notice of discontinuance of unmanned teller machine; review of other pending applications; and the board may convene into executive session.

Contact: William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 479-1200.

Filed: July 9, 1990, 9:14 a.m.

TRD-9006905

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Texas Battleship Commission

Wednesday, July 18, 1990, at 3 p.m. The Advisory Board of The Texas Battleship Commission will meet at the Offices of Liddell, Sapp, Zivley, Hill and LaBoon, 600 Travis Street, 3200 Texas Commerce Tower, 32nd Floor Conference Room, Houston. According to the agenda summary, the board will discuss various items with respect to the Battleship Texas restoration project and planning the return ceremonies.

Contact: Robert D. Miller, 3200 Texas Commerce Tower, Houston, Texas 77002, (713) 226-1186.

Filed: July 9, 1990, 10:18 a.m.

TRD-9006924

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Bond Review Board

Friday, July 13, 1990, 10 a.m. The Staff Planning Committee of the Bond Review Board will meet at the State Capitol, Sergeant's Committee Room, Austin. According to the complete agenda, the committee will approve minutes; consideration of proposed issue, Veterans Land Board-Series 1990; discussion of proposed rules for public school facilities funding program; and consideration of legislative appropriation request for Bond Review Board.

Contact: Tom K. Pollard, Room 506, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: July 5, 1990, 2:53 p.m.

TRD-9006815

Friday, July 13, 1990, 2 p.m. The College Opportunity Act Committee of the Bond Review Board will meet at the State Capitol, Sergeant's Committee Room, Austin. According to the complete agenda, the committee will approve minutes; discuss adoption of COA committee operating guidelines; consideration of Veterans Land Board application for issuance of College Savings Bonds-Series 1990; and other business.

Contact: Tom K. Pollard, Room 506, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: July 5, 1990, 2:53 p.m.

TRD-9006816

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Texas Cancer Council

Wednesday, July 18, 1990, 9 a.m. The Board of Directors of the Texas Cancer Council will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the board will adopt minutes of May 2, 1990; hear announcements; executive director's report; review and adoption of FY 1992-93 legislative appropriations request; adoption of FY 1991 operating budget; policy considerations for FY 1991 contracts; consideration of FY 1991 funding requests; and other business.

Contact: Emily Untermeyer, M.P.H., 701 Brazos, Suite 1005, Austin, Texas 79701, (512) 463-3190.

Filed: July 9, 1990, 11:31 a.m.

TRD-9006923

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Council on Disabilities

Friday, July 13, 1990, 9 a.m. The Disability Awareness Conference Task Force of the Council on Disabilities will meet at 4900 North Lamar Boulevard, Brown-Heatly Building, Room 1502, Austin. According to the complete agenda, the committee will hear reports; discuss conference agenda and participants; recommendations for speakers; discussion of date and location for conference.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-4353.

Filed: July 5, 1990, 1:21 p.m.

TRD-9006808

Friday, July 20, 1990, 10 a.m. The Council on Disabilities Board Meeting of the Texas Council on Disabilities will meet at 4900 North Lamar Boulevard, Brown-Heatly Building, Austin. According to the complete agenda, the board will welcome new members; approve minutes of May 18, 1990 meeting; hear citizens comments; committee and task force reports; and new member orientation.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-4353.

Filed: July 5, 1990, 1:21 p.m.

TRD-9006809

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Interagency Council on Early Childhood Intervention

Wednesday, July 18, 1990, 11:30 a.m. The Texas Interagency Council on Early Childhood Intervention will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the agenda summary, the council will hear public comments; approve minutes of previous meeting; discuss and approve proposed rules; federal application for fourth year funding; high priority infant transitional services for fiscal year 1991; revised grant awards for fiscal year 1991; discuss statute revisions; compensation for ECI administrator (executive session).

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: July 5, 1990, 2:04 p.m.

TRD-9006814

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Texas Education Agency

Thursday, July 12, 1990, 8:30 a.m. The Advisory Committee for the Development of Performance Indicators of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the emergency agenda summary, the committee reviewed and discussed reports related to the public hearings, i.e. performance indicator system; accreditation criteria; general comments; report to the State Board of Education (SBOE) regarding the public hearings; review of suggested changes to the performance indicator system; review of suggested changes in the document entitled, Performance-Based Accreditation: A responsible and responsive accountability system; preparations for presentations to the legislative education board and to the State Board of Education; and closing activities. The agency finds it is of urgent public necessity for this meeting to be held to discuss the presentations to the State Board of Education at its July 13, 1990, meeting in reference to the public hearings between the dates of June 11, and June 29, 1990.

Contact: Ruben Olivarez, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9642.

Filed: July 9, 1990, 4:20 p.m.

TRD-9006940

Friday, July 13, 1990, 8:30 a.m. The State Board of Education Committee on the Permanent School Fund (PSF) of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-109, Austin. According to the agenda summary, the committee will hear public testimony; review PSF securities transactions and the investment portfolio; discuss recommended PSF investment program for July and August and the funds available for the program; proposed amendment to 19 TAC §33.54. Investment of the PSF; committees will review Master Teacher Trust Custodian contract; and report of the chief investment officer.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:18 p.m.

TRD-9006832

Friday, July 13, 1990, 8:30 a.m The State Board of Education Committee on Long-Range Planning of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; expert session on Minority Education Policy; School Age Pregnancy and Parenting pilot programs; schedule and plan for public hearings on the State Board of Education's Long-Range Plan for public education, 1990-1994; discussion of pilot programs established by the 71st Legislature, regular session; phase III compensatory education and bilingual/english as a second language evaluation reports.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:18 p.m.

TRD-9006831

Friday, July 13, 1990, 1:30 p.m. The State Board of Education Committee on Students and the Committee on School Finance of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committees will conduct a public hearing on the proposed annual update of the master plan for vocational and technical education; proclamation 68 of the State Board of Education advertising for bids on textbooks; proclamation 67 of the State Board of Education advertising for bids on textbooks; proposed amendment to 19 TAC §89.131 definition of remedial and compensatory instruction; proposed amendments to 19 TAC Chapter 81, Subchapter D, State Textbook Program.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:17 p.m.

TRD-9006836

Friday, July 13, 1990, 10:30 a.m. The State Board of Education Committee on School Finance will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the committee will hear public testimony; student attendance accounting; proprietary schools; years of service; federal vocational education funding; school district bonds; state textbook program; per capita apportionment for 1990-19; purchase and distribution of textbooks; large type textbooks for visually handicapped; state program improvement grant funds; inventory for public school facilities; 1990-91 program budget and 1992-93 biennial program budget; 1990-91 operating budget and 1992-93 biennial operating budget for TEA; operating plan for information resources management operation of proprietary schools; certificate issuance procedures; annual audit plan of division of audits; annual audit plan of division of internal audits; public hearing/discussion of master plan for vocational and technical education.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:17 p.m.

TRD-9006835

Friday, July 13, 1990, 10:30 a.m. The State Board of Education Committee on Students will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-100, Austin. According to the agenda summary, the committee will hear public testimony; public hearing on rules concerning educational programs for gifted/talented students and the Texas state plan for education of the gifted/talented/educational programs for gifted/talented students; adoption of the Texas state plan and guidelines for the education of the gifted/talented; curriculum; remedial/compensatory instruction; equivalency examination pilot program; free attendance in general; official testing centers; issuance of high school equivalency certificate; alternative to social promotion; textbook proclamation 67 and 68 of the State Board of Education advertising for bids on textbooks; and com-

prehensive guidance program for Texas public schools.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:18 p.m.

TRD-9006834

Friday, July 13, 1990, 10:30 a.m. The State Board of Education Committee on Personnel of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-111, Austin. According to the agenda summary, the committee will hear public testimony; teacher appraisal procedures; types of accreditation status; administrator appraisal; alternative certification of administrators; assignment of school personnel; trustee for military reservation school districts; preparation of school personnel; specialized assignments or programs; alternative certification of teachers; teacher career ladder; reapproval of alternative teacher certification programs; trustees to Fort Sam Houston ISD; master teacher pilot study; accreditation of school districts; certificate issuance procedures; and advanced academic training.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:18 p.m.

TRD-9006833

Saturday, July 14, 1990, 8:30 a.m. The State Board of Education of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the agenda summary, the board will hear public testimony; SBOE resolutions; assessment of academic skills; SBOE operating rule; pregnancy/parenting programs; permanent school fund (PSF); PSF committees; administrator/teacher appraisal; accreditation; alternative certification for administrators/teachers; military reservation schools; assignment/preparation of school personnel; specialized assignments/programs; career ladder; alternative certification programs; trustee for Fort Sam Houston ISD; gifted/talented; curriculum; equivalency examination; compensatory/remedial instruction; free attendance; GED testing centers and certificates; social promotion; SBOE proclamation 67 and 68; student attendance; proprietary schools; years of service; vocational education; school bonds; textbook program; per capita apportionment; purchase and distribution of textbooks; large type textbooks; program improvement funds; school facilities; 1990-91/1992/93 biennial program budget; 1990-91/1992/93 TEA biennial operating budget; and information on agency administration.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: July 5, 1990, 4:16 p.m.

TRD-9006837

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Texas Employment Commission

Tuesday, July 17, 1990, 8:30 a.m. The Texas Employment Commission will meet at the Texas Employment Commission Building, Room 644, 101 East 15th Street, Austin. According to the agenda summary, the commission will review and discuss prior meeting notes; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on commissioner docket 29; and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: July 9, 1990, 4:07 p.m.

TRD-9006931

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Commission on Fire Protection Personnel Standards and Education

Thursday, July 12, 1990, 1:30 p.m. The Aircraft Crash Fire Fighting Committee of the Texas Commission on Fire Protection Personnel Standards and Education met in an emergency meeting at the Embassy Suites Hotel, North IH-35, Travis Room, Austin. According to the complete agenda, the committee considered if fire training should be required prior to job assignment in all fire suppression disciplines or only for structural fire fighters; if individuals should attain certification after training or after one year or two years of employment; can individuals receive recertification in both aircraft and structural fire suppression after one year of employment if individuals have suppression responsibilities in both areas. The emergency meeting was necessary to consider safety issues that affect over 16,500 fire fighters throughout the State of Texas.

Contact: Ray L. Goad, 9800 North Lamar Boulevard, Suite 160, Austin, Texas 78753, (512) 837-9851.

Filed: July 9, 1990, 4:31 p.m.

TRD-9006933

Thursday, July 12, 1990, 3 p.m. The Fire Suppression Committee of the Commission on Fire Protection Personnel Standards and Education met in an emergency meeting at the Embassy Suites Hotel, North IH-35, Travis Room, Austin. According to the complete agenda, the committee considered the following items: If face shields on fire fighters helmets are meeting fire fighter safety needs; is rule needed relating to proper fit or interface between fire fighters helmets, hoods and self-contained breathing equipment; should commission collect fire fighter injury and death information to determine whether or not current equipment and training is adequate to reduce injuries and deaths; and should commission develop a certification program for hazardous materials specialists and technicians.

Contact: Ray L. Goad, 9800 North Lamar Boulevard, Suite 160, Austin, Texas 78753, (512) 837-9851.

Filed: July 9, 1990, 4:31 p.m.

TRD-9006934

Friday, July 13, 1990, 9 a.m. The Commission on Fire Protection Personnel Standards and Education met in an emergency meeting at the Embassy Suites Hotel, IH-35, Travis Room, Austin. According to the agenda summary, the committee will hear reports on fire fighter safety issues, and hear reports on testing committee, staff report and go to executive session to review executive director.

Contact: Ray L. Goad, 9800 North Lamar Boulevard, Suite 160, Austin, Texas 78753, (512) 837-9851.

Filed: July 9, 1990, 4:30 p.m.

