

JUN 16 89

Texas Register

Volume 14, Number 44, June 16, 1989

Pages 2967-3028

In This Issue...

Attorney General

Opinions

2975-JM-1050 (RQ-1715)

2975-JM-1051 (RQ-1687)

Emergency Sections

Texas Department of Labor and Standards

2977-Manufactured Housing Division

State Board of Dental Examiners

2981-Extension of Duties of Auxiliary Personnel

Texas Department of Human Services

2981-Home Energy Assistance Program

Proposed Sections

Texas Department of Labor and Standards

2985-Manufactured Housing Division

Texas Higher Education Coordinating Board

2985-Public Junior Colleges

2986-Student Services

Texas Department of Human Services

2986-Home Energy Assistance Program

Withdrawn Sections

Industrial Accident Board

2987-Medical Benefits

General Land Office

2987-Energy Resources

Texas Department of Human Services

2987-Home Energy Assistance Program

Adopted Sections

Public Utility Commission of Texas

2989-Substantive Rules

Texas Higher Education Coordinating Board

2993-Student Services

State Board of Insurance

2995-Life, Accident, and Health Insurance and Annuities

3006-Surplus Lines Insurance

Industrial Accident Board

3007-Medical Benefits

Texas Water Commission

3008-Consolidated Permits

Comptroller of Public Accounts

3008-Tax Administration

Texas Department of Human Services

3008-Day Activity and Health Services

State Board of Insurance

3012-Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

Open Meetings

3013-Texas State Board of Public Accountancy

3013-Texas Commission on Alcohol and Drug Abuse

3013-Texas Bond Review Board

3013-Texas Education Agency

3014-Advisory Commission on State Emergency Communications

3014-Texas Employment Commission

3014-Texas Funeral Service Commission

3014-Texas Department of Health

3014-Texas Department of Human Services

3014-Industrial Accident Board

3014-State Board of Insurance

3015-University Interscholastic League

Texas Register

The *Texas Register* (ISSN 0362-4771) is published twice each week 100 times a year except March 7, 1989, June 2, 1989, July 7, 1989, November 28, 1989, and December 29, 1989. Issues will be published by the Office of the Secretary of State.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Texas Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

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

a section of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Jack M. Rains Secretary of State

Director

Dan Procter

Assistant Director

Dee Wright

Documents Section Supervisor

Patty Parris

Documents Editors

Lisa Brull

Janiene Hagel

Open Meetings Clerk

Brenda J. Kizzee

Production Section Supervisor

W. Craig Howell

Production Editor

Ann Franklin

Typographer

Sharon Menger

Hermine Roberts

Circulation/Marketing

Richard Kallus

Roberta Knight

TAC Editor

Dana Blanton

Subscriptions—one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

3015-Texas State Board of Medical Examiners
3016-Texas Department of Mental Health and Mental Retardation
3016-Board of Pardons and Paroles
3016-Texas State Board of Podiatry Examiners
3016-Texas Racing Commission
3016-The University of Texas at Austin
3016-University of Texas Health Science Center at San Antonio
3016-Public Utility Commission of Texas
3017-Texas Water Commission
3018-West Texas State University Board of Regents
3018-Regional Meetings

In Addition

Texas Commission on Alcohol and Drug Abuse
3021-Notice of Public Hearings

State Banking Board

3021-Notice of Hearing

Office of Consumer Credit Commissioner

3021-Notice of Rate Ceilings

Court of Criminal Appeals

3022-Order Adopting Amendments to Texas Rules of Appellate Procedure and Certain Rules

Texas Department of Health

3023-Licensing Actions for Radioactive Materials

Texas Higher Education Coordinating Board

3027-Notice of Meeting

Texas Housing Agency

3027-Request for Proposals

State Board of Insurance

3027-Company Licensing

Railroad Commission of Texas

3028-Invitation for Bids-Searcy



Name: Todu Vollmer

Grade: 6

School: H.B. Zachry Middle School, Northside

TAC Titles Affected

TAC Titles Affected—June

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part V. State Purchasing and General Services Commission

1 TAC §§113.1, 113.2, 113.5, 113.6—2739

1 TAC §115.62—2797

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §11.2—2651

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

16 TAC §3.57—2647

Part II. Public Utility Commission of Texas

16 TAC §21.22—2740

16 TAC §23.21—2951

16 TAC §23.23—2740

16 TAC §23.27—2989

16 TAC §23.45—2939

16 TAC §23.46—2939

16 TAC §23.54—2898

Part IV. Texas Department of Labor and Standards

16 TAC §§65.1, 65.10, 65.20, 65.30, 65.50, 65.60, 65.70, 65.80, 65.90, 65.100—2721, 2746

16 TAC §§65.12-65.18, 65.20-65.34—2736, 2747

16 TAC §§65.41-65.52—2747

16 TAC §§65.61-65.70—2736, 2747

16 TAC §§65.81-65.93—2737, 2748

16 TAC §§65.101-65.108—2737, 2748

16 TAC §§65.121-65.124—2737, 2748

16 TAC §69.54—2977, 2985

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §1.7—2748

19 TAC §§1.21-1.40—2750

19 TAC §§1.21-1.56—2749

19 TAC §9.63—2985

19 TAC §21.59—2986

19 TAC §§21.251-21.263—2993

19 TAC §§21.251-21.266—2993

Part II. Texas Education Agency

19 TAC §§69.127, 69.129—2649

19 TAC §149.43—2681

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §1.25—2738, 2752

22 TAC §1.88—2900

22 TAC §1.122—2900

Part IV. Texas Cosmetology Commission

22 TAC §§81.1-81.8—2900

22 TAC §83.3—2752

22 TAC §83.15—2900

22 TAC §§85.1-85.3, 85.11-85.13, 85.21-85.23, 85.31-85.33, 85.41—2900

22 TAC §87.1-87.10, 87.21, 87.22, 87.31-87.34—2901

22 TAC §89.8—2752

22 TAC §89.13—2752

22 TAC §89.17—2753

22 TAC §89.20—2753

22 TAC §89.38—2753

22 TAC §89.39—2754

22 TAC §89.70—2754

22 TAC §89.72—2940

Part V. State Board of Dental Examiners

22 TAC §§115.10—2940, 2981

22 TAC §107.63—2952

22 TAC §116.4—2952

22 TAC §116.5—2952

Part IX. State Board of Medical Examiners

22 TAC §163.2—2650

Part XXII. Texas State Board of Public Accountancy

22 TAC §501.2—2949

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §31.4—2901

25 TAC §§229.141-229.149—2755

25 TAC §§229.291-229.298—2755

25 TAC §229.334—2941

25 TAC §325.731—2952

Part II. Texas Department of Mental Health and Mental Retardation

25 TAC §402.44—2773

Part VII. Texas Medical Disclosure Panel

25 TAC §601.1—2795, 2941

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §§3.1-3.5—2995

28 TAC §3.3030—3006

28 TAC §§8.1-8.3—2650

28 TAC §15.25—3006

28 TAC §§27.801-27.808—2681

Part II. Industrial Accident Board

28 TAC §42.110—2987, 3007

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

31 TAC §1.91—2774

31 TAC §2.1, §2.2—2774

31 TAC §3.1—2987

31 TAC §§3.1-3.12, 3.14, 3.15—2942

31 TAC §§3.1-3.12, 3.14-3.15, 3.21-3.25, 3.31-3.34, 3.41-3.43, 3.51-3.52, 3.61, and 3.71—2774,

31 TAC §§3.21, 3.23-3.25—2942

31 TAC §§3.31-3.34—2942

31 TAC §§3.41-3.43—2943

31 TAC §§3.51-3.52—2943

31 TAC §3.61—2943

31 TAC §3.71—2944

31 TAC §§9.1-9.12—2775

31 TAC §9.21—2944

31 TAC §11.11-11.17—2794

31 TAC §§153.11-153.15—2944

31 TAC §§153.21-153.37—2944

31 TAC §§153.61-153.66, 153.71—2945

Part IX. Texas Water Commission

31 TAC §305.521—3008

31 TAC §§311.61-311.66—2652

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

34 TAC §3.548—3008

34 TAC §3.554—2738

34 TAC §3.565—2738

34 TAC §3.640—2795

Part IX. Bond Review Board

34 TAC §§181.3-181.5—2901

Part IV. Employees Retirement System

34 TAC §81.7—2937, 2945

34 TAC §85.1—2953

34 TAC §85.7—2946

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

37 TAC §119.3—2683

Part V. Board of Pardons and Paroles

37 TAC §141.21—2654

37 TAC §§141.41, §141.42—2654
37 TAC §§141.72, §141.73—2654
37 TAC §§141.101—2655
37 TAC §§141.111—2655
37 TAC §§143.1-143.12—2655
37 TAC §§143.2-143.11—2656
37 TAC §§143.22—2657
37 TAC §§143.52—2657
37 TAC §§145.1-145.21—2657
37 TAC §§145.2-145.12, 145.14-145.16—2659
37 TAC §§145.21-145.28—2660
37 TAC §§145.22-145.26—2660
37 TAC §§145.41, 145.42, 145.43—2662
37 TAC §§145.44-145.55—2663
37 TAC §§145.62—2669
37 TAC §§145.71, 145.72—2669
37 TAC §§147.1, 147.3, 147.5, 147.7—2669
37 TAC §§147.27—2670
37 TAC §§149.1-149.6—2670
37 TAC §§149.2-149.7—2673
37 TAC §§149.11, 149.13, 149.15-149.17—2673
37 TAC §§149.13, 149.16-149.18—2674
37 TAC §§150.1-150.9—2674
Part X. Texas Adult Probation Commission
37 TAC §§321.1, 321.3, 321.5, 321.8—2683
37 TAC §§321.12-321.14, 321.16—2676
37 TAC §§323.1-323.3—2684
37 TAC §§325.1-325.12—2684

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §§3.2201, 3.2203, 3.2204—2684
40 TAC §§5.1032—2947
40 TAC §§7.101—2902
40 TAC §§7.1210—2947
40 TAC §§8.1-8.9—2981
40 TAC §§8.9—2987
40 TAC §§10.7001-10.7008—2684
40 TAC §§29.502—2685
40 TAC §§29.603, §29.606—2685
40 TAC §§47.2907, §47.2914—2677
40 TAC §§50.903, §50.904—3008
40 TAC §§50.1901, §50.1902—3009
40 TAC §§50.2903, 50.2904, 50.2909—3009
40 TAC §§50.3901-50.3906, 50.3908, 50.3909, 50.3911, 50.3912—3010
40 TAC §§50.4902—3011
40 TAC §§53.301—2678
40 TAC §§53.404—2678
40 TAC §§73.4109—2947
40 TAC §§73.4114, §73.4115—2947
40 TAC §§79.1203, 79.1207, 79.1208—2948
40 TAC §§8.1-8.8—2986

TITLE 43. TRANSPORTATION

Part I. State Department of Highways and Public Transportation

43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42, -21.46, 21.48-21.51, 21.53, 21.54—2679
43 TAC §§21.33, 21.41—2679



Name: Dax Sheffield

Grade: 4

School: Colonies North Elementary, Northside

Attorney General

Description of Attorney General submissions. Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

Opinions

JM-1050 (RQ-1715). Request from Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, Austin, concerning clarification of Attorney General Opinion JM-1028 (1989).