TRD-9006935

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Texas Food and Fibers Commission

Wednesday, July 25, 1990, 8:30 a.m. The Industry Advisory Committee of the Texas Food and Fibers Commission will meet at the Radisson Hotel, (Ballroom A), Austin. According to the agenda summary, the committee will meet with contracting research university staff to discuss biennium budget requests for FY 1992 and 1993.

Contact: Jean L. VandeLune, 17360 Coit Road, Dallas, Texas 75252, (214) 231-0852.

Filed: July 9, 1990, 10:51 a.m.

TRD-9006920

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Texas Department of Health

Tuesday, July 24, 1990, 10 a.m. The Advisory Committee on Nursing Home Affairs of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the agenda summary, the committee will approve minutes of previous meeting; consider and possibly act on proposed combined state standards; committee name change; requirement coordination; physiological .mental illness; inservice training standards for food service supervisor; licensing standards for qualifi-

cations of dietary consultants; pharmacy service procedures (omnibus budget reconciliation act interpretations); administrative penalties/Texas Department of Human Services rules on sanctions; and set next meeting date.

Contact: Richard Butler, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7706.

Filed: July 9, 1990, 10:46 a.m.

TRD-9006921

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Texas Historical Commission

Saturday, July 21, 1990, 9 a.m. The Board of Review of the Texas Historical Commission will meet at the Cliff Temple, 125 Sunset Avenue, Dallas. According to the agenda summary, the board will make announcements; approve minutes; and review of national register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: July 9, 1990, 4:10 p.m.

TRD-9006943

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University of Houston

Monday, July 16, 1990, 2 p.m. The Animal Care Committee of the University of Houston will meet at the University of Houston, 4800 Calhoun Boulevard, S&R II, Room 201, Houston. According to the agenda summary, the committee will discuss and/or act upon minutes; research protocals; search for new animal care director; expediting review process; and per diem rates.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 749-3412.

Filed: July 10, 1990, 9:56 a.m.

TRD-9006951

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Texas Department of Human Services

Tuesday, July 17, 1990, 9:30 a.m. The Hospital Payment Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, 1st Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will call the meeting to order; hear opening comments; deputy commissioner's comments; outlier payments; utilization review; discuss disproportionate share and donated funds; outpatient hospital emergency room limitations; open discussion by members; and selection of next meeting date.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030.

Filed: July 9, 1990, 4:05 p.m.

TRD-9006930

Tuesday, July 17, 1990, 1:30 p.m. The Adolescent Pregnancy and Parenthood Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street, 1st Floor, West Tower, Conference Room 1W, Austin. According to the complete agenda, the council will call the meeting to order and hear opening remarks; approve minutes; discuss APPAC report to the legislature on content and format; program updates; and wrap-up.

Contact: Liz Silbernagel, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4163.

Filed: July 9, 1990, 4:05 p.m.

TRD-9006929

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State Board of Insurance

Wednesday, July 11, 1990, 9:30 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 414, Austin. According to the emergency complete agenda, the board conducted a public hearing to consider the appeal and motion for stay of commissioner's order 90-0972 by American Pacer Insurance Company. The emergency meeting was necessary in compliance with provision for earliest possible hearing for review of supervision or conservatorship under the Insurance Code, Art. 21.28-A, Sec.7.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: July 6, 1990, 10:41 a.m.

TRD-9006868

Tuesday, July 17, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the commissioners will conduct a public hearing to consider the application of Prudential Property and Casualty Insurance Company, Holmdel, New Jersey, (an Indiana corporation) to acquire control of Southwest American Lloyds Insurance Company, Dallas. Docket number 10892.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:50 p.m.

TRD-9006944

Wednesday, July 18, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the commissioners will conduct a public hearing to consider whether disciplinary action should be taken against Dale Eugene Gillette, Garland, who holds a Group II, Insurance Agent's license. Docket number 10886.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:49 p.m.

TRD-9006942

Wednesday, July 18, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the agenda, the commissioners will conduct a public hearing to consider whether disciplinary action should be taken against Richard E. Esposito, Rockwall, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket number 10843.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:50 p.m.

TRD-9006941

Wednesday, July 18, 1990, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 342, Austin. According to the complete agenda, the commissioners will conduct a public hearing to consider whether disciplinary action should be taken against Riley Eugene Morgan, Lewisville, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket number 10851.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:49 p.m.

TRD-9006945

Friday, July 20, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the commissioners will conduct a public hearing to consider whether disciplinary action should be taken against Thomas Lionel Maynard, Euless/Arlington, who holds a local agent's license. Docket number 10853.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:49 p.m.

TRD-9006946

Friday, July 20, 1990, 5 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 353, Austin. According to the complete agenda, the

commissioners will conduct a public hearing to consider whether disciplinary action should be taken against James Robert Allen, Garland, who holds a Group I, Legal Reserve Life Insurance Agent's license. Docket number 10593.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:49 p.m.

TRD-9006947

Monday, July 23, 1990, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Room 414, Austin. According to the complete agenda, the commissioners will conduct a public hearing to consider whether disciplinary action should be taken against Jimmie Lynn Walden, Austin, who holds a Group I, Legal Reserve Life Insurance Agent's license and a local recording agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: July 9, 1990, 3:49 p.m.

TRD-9006948

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Texas Commission on Jail Standards

Wednesday, July 25, 1990, 1 p.m. The Texas Commission of Jail Standards will meet at 611 South Congress Avenue, Suite 201, Austin. According to the agenda summary, the commission will approve minutes of last meeting, May 23, 1990; discuss old business: Delta County, Hardin County, Harrison County, Kerr County, Morris County, Nueces County, Polk County, Zavala County; Changes to standards; development of private facilities; licensing of private jailers, life safety review committee; management and program development, HIV policy and active remedial orders. New business: Camp County, Jefferson County, Mansfield City Jail, municipal jail needs and assistance, Tarrant County, Wilson County, completed projects, Sunset Commission and T.B. Policy. Application for variances: Tarrant County. Directors report; other business; and executive session.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: July 9, 1990, 10:46 a.m.

TRD-9006922

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Texas State Library and Archives Commission

Tuesday, July 24, 1990, 10 a.m. The Library Systems Act Advisory Board of the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala State Library and Archives Building, Room 314, 1201 Brazos Street, Austin. According to the complete agenda, the board will hear appeals from denial of system membership for failure to maintain effort; other appeals; discussion of possible rule changes; request to change Rule 1.72 to allow public libraries to charge for 900 number information services and laminating; and information and discussion.

Contact: Edward Seidenberg, P.O. Box 12927, Austin, Texas 78701, (512) 463-5459.

Filed: July 6, 1990, 2:02 p.m.

TRD-9006877

Wednesday, July 25, 1990, 9 a.m. The Library Services and Construction Act Advisory Council of the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala State Library and Archives Building, Room 314, 1201 Brazos Street, Austin. According to the complete agenda, the council will hear introductions; determine planning procedures and the timelines; and discuss preliminary issue identification and priority setting.

Contact: Edward Seidenberg, P.O. Box 12927, Austin, Texas 78701, (512) 463-5459.

Filed: July 6, 1990, 2:02 p.m.

TRD-9006875

Wednesday, July 25, 1990, 9 a.m. The Library Systems Act Advisory Board of the Texas State Library and Archives Commission will meet at the Texas State Library and Archives Commission will meet at the Lorenzo de Zavala State Library and Archives Building, Room 314, 1201 Brazos Street, Austin. According to the complete agenda, the board will hear introductions; determine planning procedures and the timelines; and discuss preliminary issue identification and priority setting.

Contact: Edward Seidenberg, P.O. Box 12927, Austin, Texas 78701, (512) 463-5459.

Filed: July 6, 1990, 2:02 p.m.

TRD-9006876

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Texas Department of Licensing and Regulation

Monday, July 16, 1990, 9 a.m. The Business and Occupational Programs, Talent Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 10th Floor Conference Room, 920 Colorado Street, Austin. According to the complete agenda, the department will consider the assessment of an administrative penalty for violation of Texas Civil Statutes, Article 5221a-9, Section 2(a) and Article 9100, concerning db Talent.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-3128.

Filed: July 6, 1990, 4:50 p.m.

TRD-9006900

Monday, July 16, 1990, 1 p.m. The Business and Occupational Programs, Talent Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 10th Floor Conference Room, 920 Colorado Street, Austin. According to the complete agenda, the department will consider the assessment of an administrative penalty for violation of Texas Civil Statutes, Article 5221a-9, Section 2(a) and Article 9100, concerning The Tanya Blair Agency.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-3128.

Filed: July 6, 1990, 4:50 p.m.

TRD-9006899

Wednesday, July 18, 1990, 8:30 a.m. The Business and Occupational Programs, Auctioneers will meet at the E. O. Thompson Building, 10th Floor Conference Room, 920 Colorado Street, Austin. According to the complete agenda, the department will consider the denial, suspension or revocation of license of David Mike Sims, Auctioneer, for violation of Texas Civil Statutes, Article 8700, Section 7 and Article 9100.

Contact: Imelda Escobar, 920 Colorado Street, Austin, Texas 78711, (512) 463-3128.

Filed: July 6, 1990, 4:50 p.m.

TRD-9006901

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Texas Council on Offenders with Mental Impairments

Monday, July 16, 1990, 10:30 a.m. The Executive Committee of the Texas Council on Offenders with Mental Impairments will meet at the Texas Mental Health Association, 8401 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will hear committee reports; receive a report from the executive director; set the agenda for the August council meeting; and discuss old and new business.

Contact: Dee Kifowit, P.O. Box 12546, Austin, Texas 78711, (512) 459-2720.

Filed: July 6, 1990, 8:13 a.m.

TRD-9006827

Wednesday, July 18, 1990, 9 a.m. The Committee on Offenders with Mental Retardation/Developmental Disabilities of the Texas Council on Offenders with Mental Impairments will meet at the Texas Department of Criminal Justice (Parole Division), 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the committee will review the MR/DD Committee Expectations, hear overview of the Mentally Retarded Persons Act, hear project reports and hear announcements.

Contact; Dee Kifowit, P.O. Box 12546, Austin, Texas 78711, (512) 459-2720.

Filed: July 6, 1990, 8:13 a.m.

TRD-9006828

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Monday, July 23, 1990, 3:30 p.m. The Operations Committee of the Texas Board of Nurse Examiners will meet at 9101 Burnet Road, Suite 104, Austin. According to the agenda summary, the committee will receive the minutes from the May 14 and 15, 1990 meeting; receive financial reports for May and June 1990, Legislative Appropriations Request for 1992-93 and discuss strategic planning and committee structure.

Contact: Louise Waddill, R.N., Ph.D., P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: July 6, 1990, 2:03 p.m.

TRD-9006872

Tuesday, July 24, 1990, 8:30 a.m. The Practice Committee of the Texas Board of Nurse Examiners will meet at the Red Lion Hotel, 6121 North IH-35 at Highway 290, Austin. According to the agenda summary, the committee will receive the minutes from the May 15, 1990 meeting; minutes of the July 13, 1990 ANP Committee meeting; receive information on the status of the prescriptive drug orders which includes the progress being made by the Medical Board, an update on approval of ANP applicants and a report of the TDH Advisory Committee on HB 18; receive information on the Task Force on Foreign Nurse Graduates; consider criteria for refresher courses; and updates on the speaking tour of Texas workshop, status of the continuing education advisory committee and consider a petition to accept Arkansas ANP programs.

Contact: Louise Waddill, R.N., Ph.D., P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: July 6, 1990, 2:04 p.m.