Summary of Opinion. The Penal Code provision construed in *Jones v. State*, 65 S.W. 92 (Texas Criminal Appeal 1901) and its progeny was not limited by a legislative definition of peace officer. The Penal Code, §46.03, is subject to the definition of peace officer in the Penal Code, §1.07(a)(25). We now look to the statutory definition, and not

to pre-1973 case law, to answer the last question in JM-1028. Attorney General Opinion JM-1028 is affirmed.

TRD-8905108

◆ ◆ ◆
JM-1051 (RQ-1687). Request from Ernestine V. Glossbrenner, Chairman, Public Education Committee, Texas House of Representatives, Austin, concerning a school district's use of local funds for career ladder payments.

Summary of Opinion. In order to meet the cost of career ladder supplements in the amounts specified in the Education Code,

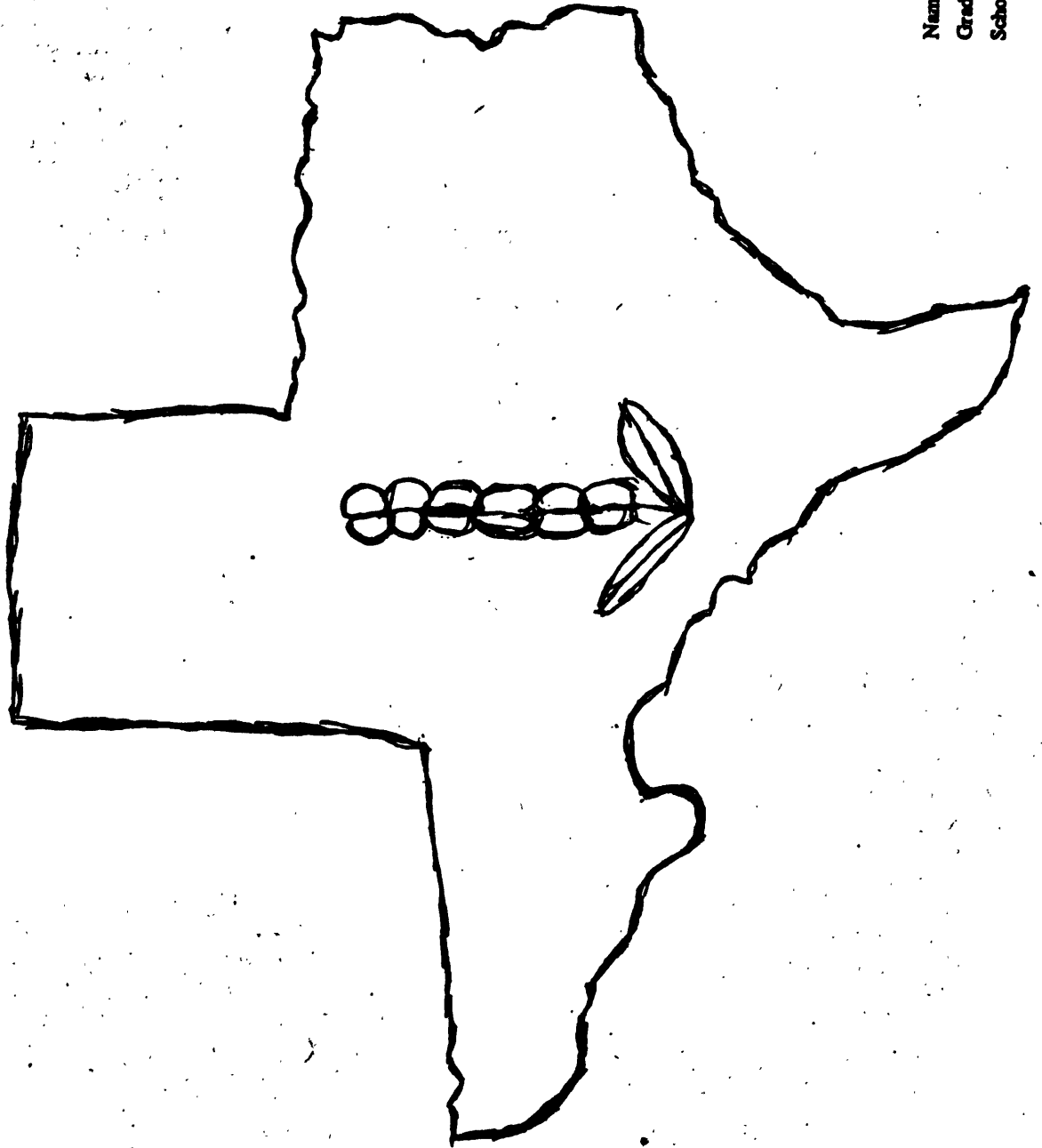
§16.057(a), a school district may, without implementing stricter performance criteria under Chapter 113 of the code, use available local funds where the allotment for the career ladder under §16.158 is insufficient. Rules adopted by the Texas Education Agency, 19 T.A.C., §149.71(1)(4)(A)-(B), purporting to require a school district whose §16.158 allotment is insufficient to first exhaust §16.158 funds available for any legal purpose and to establish stricter performance criteria before using other local funds to cover the supplement amounts, exceed that agency's statutory rule-making authority.

TRD-8905107
◆ ◆ ◆

THE TEXAS BLUEBONNET

Veronica

steroboceryth



Name: Veronica Siroberczyk

Grade: 4

School: Colonia North Elementary, Northside

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 REGULATIONS

Part IV. Texas Department of Labor and Standards

Chapter 69. Manufactured Housing Division

Standards and Requirements

• 16 TAC §69.54

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §69.54, concerning installation requirements for manufactured homes with no available installation instructions. The emergency amendment is needed to provide installation requirements for the many different types of used homes that are being sold for installation in Texas. The original installa-

tion instructions supplied by the manufacturer are no longer in the homes.