TRD-9006871

Tuesday, July 24, 1990, 9:30 a.m. The Education Committee of the Texas Board of Nurse Examiners will meet at the Red Lion Hotel, 6121, North IH-35 at Highway 290, Austin. According to the agenda summary, the committee will receive the minutes from the May 15, 1990 meeting; reports from three survey visits; consider time line for tactical objectives and action plans; receive information regarding the evaluations of survey visits, faculty petitions, and the survey visit schedule for academic year 1990-91. The board will hold public hearings on July 24, 1990 for the following: at 10 a.m. to consider the request of The University of Texas Health Science Center at Houston to establish a generic MSN program; at 10:15 a.m. to consider the request of Victoria College to establish an extended campus at Seguin, ADN program; and at 10:30 a.m. to consider the request of Amarillo College, ADN program to establish an extended campus at Vernon.

Contact: Louise Waddill, R.N., Ph.D., P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: July 6, 1990, 2:04 p.m.

TRD-9006870

Tuesday-Thursday, July 24-26, 1990, 8 a.m. The Board of Nurse Examiners will meet at the Red Lion Hotel, 6121 North IH-35 at Highway 290, Austin. The board will consider the minutes of the May 15-17, 1990 meeting; hold an open forum on July 24, 1990 at 1:30 p.m. to receive input from interested parties; consider possible action on disciplinary hearings and other action as recommended by the executive director in relation to hearings and consider seven reinstatement requests. The board will receive reports from various committees; consider adoption of peer assistance rule change; and receive reports from three meetings/conventions attended by staff.

Contact: Louise Waddill, R.N., Ph.D., P.O. Box 140466, Austin, Texas 78714, (512) 835-8650.

Filed: July 6, 1990, 2:03 p.m.

TRD-9006873

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Texas Board of Licensure for Nursing Home Administrators

Wednesday, July 18, 1990, 11 a.m. The Texas Board of Licensure for Nursing Home Administrators will meet at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, the board will approve agenda; approve April 18, 1990, minutes; discuss personal appearances; education committee report, Executive LAR Committee Report; ex officio reports (TDH, DHS, TDoA), executive director's report and disciplinary actions: Charles Moore, #6119, and Jimmie Moore, #4020, and chair's report.

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

Filed: July 5, 1990, 10:48 a.m.

TRD-9006771

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Texas Department of Criminal Justice Board of Pardons and Paroles

Monday-Friday, July 16-20, 1990, 10 a.m. The Texas Department of Criminal Justice Board of Pardons and Paroles will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, the board (composed of 3 board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: July 6, 1990, 11:04 a.m.

TRD-9006843

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The Texas Board of Private Investigators and Private Security Agencies

Wednesday, July 18, 1990, 10 a.m. The Texas Board of Private Investigators and Private Security Agencies will meet at the Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the complete agenda, the board will approve minutes; approval of staff action of new licenses; suspension orders; reinstatement orders; certificates for replacement managers; license terminations; revocations; denials, reprimands, requests for waiver of board rule; requests for rehearings; other proposals for decision and related issues; and update on agency activities.

Contact: Clema D. Sanders, 313 East Anderson Lane, Austin, Texas 78752, (512) 463-5545.

Filed: July 5, 1990, 2:21 p.m.

TRD-9006813

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Texas State Board of Public Accountancy

Thursday, July 13, 1990, 10 a.m. The Quality Review Committee of the Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the complete agenda, the board will review possible substantive rules for Quality Review Program.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: July 5, 1990, 3:48 p.m.

TRD-9006838

Tuesday, July 17, 1990, 2 p.m. The Texas State Board of Public Accountancy will hold a public hearing on complaint number 88-06-10L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: July 6, 1990, 10:28 a.m.

TRD-9006842

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Texas Public Utility Commission

Thursday, July 19, 1990, 9 a.m. The Hearings Division of the Texas Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing conference is scheduled in Docket number 9623, application of Southwestern Bell Telephone Company to provide for an addition to the existing plexar (sm) - custom digital service for Tarrant County in Forth Worth.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1990, 3:07 p.m.

TRD-9006881

Friday, August 3, 1990, 9 a.m. The Hearings Division of the Texas Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a hearing on the merits has been scheduled in Docket number 9427, application of Lower Colorado River Authoriity for Authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1990, 3:08 p.m.

TRD-9006878

Tuesday, August 28, 1990, 10 a.m. The Hearings Division of the Texas Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a prehearing conference has been scheduled in Docket number 9584, application of AT&T Communications of the Southwest, Inc., to revise tariff to offer a discount to Texas AT&T 800 Readyline customers who choose to have their AT&T 800 Readyline service terminate on a multijurisdictional dedicated access line.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1990, 3:08 p.m.

TRD-9006880

Friday, September 7, 1990, 10 a.m. The Hearings Division of the Texas Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a hearing on the merits has been scheduled in Docket number 9584, application of AT&T Communications of the Southwest, Inc., to revise tariff to offer a discount to Texas AT&T 800 Readyline customers who choose to have their AT&T 800 Readyline service terminate on a multijurisdictional dedicated access line.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1990, 3:08 p.m.

TRD-9006879

Monday, October 22, 1990, 10 a.m. The Hearings Division of the Texas Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, a hearing on the merits has been scheduled for Docket number 9592, application of San Miguel Electric Cooperative, Inc., for authority to implement a permanent reduction in rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 6, 1990, 3:07 p.m.

TRD-9006882

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State Purchasing and General Services Commission

Wednesday, July 18, 1990, 9 a.m. The State Purchasing and General Services Commission will meet at the Central Services Building, Conference Room 402, 1711 San Jacinto Street, Austin. According to the agenda summary, the commission will discuss final adoption of amendments to sections 113.2-.6, 113. 9-.12, 113.14, 113.31, 113.73, 113.91-.95, 113.99, new sections 113.81-.87, and repeal of section 113.16; Texas Department of Mental Health and Mental Retardation delegation of purchasing authority; findings concerning the chairman accepting dual office appointments; real estate leasing services; sections 113.2 and 113.3 regarding restrictive specifications; 1992-1993 appropriation request for the purchasing division; construction project report; operating budget report; 3.09 report; division activity report; executive session regarding potential purchase of real property pursuant to Article 601b; and executive session regarding the status of all pending litigation.

Contact: John R. Neel, 1711 San Jacinto Street, Austin, Texas 78701 (512) 463-3446.

Filed: July 9, 1990, 4:45 p.m.

TRD-9006937

Wednesday, July 25, 1990, 8:30 a.m. The School Bus Committee of the State Purchasing and General Services Commission will meet at the Central Services Building, Conference Room 402, 1711 San Jacinto Street, Austin. According to the complete agenda, the committee will discuss school bus bodies, chassis, engines, options, safety items, various accessories, and the approved products list.

Contact: Troy Martin, 1711 San Jacinto Street, Austin, Texas 78701, (512) 463-3415.

Filed: July 9, 1990, 4:45 p.m.

TRD-9006938

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Texas Real Estate Commission

Monday, July 16, 1990, 9:30 a.m. The Texas Real Estate Commission will meet at the Texas Real Estate Commission Headquarters Office, 1101 Camino La Costa, Conference Room 235, Austin. According to the agenda summary, the commission will discuss minutes of June 11 and 20, 1990 commission meeting; staff reports for month of May, 1990; discussion of appraiser certification matters; proposed new TAC §§544.1-544.9 relating to appraiser certification, and 8537.11 relating to computer reproduction of forms, and §§535.164-535.165 relating to agency disclosure; discussion and possible action to approve MCE providers, courses, or instructors; to approve proprietary or trade association schools or courses; discussion of federal and state fair housing matters; request for authorization to conduct an investigation on complaint information concerning Robert Draheim; executive session to discuss pending litigation and personnel matters pursuant to §2(e) and §2(g), Article 6252-17, Texas Civil Statutes, and to discuss examination questions pursuant to Attorney General Opinion Number H-484; authorization for payment of claims against the Real Estate Recovery Fund without contest; motions for rehearing and/or probation; and entry of orders in contested cases.

Contact: Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3900.

Filed: July 5, 1990, 3:09 p.m.

TRD-9006817

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House of Representatives

Friday, July 13, 1990, 2 p.m. The House Committee on Redistricting of the Texas House of Representatives will meet at the Brown Lupton Student Center Ballroom,

TCU Campus, Fort Worth. According to the complete emergency agenda, the committee will take public testimony on congressional, legislative, and state board on education redistricting topics for the 1991 redistricting effort. The committee plans to recess at 5 p.m. and reconvene at 6:30 p.m. The emergency meeting was necessary due to information submitted late.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78769, (512) 463-9948.

Filed: July 5, 1990, 10:53 a.m.

TRD-9006773

Saturday, July 14, 1990, 10 a.m. The House Committee on Redistricting of the Texas House of Representatives will meet at the Dallas Convention Center, Room W101, Dallas. According to the complete emergency agenda, the committee will take public testimony on congressional, legislative and state board of education redistricting topics for the 1991 redistricting effort. The committee plans to recess at 1 p.m. and reconvene at 2 p.m. The emergency meeting was necessary due to information submitted late.

Contact: Brian Jammer, P.O. Box 2910, Austin, Texas 78768-2910, (512) 463-9948.

Filed: July 5, 1990, 10:53 a.m

TRD-9006774

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School Land Board

Tuesday, July 17, 1990, 10 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will aprrove minutes of previous meeting; discuss application for lease suspension, Holly Beach Field, Cameron County; pooling agreement amendment, Alabama Ferry Glenrose "D" north unit, Leon County; pooling applications, Hubbard Field, Loving County and Wildcat Field, Galveston County; consideration of nominations, terms, conditions and procedures for the 10-2-90 oil, gas and other minerals lease sale; applications to lease highway right of way for oil and gas, Live Oak County; Jackson County; Parker County and Haskell County; report and consideration of policy on excess acreage; excess acreage applications, Uvalde County and Hood and Johnson Counties; 2 direct land sales, Victoria County, and Red River County; coastal public lands, commercial lease application, Laguna Madre, Nueces County; commercial lease renewal, Sabine Pass Port Authority, Sabine River, Jefferson County; easement application, Carancahua Bay, Jackson and Calhoun Counties; structure permit terminations, Laguna Madre, Kenedy County and Laguna Madre, Willacy County; structure permit request, Laguna Madre, Kenedy County; executive session, final approval of land acquisition; and pending and proposed litigation.

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

Filed: July 9, 1990, 4:10 p.m.

TRD-9006932

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Advisory Commission on State Emergency Communications

Tuesday, July 17, 1990, 1:30 p.m. The Telecommunicator Award Criteria Committee of the Advisory Commission on State Emergency Communications will meet at the Arlington Convention Center, 1200 Stadium Drive, Arlington. According to the complete agenda, the committee will call the meeting to order; introduce guests; evaluate nominations received and select recipients of telecommunicator award; and discuss any new business.

Contact: Glenn Roach, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: July 9, 1990, 4:43 p.m.

TRD-9006936

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Texas State Technical Institute

Friday, July 20, 1990, 10 a.m. The Board of Regents of the Texas State Technical Institute will meet at the Texas State Technical Institute Activity Center, Amarillo. According to the agenda summary, the board will discuss and review of the following Texas State Technical Institute policy committee minute orders and reports, Chancellor's recommendations and the executive session of the Board of Regents in accordance with Texas Civil Statutes, Article 6252-17, Section 2, Subsection (f) and (g): policy committee for instruction and student services; facilities; fiscal affairs; human resources and development; special ad hoc committee for construction; and chancellor's recommendations (committee of the whole).

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 9, 1990, 10:04 a.m.