The amendment is adopted on an emergency basis to protect the health and safety of manufactured housing consumers in Texas.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 5221f, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules and regulations, take all action necessary to assure compliance with the intent and purpose of the Act, and to provide for uniform enforcement of all provisions of the statute.

§69.54. [Mobile Home Requirements.] Installation Requirements for Homes With No Available Installation Instructions.

(a) All mobile homes, rebuilt salvaged homes, and used HUD-Code manufactured homes for which [there exists] no

manufacturer's instructions for anchoring procedures[,] are available to the installer, shall be anchored to the following requirements:

(1) Ground anchors [used] shall be [of an approved design] approved in compliance with the requirements of these standards and shall be used in a soil type for which the ground anchors are designed and approved. The anchors shall be installed in accordance with the anchor manufacturer's instructions.

(2)-(6) (No change.)

(7) The number of over-the-top and diagonal ties used to anchor a home under this section[,] shall be in accordance with the following [tables:] hurricane and non-hurricane zone charts showing installation instructions for many types of homes.

HURRICANE ZONE

	Home Box Width (Ft.)			Number of Vertical Ties Per Side
	10 or less	12	14 or more	
Length of Home Box Excluding Hitch	46 or more		80	5
	45 to 35	56 or more	79 to 60	4
	34 to 32	55 to 38	59 to 40	3
		37 to 32	39 to 32	2

	Number of Diagonal Ties Per Side (All Widths)				
	4	5	6	7	8
Length of Box	32 to 42	43 to 52	53 to 63	64 to 73	74 to 80

NON-HURRICANE ZONE

Length of Home Box Excluding Hitch	Home Box Width (Ft.)	Number of Vertical Ties Per Side
	ALL WIDTHS	
	40 or more	3
	39 to 32	2

Length of Box	Number of Diagonal Ties Per Side (All Widths)				
	3	4	5	6	7
	32 to 37	38 to 49	50 to 62	63 to 74	75 to 80

(8) The data plate of the home will describe the wind zone for which the home is suitable. A home built for Zone I may not be sold for placement in Zone II (hurricane zone). The following counties are in the hurricane zone: Aransas, Bee, Brazoria, Brooks, Calhoun, Cameron, Chambers, Colorado, Fort Bend, Galveston, Gollad, Hardin, Harris, Hidalgo, Jackson, Jasper, Jefferson, Jim Wells, Kenedy, Kleberg, Lavaca, Liberty, Live Oak, Matagorda, Montgomery, Newton, Nueces, Orange, Refugio, San Patricio, Victoria, Waller, Wharton, and Willacy. If an over-the-top vertical tie has been removed, another over-the-top vertical tie shall be added and connected to anchors.

(b) All mobile homes, rebuilt salvaged homes, and used HUD-Code manufactured homes for which [there exists] no manufacturer's instructions for support procedures [.] are available to installers shall be supported to meet the following requirements.

(1) Piers for single section homes are to be placed under [the] each longitudinal main frame[.] member not to exceed six [10] feet on-center spacing. Where practical, end piers shall be placed within one foot on the ends of the main frame. When the location and spacing of wheels and axles or other structural members of the home frame or undercarriage prevent[s] spacing of piers on six [10] feet centers, the spacing shall be as near six [10] feet maximum spacing as practicable in the area of the obstruction. Single section homes wider than 14 feet require piers under the side walls with six feet on-center spacing. Exterior doors must have piers directly under the sides of the opening. The minimum footing area shall be 240 square inches. Additional over-the-top vertical ties will not be necessary for homes with all of the following characteristics: 13.67 feet or more in width; 10 feet or less in wall height (including chassis height); the diagonal frame ties extend from under the side wall to the nearest longitudinal beam; the longitudinal beams are eight feet or more apart; and there is no evidence that vertical ties have been cut and removed. If an over-the-top vertical tie has been cut and removed and an additional over-the-top vertical tie can not be added because of the eaves (or other condition), piers can be added to increase stability. Piers under the longitudinal beams shall be placed in accordance with subsection (b) of this section. The diagonal frame ties must extend from under the side wall to the nearest longitudinal beam. Piers are to be placed six feet apart or less under the sidewalls. Piers shall also be placed at the locations of the cut straps. The original chassis to floor joist fasteners shall be intact.

(2) Piers for multi-section

homes are to be placed under [the] each longitudinal main frame[.] member not to exceed six feet on-center spacing. Where practical, end piers shall be placed within one foot of the ends of the main frame. When the location and spacing of wheels and axles or other structural members of the home frame or undercarriage prevent[s] spacing of piers on six feet centers, the spacing shall be six feet maximum spacing in all other areas[.] and shall be as [close to] near six feet maximum spacing as practicable [practical] in the area of the obstruction. Piers are to be placed under the center marriage [walls] line and are not to exceed six feet on-center spacing. Where practical, end piers shall be placed within one foot of the ends of the home. Piers are to be placed under the perimeter walls with six feet on-center spacing. Exterior doors and marriage wall openings larger than 36 inches wide must have piers directly under the sides of the opening. The minimum footing area shall be 240 square inches.

Issued in Austin, Texas, on June 8, 1989.

TRD-8905117 Joseph L. Huertas
Program Manager
Texas Department of Labor
and Standards

Effective date: June 9, 1989

Expiration date: October 7, 1989

For further information, please call: (512) 463-2907

TITLE 22 EXAMINING BOARDS

Part V. State Board of Dental Examiners

Chapter 115. Extension of Duties of Auxiliary Personnel

• 22 TAC §115.10

The Texas State Board of Dental Examiners adopts on an emergency basis an amendment to §115.10, concerning radiologic procedures. The board is amending this section because the agency does not have all the material ready to administer and grade the examination before the July 1, 1989 deadline. Therefore, the agency has to extend the deadline to August 31, 1989.

The agency is amending this section on an emergency basis because after July 1, 1989, dental assistants, who are not qualified under this section, will not be able to take x-rays. This would leave some dental offices without personnel who could take x-rays.

This amendment is adopted on an emergency basis under the Texas Civil Statutes, Article 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the

practice of dentistry to protect the public health and safety.

§115.10. Radiologic Procedures.

(a)-(f) (No change.)

(g) As of December 31, 1988, presently employed assistants, who are qualified under this section, will have until August 31, 1989, [July 1, 1989] to successfully pass the examination.

(h)-(n) (No change.)

Issued in Austin, Texas, on June 6, 1989.

TRD-8905028 Crockett Camp
Executive Director
Texas State Board of
Dental Examiners

Effective date: June 6, 1989

Expiration date: October 4, 1989

For further information, please call: (512) 834-6021

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 8. Home Energy Assistance Program

Program Requirements

• 40 TAC §§8.1-8.8

The Texas Department of Human Services (DHS) adopts on an emergency basis amendments to §§8.1-8.8, concerning program requirements, in its Home Energy Assistance Program (HEAP) chapter. The purpose of the amendments is to permit operation of the cooling assistance component of HEAP during the summer of 1989 despite a reduction in available funds. The program will operate under the name "Heat Stress Relief Program," with benefits to be provided through an application process that contractors will conduct at the local level. In addition to meeting income eligibility requirements, households must have a medical need for assistance to receive benefits.

The amendments are adopted on an emergency basis because high summer temperatures constitute an imminent peril to the health, safety, and welfare of low income households that have a medical need for cooling assistance. DHS is simultaneously proposing these amendments for review and comment in this issue of the *Texas Register*. A public hearing will be held on Thursday, June 22, 1989, at 9 a.m. in the John H. Winters Building Public Hearing Room, first floor, East Tower, 701 West 51st Street, Austin.

The amendments are adopted on an emergency basis 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.

§8.1. Time Frames for Heat Stress Relief Program (HSRP) [HEAP] Qualification.

[(a) To qualify for HEAP heating assistance, the household must apply and be certified before the November deadline for December AFDC, SSI, or food stamp benefits or request an application from DHS during the designated application period for the HEAP heating program.]

[(a)[(b)] To qualify for HSRP [HEAP] cooling assistance, the household must apply to the local HSRP contractor [and be certified before the April deadline for May AFDC, SSI, or food stamp benefits or request an application from DHS] during

Number of Persons in Household	0% to 35% of poverty guidelines	36% to 70% of poverty guidelines	71% to 120% of poverty guidelines
1	\$0 - \$174.49	\$174.50 - \$349.49	\$349.50 - \$598.49
2	\$0 - \$234.49	\$234.50 - \$468.49	\$468.50 - \$802.49
3	\$0 - \$293.49	\$293.50 - \$587.49	\$587.50 - \$1,006.49
4	\$0 - \$353.49	\$353.50 - \$706.49	\$706.50 - \$1,210.49
5	\$0 - \$412.49	\$412.50 - \$825.49	\$825.50 - \$1,414.49
6	\$0 - \$472.49	\$472.50 - \$944.49	\$944.50 - \$1,618.49
7	\$0 - \$531.49	\$531.50 - \$1,063.49	\$1,063.50 - \$1,822.49
8	\$0 - \$591.49	\$591.50 - \$1,182.49	\$1,182.50 - \$2,026.49

(c) The resource limits for HSRP [HEAP] eligibility are:

(1) \$3,000 for a household with [consisting of] at least one person [who is] 60 years old or older; and[or]

(2) (No change.)

(d) (No change.)

(e) To qualify for [HEAP] benefits, members of the household must:

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

(f) At least one [For the summer program only, a] person in the household must [be:

(1) age 60 or older in the current calendar year; or

(2) disabled, as evidenced by one of the following:

[(A) receives SSI if under age 65;

[(B) receives AFDC because of incapacity;

[(C) receives Social Security disability benefits;

[(D) is classified as totally disabled by the Veteran's Administration; or

[(E)] have [has] a medical condition, as certified by a physician or a registered nurse, that increases his [the per-

the designated application period for the HSRP [HEAP] cooling program.

(b)[(c)] The local contractor [DHS] announces the dates for [the] HSRP [HEAP] heating and cooling programs] through [posters in each office,] public service announcements[,] and newspaper releases.

§8.2. Heat Stress Relief Program (HSRP) [HEAP] Eligibility Criteria.

(a) The household's income is its gross income [(without [any] deductions,)] as determined by the local HSRP contractor [household's worker]. To qualify [meet the income requirement] for HSRP [HEAP] assistance, the [a] household's income

son's] risk of developing a heat-related illness. [Participants of the Women, Infants, and Children (WIC) Program may qualify under this criterion if they present current WIC certification documents.]

§8.3. Vulnerability.

(a) To qualify for Heat Stress Relief Program (HSRP) [HEAP] assistance, the household must be vulnerable to increases in the cost of home energy. The term "home energy" means a source of [heating or] cooling in residential dwellings. Households that reside in privately owned rental housing meet this [the] requirement even if all or part of the [their] cost of their utilities is included in their rent payment.

(b) Residents in [of] government subsidized housing meet the requirement in subsection (a) of this section even if all or part of the cost of their utilities is included in their rent payment and even [or] if they receive assistance in paying their utilities from the Department of Housing and Urban Development [(HUD)].

§8.4. Rights and Responsibilities of Households.