TRD-9006925

Saturday, July 21, 1990, 9 a.m. The Board of Regents of the Texas State Technical Institute will meet at the Texas State Technical Institute Activity Center, Amarillo. According to the agenda summary, the board will approve policy committee minute orders, reports; classes meeting with less than ten students, assistance to faculty whose primary language is not english; faculty employment contracts, aircraft mechanic program at Texas State Technical Institute, Sweetwater-Abilene extension; requests for budget change; lease agreements with Rita Denney at TSTI-Waco; lease agreement with Servion, Inc., at TSTI-Waco; sale of surplus property at TSTI-Waco; easement for TU electric substation at TSTI-Waco; easement for access to proposed TU electric easement for electric power supply at TSTI-Harlingen, easement for electrical power supply at TSTI-Harlingen; appointing a project architect for engineering graphics at TSTI-Harlingen; addendum for student center at TSTI-Harlingen; lease agreement with Abilene Industrial Foundation at Sweetwater; TSTI group insurance coverage; selection of third party administration - Donovan Benefit Systems, Inc. ; appeal of Stanley W. Black; resolution honoring the memory of Kimberly Kendall; and appropriation request.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 9, 1990, 10:03 a.m.

TRD-9006926

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University of Texas System

Wednesday, July 18, 1990, 9:30 a.m. The Board for Lease of University Lands of the University of Texas System will meet at the Midland Hilton Hotel, Ballroom "B", Midland. According to the agenda summary, the board will approve minutes; discuss ratification of contract and future sale; prorated or reduced production; litigation; future lease sales; approval of tracts; recess for 10 a.m. sealed bid sale; and approval of lease awards to highest bidders.

Contact: Linward Shivers, 210 West 6th Street, 78702, (512) 499-4462.

Filed: July 10, 1990, 9:23 a.m.

TRD-9006949

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Texas Water Commission

Thursday, July 19, 1990, 1:30 p.m. The Water District and River Authority Supervision Advisory Committee of the Texas Water Commission will meet at the Stephen F. Austin Building, Room 618, 1700 North Congress Avenue, Austin. According to the complete agenda, the committee will conduct a public meeting.

Contact: Dean Robbins, P.O. Box 13087, Austin, Texas 78711, (512) 463-7941.

Filed: July 6, 1990, 3:49 p.m.

TRD-9006890

Wednesday, August 8, 1990, 3 p.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118,

1700 North Congress Avenue, Austin. According to the complete agenda, the commission will conduct a hearing regarding the adoption of standby fees for Harris County Municipal Utility District number 221.

Contact: Brenda W. Foster, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: July 6, 1990, 3:48 p.m.

TRD-9006889

Tuesday, August 21, 1990, 10 a.m. The Texas Water Commission will meet at the City of Texarkana's Southwest Center Study Room, 3222 West 7th (Highway 67), Texarkana. According to the agenda summary, the commission will review application for amendment to Compliance Plan CP-50076 by Kerr-McGee Chemical Corporation, 155 Buchanan Road, Texarkana, Bowie County. The purpose of the hearing will be to receive evidence on the conditions, if any, under which the amendment may be issued. The facility is in drainage area of segment 304 of the Sulfur Basin.

Contact: James Murphy, P.O. Box 13087, Capitol Station, Austin, Texas 78711-3087, (512) 463-7875.

Filed: July 6, 1990, 3:49 p.m.

TRD-9006886

Wednesday, August 29, 1990, 9:30 a.m. The Texas Water Commission will meet at the Port Lavaca City Council Room, 101 North Virginia, Port Lavaca. According to the agenda summary, the commission will review application for an amendment to Permit number HW-50143 which authorizes a Class I hazardous industrial solid waste storage, processing, and disposal facility for BP Chemicals, Inc., Port Lavaca, Calhoun County. The purpose of the hearing will be to receive evidence on the conditions, if any, under which the amendment may be issued. The facility is in the drainage area of segment 1701 of the Lavaca-Guadalupe Basin.

Contact: Carol Wood, P.O. Box 13087, Capitol Station, Austin, Texas 78711-3087, (512) 463-7875.

Filed: July 6, 1990, 3:49 p.m.

TRD-9006887

Wednesday, September 5, 1990, 9 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider emergency order for City of Midland to authorize discharge of primary treated domestic wastewater from its water pollution control plant number 1 located immediately southeast of the intersection of Interstate Highway 20 and State Highway 307 in Midland County. Discharge would be to 123 acres of existing irrigation holding lagoons approximately 3/4 mile from the plant, adjacent to Midland Draw on irrigated lands located in the drainage of the Colorado River Basin in segment number 1412.

Contact: Robert Martinez, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: July 6, 1990, 3:49 p.m.

TRD-9006888

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Texas Workers' Compensation Commission

Thursday-Friday, July 12-13, 1990, 9 a.m. The Texas Workers' Compensation Commission will meet at the Bevington A. Reed Building, 200 East Riverside Drive, 2nd Floor, Room 255, Austin. According to the agenda summary, the commission will approve minutes of public meeting 6-14-90; discussion and consideration of procedure on commissioner's remuneration; medical fee guidelines comparison study; report to commissioners on rules process; proposed rules concerning chapter 100, general provisions/practice and procedure; chapter 110, coverage/notice and reporting requirements; chapter 120, compensation procedures/employers; chapter 122, compensation procedures/claimants; chapter 126, benefits/general provisions; chapter 133, medical benefits/general provisions; chapter 156, representation of parties before the agency/carriers' Austin rep.; progress report on Texas Workers' Compensation Commission reorganization; discussion of next public meeting and agenda.

Contact: George E. Chapman, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: July 6, 1990, 4:25 p.m.

TRD-9006892

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Regional Meetings

Meetings Filed July 5, 1990

The Bexar-Medina-Atascosa Counties Water Control 7 Improvement District Number 1 Board of Directors met at the District Office, Highway 81, Natalia, July 9, 1990, at 8 a.m. Information may be obtained from C.A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Bosque Central Appraisal District Appraisal Review Board met at the Bosque Central Appraisal District Office, 104 West Morgan Street, Meridian, July 10, 1990, at 9 a.m. Information may be obtained from Billye L. McGehee, P.O. Box 393, 104 West Morgan Street, Meridian, Texas 76665, (817) 435-2304.

The Brazos Valley Development Council Personnel Committee met at the Council Offices, 3006 East 29th Street, Suite 7, Bryan, July 11, 1990, at 11 a.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277.

The Brazos Valley Development Council Executive Committee met at the Council Offices, 3006 East 29th Street, Suite 2, Bryan, July 11, 1990, at 1: 30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277.

The Central Appraisal District of Taylor County Board of Directors met at 1534 South Treadaway, Abilene, July 11, 1990, 10 a.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The Concho Valley Council of Governments Executive Committee met at 5014 Knickerbocker Road, San Angelo, July 11, 1990, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Dallas Central Appraisal District Board of Directors met at 1420 West Mockingbird Lane, #500, Dallas, July 11, 1990, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Suite 500, Dallas, Texas 75247, (214) 631-0520.

The Eastland County Appraisal District Board of Directors will meet at the Eastland County Courthouse, Main Street, second Floor Commissioner's Courtroom, Eastland, July 18, 1990, at 1 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, July 12, 1990, at 5 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

The Hickory Underground Water Conservation District Number 1 met at 2023 South Bridge Street, Brady, July 12, 1990, at 7 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, July 9, 1990, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Hood County Appraisal District Board of Directors will meet at the District Office, 1902 West Pearl, Granbury, July 17, 1990, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048,

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth

Street, Lampasas, July 11, 1990, at 8:30 a.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, July 11, 1990, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Lavaca County Central Appraisal District Appraisal Review Board will meet at the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, July 20, 1990, at 8:30 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Martin County Appraisal District Board of Directors will meet at Guy's Restaurant, Stanton, July 13, 1990, at 6:30 a.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Nueces-Jim Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors will meet at 710 East Main Street, Robstown, July 17, 1990, at 2 p.m. Information may be obtained from Joan D. Rumfield, 710 East Main Street, Robstown, Texas 78380, (512) 668-8363.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, July 16, 1990, at 1:30 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, July 17, 1990, at 1:30 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, July 18, 1990, at 1:30 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Rusk County Appraisal District Appraisal Review Board met at the Administrative Offices, 107 North Van Buren, Henderson, July 9-10, 1990, at 9 a.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, July 10, 1990, 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.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, July 10, 1990, 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.

The South Plains Association of Governments Board of Directors met at 1323 58th Street, Lubbock, July 10, 1990, 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.

The Sulphur-Cypress Soil and Water Conservation Service #419 met at 1603 North Jefferson Street, Mt. Pleasant, July 11, 1990, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1603 North Jefferson, Mt. Pleasant, Texas 75455, (214) 572-5411.

The Swisher County Appraisal District Board of Directors met at 130 North Armstrong, July 12, 1990, at 7:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

The Texas Municipal Power Agency (TMPA) Board of Directors met at the Gibbons Creek Steam Electric Station Administration Building, on FM-244, north of Carlos, Carlos, July 12, 1990, at 9 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

The Texas Regional Planning Commission Employee Benefit Agency Board of Trustees met at the Radisson Plaza Hotel, July 12, 1990, at 10 a.m. Information may be obtained from Jack Gazelle, H-GAC, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, July 16, 1990, at 9 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, July 17, 1990, at 9 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-9006770

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Meetings Filed July 6, 1990

The Archer County Appraisal District Board of Directors met at the Appraisal District Office, 211 South Center, Archer City, July 11, 1990, at 5 p. m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124 Regal Row, Austin, July 9, 1990, at 7 p.m. Information may be obtained from Bill E. Couch, 1124 A Regal Row, Austin, Texas 78748, (512) 282-8841.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124 Regal Row, Austin, July 9, 1990, at 1:30 p.m. Information may be obtained from Bill E. Couch, 1124 A Regal Row, Austin, Texas 78748, (512) 282-8841.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124 Regal Row, Austin, July 9, 1990, at 1:30 p.m. Information may be obtained from Bill E. Couch, 1124 A Regal Row, Austin, Texas 78748, (512) 282-8841.

The Blanco County Appraisal District Board of Directors met at the Blanco County Courthouse Annex, Johnson City, July 10, 1990, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Brazos Higher Education Authority Inc. Executive Committee of the Board of Directors met at 2600 Washington Avenue, Waco, July 11, 1990, at 11 a.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0915.

The Community Justice Council for the 36th, 156th, and 343rd Jucicial Districts Community Supervision and Corrections Department will meet at 301 West Sinton, Sinton, July 13, 1990, at 2 p.m. Information may be obtained from Dana J. Hendrick, 404 West Market Street, Sinton, Texas, (512) 364-4243.

The Community Justice Council for the 36th, 156th, and 343rd Judicial Districts Community Supervision and Corrections Department will meet at 301 West Sinton, Sinton, July 13, 1990, at 2 p.m. Information may be obtained from Dana J. Hendrick, 404 West Market Street, Sinton, Texas, (512) 364-4243.

The Dallas Area Rapid Transit Minority Affairs Committee met at the Dallas Area Rapid Transit Office, 601 Pacific Avenue, Dallas, July 10, 1990, at 1:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Mobility Impaired Committee met at the Dallas Area Rapid Transit Office, 601 Pacific Avenue, Dallas, July 10, 1990, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit Operation Committee met at the Dallas Area Rapid Transit Office, 601 Pacific Avenue, Dallas, July 10, 1990, at 3:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214)

658-6237.

The Dallas Central Appraisal District Appraisal Review Board will meet at 1420 West Mockingbird Lane, Suite 500, Dallas, July 20, 1990, at 10 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Dallas, Texas 75247, (214) 631-0520.

The Garza County Appraisal District Board of Directors met at 124 East Main Street, Post, July 12, 1990, at 9 a.m. Information may be obtained from Billie Windham , P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Grand Parkway Association met at 5757 Woodway, 140 East Wing, Houston, July 11, 1990, at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 654-1586.

The Guadalupe-Blanco River Authority Board of Directors (Long Range Planning Committee) met at the Authority's Offices, 933 East Court Street, Seguin, July 11, 1990, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

The Hays County Appraisal District Board of Directors met at 632 "A" East Hopkins, Municipal Building, San Marcos, July 12, 1990, at 8:30 p.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins, San Marcos 78666, (512) 754-7400.