(a) Each household [Households] applying for and receiving Heat Stress Relief Program (HSRP) [HEAP] assistance has [have] the following rights and responsibilities:

(1) to complete an application[/questionnaire] and return it to the local contractor [DHS] within the time limit specified on the application; [/questionnaire;]

must be less than [may not exceed] 120% of federal [the] poverty income guidelines as projected by DHS [staff] each year. DHS bases its projections on [The projected guidelines follow] the methodology used by the Department of Health and Human Services to adjust [account] for increases in the consumer price index.

(b) For the three benefit levels specified in §8.6 of this title (relating to Benefit Amount), [The] household income limits for HSRP are listed in the following chart. [will be announced in the Texas Register each fall.] For households with more than eight members, the limits increase by \$60, \$119, and \$204 for each additional member.

(2) to return any money DHS determines to be an overpayment;[. DHS must notify the household of its right to contest the determination.]

(3) (No change.)

(4) to provide the name(s) [names] of its [their] energy supplier(s) [suppliers], as appropriate [Failure to comply will result in denial].

(b) A household's failure to comply with the requirements in subsection (a) of this section will result in denial of benefits.

(c) If DHS determines that a local contractor has overpaid a household, either DHS or the contractor must notify the household of its right to contest the determination. [

(b) AFDC, SSI, and food stamp households that are potentially eligible for HEAP assistance may receive an application automatically from DHS. Households that do not receive an application may request one from DHS.]

§8.5. Responsibilities of Energy Suppliers and Housing Authorities. Energy suppliers and housing authorities participating in the Heat Stress Relief Program (HSRP) [HEAP] vendor payment process [have the following responsibilities]:

(1) must [to] not discriminate against recipients of HSRP [HEAP] benefits either in the cost of goods supplied or in the service provided; and

(2) must [to] complete a vendor agreement and return it to DHS before war-

rants can be made payable to them.

§8.6. Benefit Amounts.

(a) The Heat Stress Relief Program (HSRP) provides [For both the winter heating and summer cooling programs, there are] three basic benefit levels. The highest benefit level is for households with gross incomes from [of] 0% [0] through 35% of federal [the] poverty income guidelines, [standard] as specified in §8.2 of this title (relating to HSRP Eligibility Criteria) [for eligibility determination]. The intermediate benefit level is for households with gross incomes from [of] 36% [36] through 70% of federal [the] poverty income guidelines [standard]. The lowest benefit level is for households with gross incomes from [of] 71% [71] through 120% of federal [the] poverty income guidelines [standard]. For households living in government subsidized housing, the three basic benefit levels are adjusted as specified in subsection (b) of this section because [since] the energy costs of these households have already been reduced by a government subsidy.

(b) For residents in [of] government subsidized housing, the three basic benefit levels are reduced by a standardized percentage determined by DHS [the department]. The [This] reduction is based on the best available statewide data comparing [reflecting] the average [heating and] cooling costs of subsidized housing residents and [(taking into account the average subsidy) compared to] the average [heating and]

cooling costs of other households. [For the heating and cooling programs.] The [the] standardized percentage reduction is 30%. This percentage reduction will not be increased without the Texas Board of Human Services' approval.

(c) For heating assistance, the benefit levels described in subsections (a) and (b) of this section are determined on a county-by-county basis using the best available data from the Texas Railroad Commission on the average cost of natural gas to residential users in each county, the total amount of funds available for the program, and the anticipated caseload. Benefit amounts for eligible households are based on the county of residence at the time of eligibility certification.]

(c)[(d) For cooling assistance.] The [the] benefit levels cited [described] in subsections (a) and (b) of this section are determined [on a] statewide based on [basis using the best available data from the Public Utility Commission on the average cost of electricity to residential users,] the total amount of funds available for the HSRP program, [and] the anticipated caseload[,] and the best available data from the Public Utility Commission regarding the average cost of electricity to residential users.

(d)[(e)] The methodology for calculating benefit levels [as described in subsections (c) and (d)] is submitted [annually] to the Department of Health and Human Services as part of the Heat Stress Relief [Home Energy Assistance] Program Texas

State Plan for Operation. The methodology applies in all cases except that every eligible household receives benefits of at least \$48 [\$10] and no more than \$138 [\$195].

§8.7. Outreach. Local contractors must publicize [DHS will make public any information about] Heat Stress Relief Program (HSRP) eligibility requirements and benefits. [of the HEAP heating and cooling programs.] Local contractors must [DHR will] release public service announcements regarding operation of the program.

§8.8. Appeals. Households are entitled to [may] request [a] fair hearings [hearing] if their applications [application] for Heat Stress Relief Program (HSRP) [HEAP] assistance are [is] denied or not acted on promptly. The household [Households] must request a [the] fair hearing within 90 days from the effective date of the denial action or alleged inaction. DHS's appeal [Appeal] procedures are addressed in Chapter 79 of this title (relating to Legal Services).

Issued in Austin, Texas, on June 12, 1989.

TRD-8905153

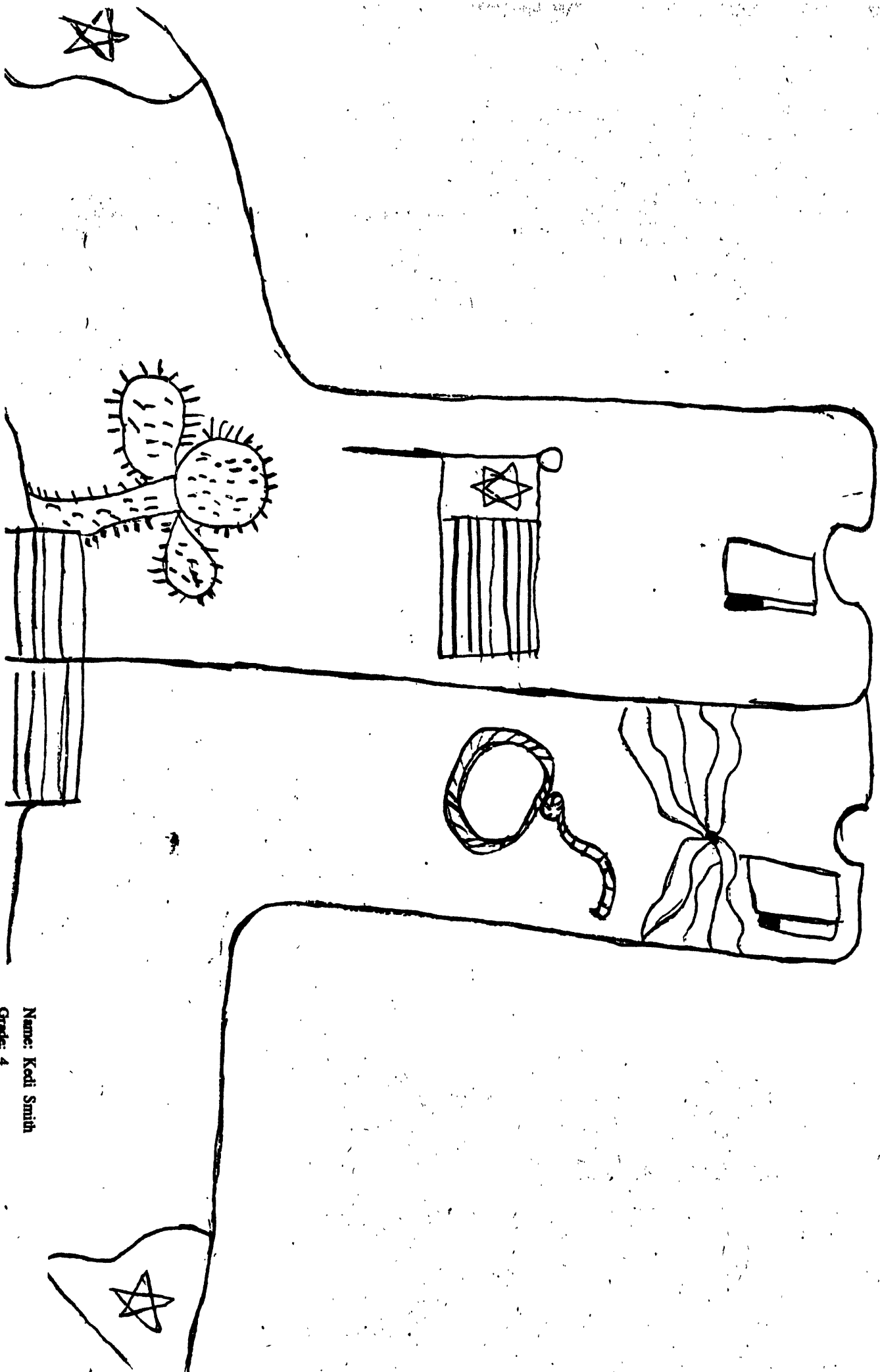
Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 1, 1989.

Expiration date: October 29, 1989.

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





Name: Kedi Smith

Grade: 4

School: Colonies North Elementary, Northside

Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards

Chapter 69. Manufactured Housing Division

Standards and Requirements

• 16 TAC §69.54

(Editor's Note: The Texas Department of Labor and Standards 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 Department of Labor and Standards proposes an amendment to §69.54, concerning installation requirements for manufactured homes with no available installation instructions. The amendment is needed to provide installation requirements for the many different types of used homes that are being sold for installation in Texas. The original installation instructions supplied by the manufacturer are no longer in the homes.

Harry Christensen, program manager manufacturer housing, has determined that for the first five-year period the section is in effect there will be fiscal implications for small businesses as a result of enforcing or administering the section. The cost of compliance with the section for small businesses will be an increase in the number of piers required to support some used homes. The cost of compliance for small businesses will be the same as the cost for the largest businesses affected by the section. There will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Christensen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be increased stability of used manufactured homes after installation. The possible economic cost to individuals who are required to comply with the section as proposed will be that the amount of increase is determined by the slope of the ground at the installation site.

Comments on the proposal may be submitted to Harry Christensen, Program Manager/Manufactured Housing Division, Texas Department of Labor and Standards, 920 Colorado Street, Austin, Texas 78701, or P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221f, which provide the

commissioner with the authority to adopt rules and regulations, to take all action necessary to assure compliance with the intent and purpose of this Act, and to provide for uniform enforcement of all provisions of this 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 June 8, 1989.

TRD-8905118

Joseph L. Huertas
Program Manager
Texas Department of Labor
and Standards

Earliest possible date of adoption: July 17, 1989

For further information, please call: (512) 463-2907

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

Chapter 9. Public Junior Colleges

Subchapter D. Basic Standards

• 19 TAC §9.63

The Texas Higher Education Coordinating Board proposes an amendment to §9.63, concerning admission. The proposed amendment changes the wording of the admissions rule to clarify the college class load of a high school student who has completed his or her junior year and allows for exception to the rule. A change is also made in paragraph (2) regarding admissions of students who have opted to complete their secondary education with the General Educational Development Testing Program. This policy requires that community colleges adhere to an open admissions philosophy.

Dale Campbell, assistant commissioner for community colleges and technical institutes, 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 or small businesses as a result of enforcing or administering the section.

Mr. Campbell also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be better understanding of the current Coordinating Board rules on admissions. There is no antic-

ipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §61.062, which provides the Coordinating Board with the authority to adopt rules regarding basic standards.