The Jack County Appraisal District Appraisal Review Board met at 216-D South Main Street, Los Creek Office Building, Jacksboro, July 11, 1990, at 8:30 a.m. Information may be obtained from Gary L. Zeitler or Donna E. Hartzell, 216-D South Main Street, Jacksboro, Texas 76056, (817) 567-6301.

The Lower Colorado River Authority Retirement Benefits Committee met at 3700 Lake Austin Boulevard, Austin, July 12, 1990, at 9 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3250.

The North Central Texas Council of Governments for the Local Government Investment Fund for Texas will meet at 616 Six Flags Drive, Suite 200, Arlington, July 13, 1990, at noon. Information may be obtained from Charles Cason III, 616 Six Flags Drive, Suite 200, Arlington, Texas 76010, (817) 640-3300.

The Red River Authority of Texas Board of Directors will meet at the Wichita Falls Activity Center, 607 Tenth Street, Wichita Falls, July 18, 1990, at 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Street, Wichita Falls, Texas 76301, (817) 723-8697.

The Texas Association of Regional Councils Board of Directors will meet at the Lonestar Room, Radisson Plaza Hotel, Austin, July 13, 1990, at 9 a.m. Information may be obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas, 78701, (512) 478-4715.

The West Central Texas Economic Development District Board of Directors met at 1025 East North 10th Street, Abilene, July 10, 1990, at 10:30 a. m. Information may be obtained from Brad Helbert, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.

The West Central Texas Municipal Water District met in a revised agenda at 401 Cypress Street, Suite 300, Abilene, July 12, 1990, at 8 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, July 10, 1990, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, July 11, 1990, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, July 17, 1990, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

TRD-9006829

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Meetings Filed July 9, 1990

The Central Appraisal District of Johnson County Board of Directors will meet at 109 North Main, Suite 201, Room 202, Cleburne, July 19, 1990, at 4:30 p.m. Information may be obtained from Jackie Gunter, 1109 North Main, Cleburne, Texas 76031, (817) 645-3986.

The Central Appraisal District of Johnson County Board of Directors will meet at 109 North Main, Suite 201, Room 202, Cleburne, July 19, 1990, at 4:30 p.m. Information may be obtained from Jackie Gunter, 1109 North Main, Cleburne, Texas 76031, (817) 645-3986.

The Dewitt County Appraisal District Appraisal Review Board met in emergency meeting at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, July 10, 1990, at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The El Oso Water Supply Corporation Board of Directors met at their office, Karnes City, July 10, 1990, at 8 p.m. Information may be obtained from Hilmer Wagener, P.O. Box 309, Karnes City, Texas 78118, (512) 780-3539.

The Jones County Appraisal District Board of Directors will meet at the District's Office, 1137 East Court Plaza, Anson, July 19, 1990, at 8:30 a. m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas 79501.

The Leon County Central Appraisal District Appraisal Review Board will meet at the Leon County Central Appraisal District Office, Gresham Building, Centerville, July 12-13, 1990, at 8:30 a.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

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The Lower Neches Valley Authority Board of Directors will meet at the Lower Neches Valley Authority Office Building, 7850 Eastex Freeway, Beaumont, July 17, 1990, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3463, Beaumont, Texas 77704, (409) 892-4011.

The Middle Rio Grande Development Council Texas Review and Comment System Committee met at the Civic Center Reading Room, 300 East Main Street, Uvalde, July 11, 1990, at 10 a.m. Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, July 26, 1990, at 4 p.m. Information may be obtained from Carl W. Riehn, P.O. Drawer C, Wylie, Texas 75098, (214) 442-5405.

The Nortex Regional Planning Commission Executive Committee will meet at the Wichita Falls Activities Center, Room 214, 10th and Indiana, Wichita Falls, July 19, 1990, at noon. Information may be obtained from Dennis Wilde, 2101 Kemp Boulevard, Wichita Falls, Texas 76307, (817) 322-5281.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, July 18, 1990, at 3 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The San Antonio River Authority Board of Directors will meet at the San Antonio River Authority General Offices, 100 East Guenther Street, San Antonio, July 18, 1990, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373.

The Scurry County Appraisal District Appraisal Review Board will meet at 2612 College Avenue, Snyder, July 12-13, 1990, at 9 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Swisher County Appraisal District Appraisal Review Board will meet at 130 North Armstrong Street, Tulia, July 17-18, 1990, at 8 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

The Wise County Appraisal District Board of Directors met at the Appraisal District Office, Board Room, 206 South State Street, Decatur, July 12, 1990, 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, July 17, 1990, at 9 a.m. Information may be obtained from Peggy Price, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.

TRD-9006902

Meetings Filed July 10, 1990

The Callahan County Appraisal District Board of Directors will meet at the Callahan County Appraisal District Office, 130 West 4th Street, Baird, July 16, 1990, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Capital Area Planning Council Executive Committee will meet at 2520 IH-35 South, Suite 100, Austin, July 17, 1990, at 2 p.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704-5798, (512) 443-7653.

The Deep East Texas Council of Governments Executive committee will meet at the Diboll City Hall, 400 Kenley Street, Diboll, July 16, 1990, at 10 a.m. Information may be obtained from Lewis J. Johnson, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt County Appraisal Office, 103 Bailey Street, Cuero, July 17, 1990, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

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.

Child Care Development Board

Request for Information

Statement of Purpose. The State of Texas, as a major employer, requires a skilled, productive, and committed workforce. Like employers throughout the nation, state agencies must respond to the new needs of their employees. Family-sensitive policies have been shown to increase productivity and decrease turnover. Employer assistance in meeting the needs of working parents is becoming a crucial factor in the competition for skilled workers. For these reasons the state wishes to provide employer-supported, on site child care.

Purpose of Request for Information. The purpose of this request for information (RFI) is to inform the child care provider community of the state's intention to establish a child care facility for Capitol Complex employees in January, 1991. It is further intended to solicit feedback from qualified private vendors who desire to enter into contract with the State of Texas to develop and administer this child care center for 80 to 160 children ranging in age from six weeks through five years. It is anticipated that selection of a provider will be completed by October, 1990.

Responses to RFI. Interested vendors are requested to submit a written statement that includes, but is not limited to the following: a brief description of your experience in the child care field; your interest in bidding on this project; any additional information you might need from the state to make an accurate bid.

Subsequent to the RFI a comprehensive request for proposal (RFP) will be issued. Responses to this RFI should be submitted in writing to the Child Care Development Board no later than 5 p.m. (CST), July 27, 1990. The contact person is Judith Dale, Deputy Commissioner for Central Administration and Fiscal Management, Texas General Land Office, 1700 North Congress Avenue, Room 810-A, Austin, Texas 78701-1495, (512) 463-5130.

Inquiries concerning the RFI should be also directed to Judith Dale.

Issued in Austin, Texas, on July 9, 1990.

TRD-9006915 Judith Dale
Deputy commissioner of Central Administration and Fiscal Management
Child Care Development Board

Filed: July 9, 1990

For further information, please call: (512) 463-5130

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Texas Department of Commerce

Request For Proposals

Overview. The Texas Department of Commerce (Commerce) requests offers from qualified companies or individuals to develop a trade lead database application that will become a part of Commerce's Texas information system (TEXIS). TEXIS is a user friendly, menu driven data retrieval system accessible to in-house and remote users. Commerce obtains the trade leads from its foreign offices, the United States Department of Commerce, and directly from foreign buyers.

The applicant selected must demonstrate the necessary criteria and experience listed in the Qualifications Section and will be required to perform the various services listed in the Scope of Services Section. The acceptance of an offer by Commerce, made in response to this request, will be based on its evaluation of the factors described as follows.

Project Deliverable. The deliverable of this project will be an electronic trade lead system accessible through TEXIS that provides end users with a flexible application for accessing trade leads by product or country.

Scope of Services. TEXIS is being developed on a data general minicomputer using a SQL-based relational database management program (Oracle) running under data general's AOS/VS operating system. The trade lead system produced by this proposed effort will reside in the same relational database system. The successful candidate will be required to develop the trade lead system with the following features: a menuing system for data retrieval (approximately six screens); data entry screens (approximately four); a trade lead loading script for loading in trade leads from an ASCII format and parsing them into the appropriate fields; key word search capabilities on approximately 10 fields; report generation capabilities (approximately four reports); documentation of the system that identifies relationships among the application's forms, triggers, and tables. It is anticipated that the trade lead system will have no more than 2,000 trade leads loaded at any one time. For a clearer idea of how the system is currently conceived see Attachment A following.

Attachment A

Conceptual Design for International Trade Lead System
Texas Department of Commerce

TEXIS
International Trade System

1) International Trade Leads
2) Upcoming Trade Shows, Missions, & Seminars
3) Texas Export Data
4) Foreign Markets Profiles
5) Texas Business Directory
6) Directory of Indirect Exporters Consultants
7) Profile of Foreign Direct Investment in Texas

Please Enter Your Option: 1

TEXIS
International Trade Leads

There are 15 new leads since your last inspection, 3 of which match your set of preferred products/services. There are a total of 207 active leads.

1) Trade Lead Search

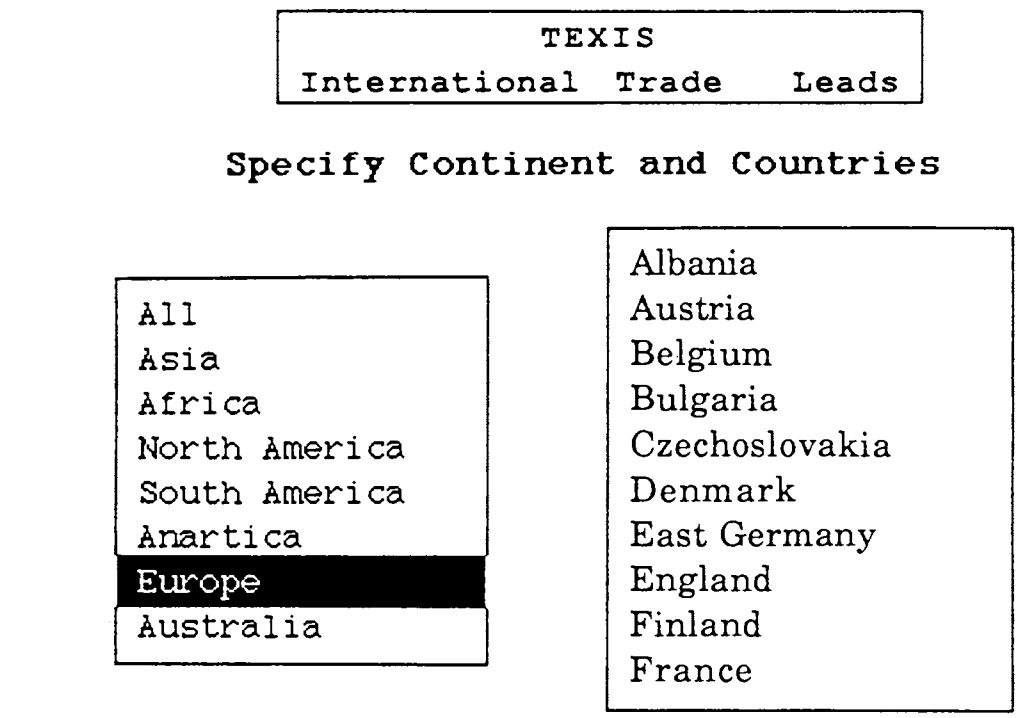
2) Display Leads from Preferred List

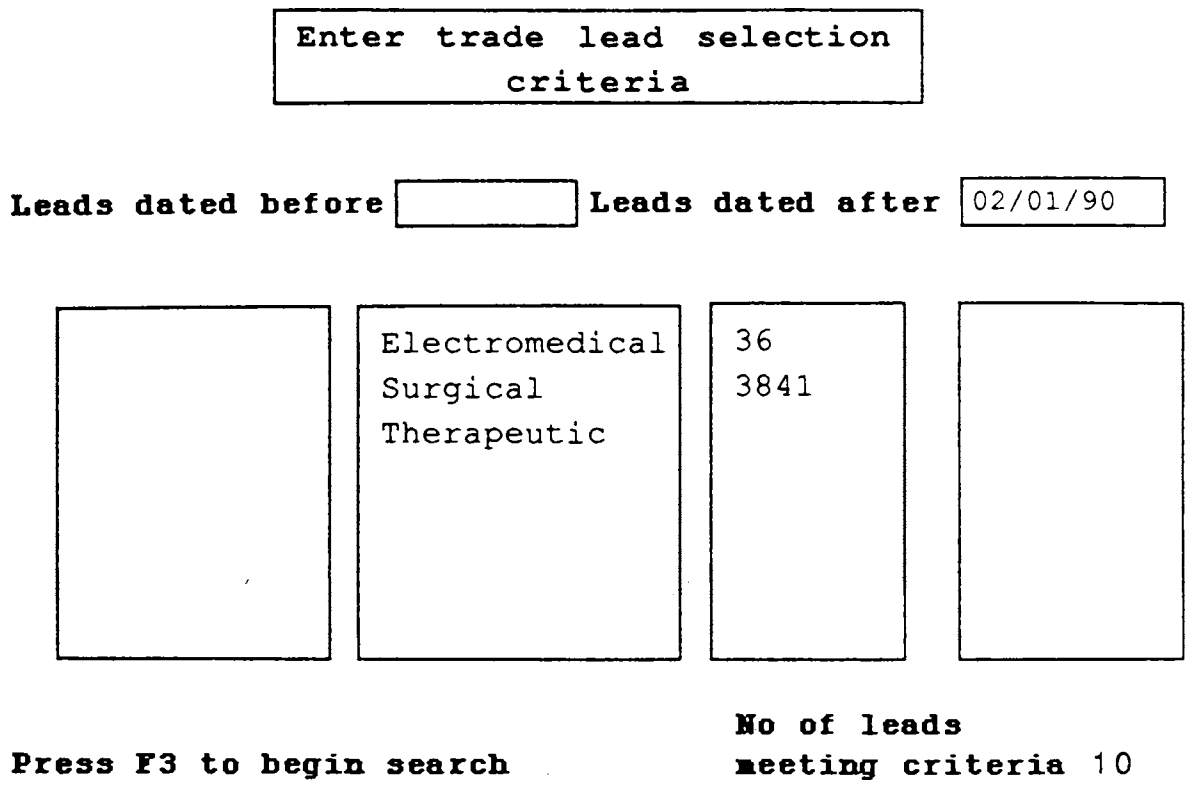
4) Submit a trade lead

5) Alter list of Preferred Products/Services

6) Return to previous menu

Please Enter Your Option: 1


TEXIS
International Trade Leads
Specify Continent and Countries
All
Asia
Africa
North America
South America
Anartica
Europe
Australia
Albania
Austria
Belgium
Bulgaria
Czechoslovakia
Denmark
East Germany
England
Finland
France
Press F3 when done selecting countries


Enter trade lead selection criteria
Leads dated before
Leads dated after
02/01/90
Electromedical
Surgical
Therapeutic
36
3841
Press F3 to begin search
No of leads meeting criteria 10

Reference number: ITL900308.001 Expiration Date: 6/8/90 1 of 10
Country : West Germany Date Entered: 3/8/90
Terms : Buy, Direct sale for resale

		SIC	HS
Industry	: Medical		
Product/Service	: Electomedical Equipment	(3693)	( )
	: Surgical Instruments	(3841)	( )
	: Orthopetic/Therapeutic Appar	(3841)	( )

Firm founded: N/A; Employees:600; Annual Sales: DM 50-200 Mil; Subject company distributes medical equipment. The firm's market area extends throughout Europe and Asia.

Company Contact : Mr. Schwenke
Company Name : KOEHLER & BONKAMP GMBH & CO.
Mailing Address : Postfach 200910
City/State : D-5600 Wuppertal
Phone : 0202/7084245
Telex : 202320
Fax : 0202/7084250
Copy To : Commercial Officer (TOP)
American Consulate General
Stuttgart, F.R. Germany

Commerce Participation. Commerce will make adequate working space and machine time available to the successful applicant. In addition, the research and planning programming staff and the International Trade Division staff will work closely with the successful applicant during the design and testing phase of the system.

Applicant Qualification. Each applicant must demonstrate or provide evidence to the satisfaction of Commerce that such entity/individual: has direct relevant experience programming in Oracle; capacity for carrying out the work listed in the Scope of Services Section; can commence the project by July 16 and complete it by August 15, 1990.

Please provide evidence of the preceding requirements and a proposal which includes: a detailed description of the plan of action to fulfill the requirements described in the Scope of Services Section; resumes of applicant's staff who will be assigned to work on the project; timeline for implementing the project; cost for the services.

Responses must be received no later than 5 p.m., July 11, 1990. Responses received after this deadline will not be considered. We anticipate entering into the resulting contract on July 16, 1990.

Commerce retains the right to accept or reject any or all proposals. Commerce is under no legal requirement to execute a resulting contract from making this request for proposal and intends the material provided herein only as a means of identifying and considering various contractor alternatives and the general costs of services derived. This request for proposal does not commit Commerce to pay any costs before execution of a contract. Commerce may vary the provisions set forth herein before execution of a contract.

The state assumes no responsibility for expenses incurred in preparing responses to this solicitation. Please address responses to Tom Linehan, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711, (512) 320-9609.

Issued in Austin, Texas, on July 3, 1990.

TRD-9006724 William D. Taylor
Executive Director
Texas Department of Commerce

Filed: July 3, 1990

For further information, please call: (512) 320-9609

♦ ♦ ♦

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

NOTICE OF RATE CEILINGS

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Articles 1.04, 1.05, 1.11, and 15.02, Title 79, Revised Civil Statutes of Texas, as amended (Articles 5069-1.04, 1.05, 1.11, and 15.02, Vernon's Texas Civil Statutes).

Types of Rate Ceilings	Effective Period (Dates are Inclusive)	Consumer (3)/Agricultural/ Commercial (4) thru $250,000	Commercial(4) over $250,000
Indicated (Weekly) Rate - Art. 1.04(a)(1)	07/09/90-07/15/90	18.00%	18.00%
Monthly Rate - Art. 1.04 (c)(1)	07/01/90-07/31/90	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	07/01/90-09/30/90	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11(3)	07/01/90-09/30/90	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d)(3)	07/01/90-09/30/90	15.62%	N.A.
Standard Annual Rate - Art. 1.04(a)(2)(2)	07/01/90-09/30/90	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11(3)	07/01/90-09/30/90	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail and Lender Credit Card Balances with Annual Implementation Dates from:	07/01/90-09/30/90	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	07/01/90-07/31/90	10.00%	10.00%

(1)For variable rate commercial transactions only. (2)Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. (3)Credit for personal, family or household use. (4)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas this the 2nd day of July, 1990.

Al Endsley, Commissioner

Issued in Austin, Texas, on July 2, 1990.

TRD-9006772 Al Endsley
Consumer Credit Commissioner

Filed: July 5, 1990

For further information, please call: (512) 479-1280

♦ ♦ ♦

Texas Education Agency

Notice of Public Hearings on Future of Public Education in Texas

The Texas Education Agency will hold public hearings on the future of public education in Texas. These hearings will be held in conjunction with soliciting comment on the State Board of Education's draft Long-Range Plan for Public Education, 1990-1994. Complete copies of the plan will be available at the hearing site or can be obtained from Long-Range Planning, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

Anyone wishing to testify may register on site at the time of the hearing on a first-come, first-served basis. Testimony will be limited to five minutes each in order to accommodate as many speakers as possible within the time limit. Those who wish to submit written testimony in addition to speaking should bring five copies to the hearing. Those who wish to submit written testimony instead of speaking may do so by sending two copies to Cynthia Levinson at the Texas Education Agency. All copies should include the name, address, and affiliation, if applicable, of the testifier.

The hearings will be held as follows: Monday, July 16, 1990, 2 p.m.-4 p.m. and 6:30 p.m.-8:30 p.m.-Region I Education Service Center, 1900 West Schunior (Room 2), Edinburg; Monday, July 16, 1990, 2 p.m.-4 p.m. and 6:30 p.m.-8:30 p.m. -Region IV Education Service Center, 7145 West Tidwell (TV Studio E), Houston; Tuesday, July 17, 1990, 7 p.m.-9 p.m.-Robert E. Lee High School, Southwest Loop 323, Tyler, (Fine Arts Building); Tuesday, July 17, 1990, 2 p.m.-4 p.m. and 6:30 p.m.-8:30 p.m.-Region X Education Service Center, 400 East Spring Valley Road, Richard, (Auditorium); Tuesday July 17, 1990, 2 p.m.-4 p.m. and 7 p.m.-9 p.m. -Region XIII Education Service center, 5701 Springdale Road, Austin, (Room 202); Wednesday, July 18, 1990, 1 p.m.-3 p.m. and 6:30 p.m.-8:30 p.m.-Region XIX Education Service Center, 6611 Boeing Drive, El Paso; Thursday, July 19, 1990, 2 p.m.-4 p.m. and 6:30 p.m.-8:30 p.m.-Region XX Education Service Center, 1314 Hines Avenue, San Antonio; (Conference Center); Thursday, July 19, 1990, 7 p.m. -9 p.m.-Region XVI Education Service Center, 1601 South Cleveland, Amarillo; Friday, July 20, 1990, 1 p.m.-3:30 p.m.-Region XVIII Education Service Center, La Force Boulevard, Midland, (Conference Rooms A and B).

Further information may be obtained from Cynthia Levinson, Texas Education Agency, (512) 463-9350.

Issued in Austin, Texas, on July 3, 1990.

TRD-9006830 W. N. Kirby
Commissioner of Education

Filed: July 5, 1990

For further information, please call: (512) 463-9701

♦ ♦ ♦

Texas Department of Health

Correction of Error

The Texas Department of Health submitted a proposed amendment to §145.91, which contained an error in the June 8, 1990, issue of the *Texas Register* (15 TexReg 3315).

In §145.91, the first paragraph of the preamble and subsection (a) incorrectly reference "40 TAC §19.2012". The correct reference is "40 TAC §16.1510".

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Texas High-Speed Rail Authority

Correction of Error

The Texas High-Speed Rail Authority submitted adopted sections which contained an error as submitted by the Authority in the June 15, 1990, issue of the *Texas Register* (15 TexReg 3516).

In §83.31, the references to Houston, Dallas, and Fort Worth should be deleted. The subsection should read as follows. "§83.31. Franchise Applications. Applications for the franchise for a high-speed rail facility are to be hand-delivered to the authority offices no later than 60 days after the formal adoption of weighting, criteria rules, as set forth in §83.21(a)(1) of this title (relating to Request for Proposal).

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State Department of Highways and Public Transportation

Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c, the following notice for request for proposals is filed.

Notice of Invitation. The State Department of Highways and Public Transportation intends to engage a private consultant to analyze, determine, and prioritize the information needs of Department executives for use in their decision making.

Agency Contact. Additional information regarding this Request for Proposal may be obtained by contacting Mr. Scott Burford, Contract Manager, Division of Automation, 11th and Brazos Streets, Austin, Texas 78701-2483, (512) 465-7873.

Response Date. To be considered, sealed proposals must arrive at the Division of Automation, 11th and Brazos Streets, Austin, Texas 78701-2483 on or before August 22, 1990. Proposals received after 4:50 p.m. on August 22, 1990, will not be considered.

Selection Criteria. Selection of a consultant will not be made until the Department receives certification from the Department of Information Resources for this effort. Proposals will be evaluated by a selection committee on the basis of offeror's demonstrated competence, technical qualifications, fee and project plan. Award will be based on evaluation criteria that include, but are not limited to, the offeror's cost, ability to staff and perform, reputation with previous customers, experience and successes on other projects, and submitted project plan. Final selection will be made by the department's administration based on recommendations from the selection committee and the Automation Engineer of the Division of Automation.

Issued in Austin, Texas, on July 5, 1990.

TRD-9006818 Diane L. Northam
Administrative Procedures Technician
State Department of Highways and Public Transportation

Filed: July 5, 1990

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

♦ ♦ ♦

Texas Department of Human Services

Correction of Errors

The Texas Department of Human Services submitted an adoption of new sections which contained numbering errors as submitted by the department in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3092) and serialized in the June 8, 1990, issue of the *Texas Register* (15 TexReg 3356).

On page 3092 of the June 5, issue, the Department of Human Services adopted new Subchapter R, Contracting Ethics, under 40 TAC §§79.1701-79.1707, effective July 1, 1990. The text appeared on page 3356 of the June 8 issue. Because Department of Human Services has an existing Subchapter R (entitled Expunction Hearings) that consists of §§79.1701-79.1716, the new sections will be moved to Subchapter S, Contracting Ethics, under §§79.1801-79.1807.

♦ ♦ ♦

The Texas Department of Human Services submitted proposed new sections that contained an error as published in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3254).

On page 3254, the following heading should appear immediately before §§19. 2001-19.2013, "Subchapter U. State and Local Requirements".

♦ ♦ ♦

Public Notices

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 88-23, Amendment Number 215. The amendment provides targeted case management services for the chronically mentally ill. If additional information is needed, contact Joe Branton, (512) 338-6505.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006848 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-20, Amendment Number 272. The amendment reflects DHS compliance with HRC §32.0281 regarding public notice of payment rate determinations. If additional information is needed, contact Kathy Hall, (512) 450-3702.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006860 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 89-31, Amendment Number 251. The amendment incorporates

into the plan spousal impoverishment provisions of the Act, §1924. If additional information is needed, contact Dee Church, (512) 450-3226.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006849 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 89-32, Amendment Number 252. The amendment implements diagnostic services for persons with a potential of mental retardation. If additional information is needed, contact Joe Branton, (512) 338-6505.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006850 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-1, Amendment Number 253. The amendment describes dentist services required by the Social Security Act, §1905 (a) (5). If additional information is needed, contact Joe Branton, (512) 338-6505.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006851 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-2, Amendment Number 254. The amendment describes payment for durable medical equipment in the home health program on a reasonable cost reimbursement basis. If additional information is needed, contact Penny Kendall, (512) 338-6521.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006852 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-3, Amendment Number 255. The amendment provides coverage of respiratory care as an in-home Medicaid service. If additional information is needed, contact Kay Sterling, (512) 338-6511.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006853 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-5, Amendment Number 257. The amendment provides coverage of licensed psychologists' services. If additional information is needed, contact Penny Kendall, (512) 338-6521.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006854 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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Statewide Health Coordinating Council

Public Hearings 1991-1992 Texas State Health Plan

In the July 6, 1990, issue of the *Texas Register* (15 TexReg 3841), the Statewide Health Coordinating Council published proposed rules concerning the 1991-1992 state health plan. The council intends to conduct hearings on the proposed plan as follows: Tuesday, July 24, 2 p.m., Coastal Bend Council of Governments, 2910 Leopard Street, Corpus Christi, (512) 883- 5743; Thursday, July 26, 2 p.m., Permian Basin Regional Planning Commission, 2514 Pliska, Midland (Midland International Airport), (915) 563-1061; Monday, July 23, 9 a.m., North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, (817) 640-3300; Wednesday, July 25, 2 p.m., East Texas Council of Governments, 3800 Stone Road, Kilgore, (214) 984-8641. The statewide hearing will be on Tuesday, July 31, 10 a.m., Texas Department of Health Auditorium, 1100 West 49th Street, Austin, (512) 458-7261. For further information concerning the hearings, contact Dennis Finuf, Bureau of State Health Data and Policy Analysis, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7261.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006891 Marion R. Zetzman, Dr.Ph.
Chairman
Statewide Health Coordinating Council

Filed: July 6, 1990

For further information, please call: (512) 458-7261.

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-6, Amendment Number 258. The amendment provides coverage of physical therapists' services. If additional information is needed, contact Penny Kendall, (512) 338-6521.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006855 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-7, Amendment Number 259. The amendment deletes outdated material from the plan. If additional information is needed, contact Barbara Stegall, (512) 450-3111.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006856 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-8, Amendment Number 260. The amendment revises income limits for QMBs and establishes the resource standard for spousal impoverishment. If additional information is needed, contact Dee Church, (512) 450-3226.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006857 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-11, Amendment Number 263. The amendment revises material in the plan in accordance with the requirements of HCFA Program Memorandum 90-2. If additional information is needed, contact Kathy Hall, (512) 450-3702.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006858 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

♦ ♦ ♦

The Texas Department of Human Services (DHS) has received approval from the Health Care Financing Administration (HCFA) to amend the Title XIX Medical Assistance Plan by Transmittal Number 90-16, Amendment Number 268. The amendment adds Public Law 100-360 transfer of resources provisions. If additional information is needed, contact Dee Church, (512) 450-3226.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006859 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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The Texas Department of Human Services (DHS) has published a report outlining its proposed intended use of federal block grant funds during fiscal year 1991 for Title XX social services programs. Public hearings were held in October and November 1989 to involve the public in the development of the 1991 operating plan, which includes block grant expenditures. Citizen advisory committees have also offered the department guidance in developing the budget. The Texas Board of Human Services will meet on August 2, 1990, at 10 a.m. at the Amarillo Kingston Hotel, I-40 at Lakeside, Amarillo. Testimony will be accepted on the use of block grant funds during the meeting. To obtain free copies of the report, send written requests to Cathy Rossberg, Director, Policy Communication Services, Mail Code 454-W, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030. DHS is seeking written comments from representatives of both public and private sectors regarding the proposed use of Title XX block grant funds. Written comments will be accepted through August 8, 1990. Please mail comments to the address listed previously.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006861 Cathy Rossberg
Agency liaison, Policy Communication Services
Texas Department of Human Services

Filed: July 6, 1990

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

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State Board of Insurance

Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

1. Application for admission to do business in Texas of First Actuarial Corporation of Illinois, a foreign third party administrator. The home office is in Chicago.

2. Application for admission to do business in Texas of McAlister Marketing Corporation, a foreign third party administrator. The home office is in Nashville.

Issued in Austin, Texas on July 6, 1990.

TRD-9006903 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: July 9, 1990

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

♦ ♦ ♦

Correction of Error

The State Board of Insurance submitted emergency sections which contained an error as submitted by the board in the June 19, 1990, issue of the *Texas Register* (15 TexReg 3548). The emergency sections concern continuing education requirements for insurance agents and adjusters.

On page 3549, subparagraph 19.1003(d)[(2)](B) should read as follows. "If the date the license **renews** [was first issued or was last renewed] is **between** [from] **June 1, 1990** [April 1, 1986], **and** [to] **August 31, 1990** [June 30, 1986], **inclusive**, the number of hours of continuing education required before the next renewal is zero."

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Legislative Budget Office

Joint Budget Hearing Schedule

The Executive and Legislative Budget Offices have scheduled the following hearings for the period of July 16-July 20, 1990.

Board of Architectural Examiners, July 16, 9:30 a.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Securities Board, July 16, 2 p.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Pension Review Board, July 17, 10 a.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Tax Professional Examiners, July 17, 1:30 p.m., Room 102, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Public Community/Junior Colleges Texas State Technical Institute, July 17, 1: 30 p.m., Room 107, John H. Reagan Building, 15th and North Congress Avenue, Austin.

State Preservation Board, July 18, 2 p.m., Room 223, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Texas Higher Education Coordinating Board, July 19, 10 a.m., Coordinating Board Building 1, Room 1.102 7700 Chevy Chase Drive, Austin.

Commission on the Arts, July 19, 10 a.m., Room 223, John H. Reagan Building, 15th and North Congress Avenue, Austin.

State Purchasing and General Services Commission, July 19, 10 a.m., Room 246, John H. Reagan Building, 15th and North Congress Avenue, Austin.

Please confirm above dates, times, and locations in the event you plan to attend a hearing, since experience has shown that some rescheduling always occurs. Hearings schedule may be checked on PROFS.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006839 Larry Kopp
Assistant Director for Budgets
Legislative Budget Office

Filed: July 6, 1990

For further information, please call: (512) 463-1200

♦ ♦ ♦

Texas Parks and Wildlife Department

Correction of Errors

The Texas Parks and Wildlife Department submitted adopted sections concerning the Statewide Hunting and Fishing Proclamation which contained errors as published in the June 15, 1990, issue of the *Texas Register* (15 TexReg 3496).

Because text was omitted from §65.72, subsections (a) and (b) are reprinted here in entirety.

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Texas State Board of Public Accountancy

Technical Resource Consultant

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas State Board of Public Accountancy (TSBPA) requests proposals for consulting services.

Description of Services. The board invites individual certified public accountants to offer their part-time services, to evaluate and identify specific technical issues and to prepare related reports and recommendations for board committees.

Individuals must meet the following minimum requirements: must hold a current Texas license as a Certified Public Accountant in good standing; have served at the senior manager or partner level of a CPA firm; and have no less than 10 years in public practice in the accounting and auditing function at a senior level (manager or partner); partner preferred.

Term of Contract. It is anticipated that the contract will begin September 1, 1990, and end August 31, 1991. The total amount awarded will not exceed $50,000.

Evaluation and Selection. The Texas State Board of Public Accountancy intends to evaluate each proposal and may then award a contract based upon cost and the proposer's demonstrated competence, capabilities, knowledge, and qualifications for the expected services. The proposal should include a resume of relevant engagements, a proposed budget specifying consultant cost on an hourly basis, out-of-pocket expenses to be charged, and a not-to-exceed budget.

Contact Person. For additional information contact Bob E. Bradley, Executive Director, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 450-7001.

Closing Date: The closing date for receiving proposals is August 24, 1990.

Issued in Austin, Texas, on July 6, 1990.

TRD-9006869 Bob E. Bradley
Executive Director
Texas State Board of Public Accountancy

Filed: July 6, 1990

For further information, please call: (512) 450-7001

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Texas Racing Commission

Correction of Error

The Texas Racing Commission submitted emergency rules which contained errors as published in the June 5, 1990, issue of the *Texas Register* (15 TexReg 3049).

On page 3049, §305.37(f)(2): "animal entered in an race" should read "animal entered in a race"

On page 3050, §305.43(b): "[To be licensed as the lessee of a horse or greyhound for racing purposes, a person must submit with the application:" should not be in bold type.

On page 3050, §305.45(c): "duration of the race meeting, for which it was executed" should read "duration of the race meeting for which it was executed"

On page 3051, §305.49(a): "if an owner" should read "If an owner" "in a race may to apply" should read "in a race may apply"

On page 3056, §311.5, paragraph 1 preamble: "clarifies which licenses are prohibited" should read "clarifies which licensees are prohibited"

On page 3057, §311.5(d)(4): "[A person licensed to operate pari-mutuel wagering machines may not wager on a race while the person is on duty]" should not be in bold type.

On page 3057, §311.106(a): "with the commission by ownership entity" should read "with the commission by an ownership entity"

On page 3058, §311.106(c): "[If an owner or kennel owner listed under subsection (b) of this section is not an individual, the application must include the information required by that subsection for the chief executive officer of the owner or kennel owner]" should not be in bold type.

On page 3058, above §311.151: Title of undesignated head is "Licensees for Horse Races".

On page 3059, §311.221(b): "have an alcoholic concentration" should read "have an alcohol concentration"

On page 3060, §313.1, paragraph 1 preamble: "association officials must be present a horse race meetings" should read "association officials must be present at horse race meetings"

On page 3060, §313.1(b)(5) should read: (5) a **horse identifier** [starter and assistant starters];

On page 3061, §313.24(a): "during each days's race program" should read "during each day's race program"

On page 3062, §313.103(a)(3) should end in a semi-colon, not a period.

On page 3063, §313.103(5) should have **and** after the semi-colon

On page 3063, §313.103(a)(7) and (8) were inadvertently re-added; they were deleted in a previous amendment to the section and should remain deleted.

On page 3063, §313.110(b): "second choice has not preference" should read "second choice has no preference"

On page 3064, §313.111(d): There should not be a bracket after (e) - all the text from "(e)" through "age" is being deleted.

On page 3067, §313.401(b): "with an owner or trainer from whom the jockey is riding" should read "with an owner or trainer for whom the jockey is riding"

On page 3067, §313.401(c): "(c)" should be in bold type.

On page 3068, §313.405(a): "bride" should read "bridle"

On page 3069, §313.409(d): "weighted-out" should read "weighed-out"

On page 3069, §313.411(a): "the steward shall" should read "the stewards shall"

On page 3070-3071, §319.102(d): "may not remove the horse from the veteri-" is repeated

On page 3071, §319.302: "the administration of drug, chemical" should read "the administration of a drug, chemical"

On page 3072, §321.39: "cancelled by the cashier." should read "cancelled by the **teller** [cashier]."

On page 3072, §321.70, paragraph 1 preamble: "new section descries the types" should read "new section describes the types"

On page 3073, §321.108(k): "next consecutive quinella race" should race "next consecutive quinella pool"

On page 3074, §321.113: (c): "each of three raced designated" should read "each of three races designated" (d): "single wagering interest of the purpose" should read "single wagering interest for the purpose" (e): "each of the three raced comprising" should read "each of the three races comprising" (h): "100% of the net amount of the pick three pari-mutuel pool for the next succeeding race date" should read "100% of the net amount in the pick three pari-mutuel pool shall be carried over and included in the pick three pari-mutuel pool for the next succeeding race date" (1): "pick three tickets designates" should read "pick three ticket designates"

On page 3074, §321.114, paragraph 1 preamble: "The section described the method" should read "The section describes the method"

On page 3075, §321.114(d): (1): "betting interest" should read "betting interests" (3): "gate or boxs," should read "gate or box,"

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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 June 25-June 29, 1990.

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) 463-7905.

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.

Air Products Manufacturing Corporation; Pasadena; Class I hazardous industrial solid waste facility; between Red Bluff and Davison Roads on a 105. 659-acre tract of land at 1423 Highway 225 in Pasadena, Harris County; Post-Closure Care Permit HW-50134 and Compliance Plan CP-50234, EPA I.D. Number TXD-990757486; new; 45-day notice

Armco, Inc.; Channelview; Class I hazardous industrial solid waste disposal facility; on a 14.5-acre tract of land at 12527 Greens Bayou Drive, approximately 1/4 mile north of I-10 and 1/4 mile east of Federal Road, in the Channelview Community in Houston, Harris County; Post-Closure Care Permit HW-50122, EPA I.D. Number TXD-000802959; new; 45-day notice

Kurt Averhoff; Hico; a dairy; approximately 4.5 miles northeast of the intersection of U.S. Highway 281 and FM Road 1824, on an unnamed county road, approximately 12 miles southeast of Stephenville and 20 miles east of Dublin, Erath County; 03303; new

Jack Beyer; Dublin; a dairy; adjacent to and just south of the intersection of FM Road 219 and FM Road 2303, Erath County; 03234; new

Jack Beyer; Dublin; a dairy; adjacent to and just north of the intersection of FM Road 219 and FM Road 2303, Erath County; 03235; new

City of Byers; wastewater treatment facilities; approximately 4,000 feet northwest of the intersection of 400 feet east of Byers City Lake in Byers, Clay County; 10890-01; renewal

Connecticut Mutual Life Insurance Company; Glastonbury, Connecticut; vegetable packing shed and freezer plant; south of U.S. Highway 83, approximately one mile west of the City of La Joya, Hidalgo County; 02716; renewal

Bob Crouch; Dublin; a dairy; northwest corner of the intersection of FM Roads 219 and 2156, approximately two miles northwest of Dublin, Erath County; 03216; new

Crown Central Petroleum Corporation doing business as Lagloria Oil and Gas Company; Houston; tank farm; 1702 East Commerce Street in the City of Tyler, Smith County; 01590; amendment

Daniel Flow Products, Inc.; Houston; flow measurement equipment manufacturing facility; 9720 Old Katy Road in the City of Houston, Harris County; 02731; renewal

Fort Bend County Water Control and Improvement District Number 2; Stafford; wastewater treatment plant Number 2; approximately 3,300 feet southeast of the intersection of Craven Road and U.S. Highway 90, Fort Bend County; 10086-02; renewal

Harsco Corporation; Channelview; IKG Industries Division wastewater treatment facilities; 1514 Sheldon road, in Channelview, Harris County; 13034-01; renewal

Lake Interests, Inc.; Coldspring; Lake Oaks Landing wastewater treatment facilities; approximately four miles south and 1,600 feet east of the intersection of State Highway 156 and U.S. Highway 190, on Lake Livingston, San Jacinto County; 13039-01; renewal

City of Lubbock; wastewater treatment facilities; approximately 1/4 mile north of the intersection of U.S. Highway 84 and State Highway-Loop 289, northwest of the City of Lubbock, Lubbock County; 10353-06; renewal

City of Port Arthur; Main Wastewater Treatment Plant; 6300 Proctor street, approximately 0.2 mile east of the intersection of Proctor Street and Main Avenue, 3.3 miles northeast of the intersection of U.S. Highways 287/96/69 and State Highway 87, Jefferson County; 10364-01; renewal

Ricks Dairy, Inc.; Dublin; a dairy; approximately three miles west of the intersection of State Highway 6 and State Highway 377, Erath County; 03191; new

Mike Roberson; Dublin; a dairy; on an unnamed county road, approximately 2.7 miles south of the intersection of State Highway 377 and an unnamed county road, and approximately 2.9 miles south of Dublin, Erath County; 03305; new

City of Rusk; wastewater treatment facilities; approximately 1.5 miles south of mid-town Rusk, at a point approximately 1/4 mile west of FM Road 752, adjacent to One-Eye Creek in Cherokee County; 10447-01; renewal

Jochum Schievink; Dublin; a dairy; on an unnamed county road, approximately 10 miles southeast of Dublin and two miles south of FM Road 219, approximately 5. 5 miles northeast of the intersection of FM 1702 and FM 2823 in Comanche county; 03200; new

W. R. Surface; Gustine; a dairy; on an unnamed county road, approximately 1 1/2 miles south of FM Road 2486, at a point 3 1/3 miles east of the intersection of FM Roads 1486 and 2486 and 7 1/3 miles southeast of Gustine, Comanche County; 03226; new

Texas Parks and Wildlife Department; Austin; Perry R. Bass Marine Fisheries Research Station; immediately west of FM Road 3280, approximately five miles south of the intersection of State Highway 35 and FM Road 3280, and approximately 18 miles east of downtown Port Lavaca, Calhoun county; 11587-01; renewal

Issued in Austin, Texas, on July 2, 1990.

TRD-9006746 Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: July 3, 1990

For further information, please call (512) 463-7906

Notice of Award

The Texas Water Commission (TWC) furnishes this notice of a consulting services contract award for the Design Assistance Study for three integrated information systems.

The notice for request for proposals was published in the December 1, 1989, issue of the *Texas Register* (14 TexReg 6325).

Description of Services. The contractor will provide design assistance related to three integrated information systems: TRACS (TWC Regulatory Activities and Compliance System), GIS (Geographic Information System) , and EIS (Executive Information System). The following major products will be produced: TRACS and GIS Requirements–5/31/90; GIS Logical Design–7/31/90; TRACS Logical Design–8/31/90; EIS Logical Design–9/30/90.

Effective Date and Value of Contract. The contract will be effective from April 19, 1990 until December 31, 1990. The total cost in the contract is $1,074,400.

Name of Contractor. The contract has been awarded to Andersen Consulting, 701 Brazos, Suite 1020, Austin, Texas 78701.

Persons who have questions concerning this award may contact Marada Summers, Chief Information Officer, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8405.

Issued in Austin, Texas, on April 27, 1990.

TRD-9004320 Jim Haley
Director, Legal Division
Texas Water Commission

Filed: April 27, 1990

For further information, please call: (512) 463-8405

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Texas Water Development Board

Solicitation of Applications for Facility Engineering in Designated Areas

The Texas Water Development Board (board) requests, pursuant to 31 Texas Administrative Code (TAC) §355.73, the submission of facility engineering applications from certain political subdivisions leading to the possible award of contracts for facility engineering under the board's program for Economically Distressed Areas.

Description of Designated Areas. The board has designated the following areas as economically distressed areas which lack adequate water or wastewater facilities pursuant to 31 TAC §355.73(a)(1): Lull Subdivision in Hidalgo Couinty; Madero Subdivision in Hidalgo County; Granjeno Subdivision in Hidalgo County; Alton and surrounding subdivisions in Hidalgo County; Cameron Park Subdivisions in Cameron County; subdivisions adjacent to the City of Eagle Pass in Maverick County; Socorro and San Elizario Grants in El Paso County.

Description of Program. The program provides financial assistance to bring water and wastewater services to economically distressed areas where the present water facilities are inadequate to meet the minimal needs of residents. Further information on criteria for eligibility, contents of applications, scope of facility engineering and project evaluation criteria are contained in 31 TAC §§355.70-355.80. The board retains the right to make no award of contract funds.

Timetable for submitting facility engineering applications and Contact Person for Additional Information. The board will immediately begin accepting applications from designated areas. Ten copies of the full application should be sent to G. E. Kretzschmar, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231. Requests for additional information or application outlines may be directed to Todd Chenoweth, Project Director, Economically Distressed Areas Program at the preceding address or at (512) 475-2068.

Statement of Contract Terms. Procedures for awarding contracts shall comply with 31 TAC §§355.70-355.80.

Issued in Austin, Texas, on July 5, 1990.

TRD-9006840 Suzanne Schwartz
General Counsel
Texas Water Development Board

Filed: July 6, 1990

For further information, please call: (512) 463-7981

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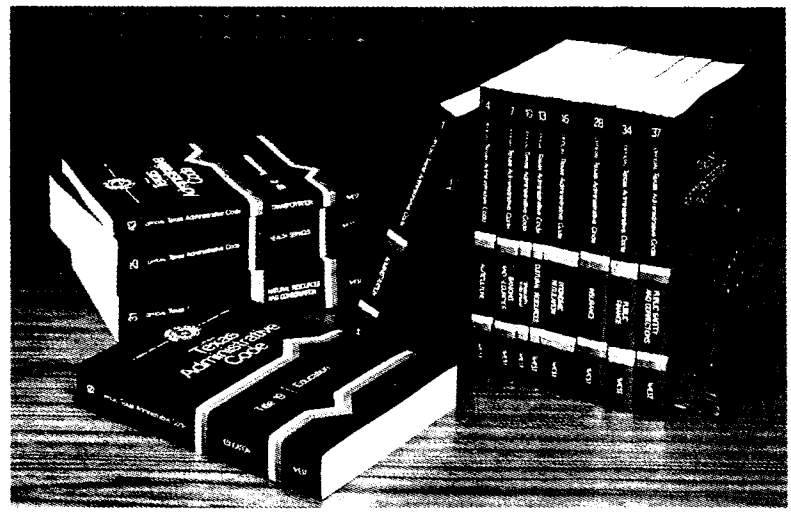

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