§9.63 Admission. A student may be admitted to a public junior college according to any one of the following conditions.

- (1) (No change.)
- (2) An applicant who has not been graduated from high school:

(A) must be admitted upon completion of the general educational development testing program; or

(B) may be admitted on the basis of written examinations or [successful completion of the General Educational Development Testing Program or] upon the recommendation of the principal or superintendent of the last high school attended. Content of the written examinations shall reflect high school equivalency. The form and type of these examinations, and the procedure for administering them, are to be determined by local policy.

- (3)-(4) (No change.)
- (5) A student who has completed his junior year of high school may, upon the recommendation of the high school principal, be permitted to enroll in a junior college. The class load of such student shall not exceed two college credit courses per semester. However, under special circumstances the Coordinating Board commissioner may grant exceptions to the rule [the equivalent of 16 semester hours, counting each high school course as the equivalent of one three-hour course].

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 2, 1989.

Earliest possible date of adoption: July 17, 1989

For further information, please call: (512) 462-6420

Chapter 21. Student Services

Subchapter C. Hinson-Hazlewood College Student Loan Program for all Loans Which are Subject to the Provision of the Guaranteed Student Loan Program, the College Access Loan Program

The Health Education Assistance Loan Program, and the Health Education Loan Program.

• 19 TAC §21.59

The Texas Higher Education Coordinating Board proposes an amendment to §21.59, concerning borrower information. The amendment is being made to agree with federal law and rules, so that there will be compliance with federal law and rules.

Mack Adams, assistant commissioner for student services, 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 or small businesses as a result of enforcing or administering the section.

Mr. Adams also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the program will continue as a result of complying with federal law. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, Chapter 52, which provide the Coordinating Board with the authority to adopt rules regarding borrower information.

§21.59. Borrower Information.

(a) (No change.)

(b) The borrower and the institution shall notify the board immediately when:

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

(3) a supplemental loans for students borrower through the program ceases to be enrolled at least one-half time and meets the following criteria: the borrower made his/her first supplemental loans for students through any lender after July 1, 1987, and the borrower is receiving a guaranteed student loan or a supplemental loans for students loan for the same enrollment period [if the borrower made his or her first supplemental loans for students loan through any lender after July 1, 1987];

(4) a supplemental loans for students borrower through the program ceases to be enrolled full-time and meets the following criteria: the borrower made his/her first supplemental loans for students through any lender after July 1, 1987, and the borrower is not receiving a guaranteed student loan or supplemental loans for students loan for the enrollment [academic] period;

(5)-(6) (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 June 7, 1989.

TRD-8905078

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: July 17, 1989

For further information, please call: (512) 462-6420

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 8. Home Energy Assistance Program

Program Requirements

• 40 TAC §§8.1-8.8

(Editor's Note: The Texas Department of Human Services 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 Department of Human Services (DHS) proposes an amendment to §§8.1-8.8, concerning program requirements, in its Home Energy Assistance Program (HEAP)

chapter. The purpose of the amendments is to permit operation of the cooling assistance component of HEAP during the summer of 1989 despite a reduction in available funds. The program will operate under the name "Heat Stress Relief Program," with benefits to be provided through an application process that contractors will conduct at the local level. In addition to meeting income eligibility requirements, households must have a medical need for assistance to receive benefits. The department is simultaneously adopting this amendment on an emergency basis effective July 1, 1989, for 120 days.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect is an estimated additional cost of \$390,000 for fiscal year (FY) 1989; \$390,000 for FY 1990; \$390,000 for FY 1991; \$390,000 for FY 1992; and \$390,000 for FY 1993. There will be no fiscal implications for local government or small businesses 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 provide cooling assistance to low income households with a medical need for it. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-294, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. A public hearing will be held on Thursday, June 22, 1989, at 9 a.m. in the John H. Winters Building Public Hearing Room, first floor, East Tower, 701 West 51st Street, Austin.

The amendments 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.

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 12, 1989.

TRD-8905154

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Proposed date of adoption: September 1, 1989.

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

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 within 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 28. INSURANCE Part II. Industrial Accident Board

Chapter 42. Medical Benefits Subchapter B. Medical Cost Evaluation

• 28 TAC §42.110

The Industrial Accident Board has withdrawn the emergency effectiveness of amendment to §42.110, concerning the medical benefits. The text of the emergency amendment appeared in the April 28, 1989, issue of the *Texas Register* (14 TexReg 2063). The effective date of this withdrawal is June 28, 1989.

Issued in Austin, Texas, on June 7, 1989.

TRD-8905079 Inez "Tippy" Foster
Acting Executive Director
Industrial Accident Board

Effective date: June 28, 1989

For further information, please call: (512)
448-7960



TITLE 31 NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 3. Energy Resources Payment of Royalties; Filing of Reports; Failure to Pay; Penalties and Forfeiture

• 31 TAC §3.1

The General Land Office has withdrawn from consideration for permanent adoption a proposed amendment which appeared in the March 14, 1989, issue of the *Texas Register* (14 TexReg 1360). The effective date of this withdrawal is June 8, 1989.

Issued in Austin, Texas, on June 8, 1989

TRD-8905101 Dan Miller
Assistant General Counsel
General Land Office

Effective date: June 8, 1989

For further information, please call: (512)
463-5009



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 8. Home Energy Assistance Program

Program Requirements

• 40 TAC §8.9

The Texas Department of Human Services has withdrawn from consideration proposed new §8.9, concerning Program Suspension, in its Home Energy Assistance Program chapter. The text of the proposed new section appeared in the April 14, 1989, issue of the *Texas Register* (14 TexReg 1817). The effective date of the withdrawal is June 12, 1989.

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

Issued in Austin, Texas, on June 12, 1989.

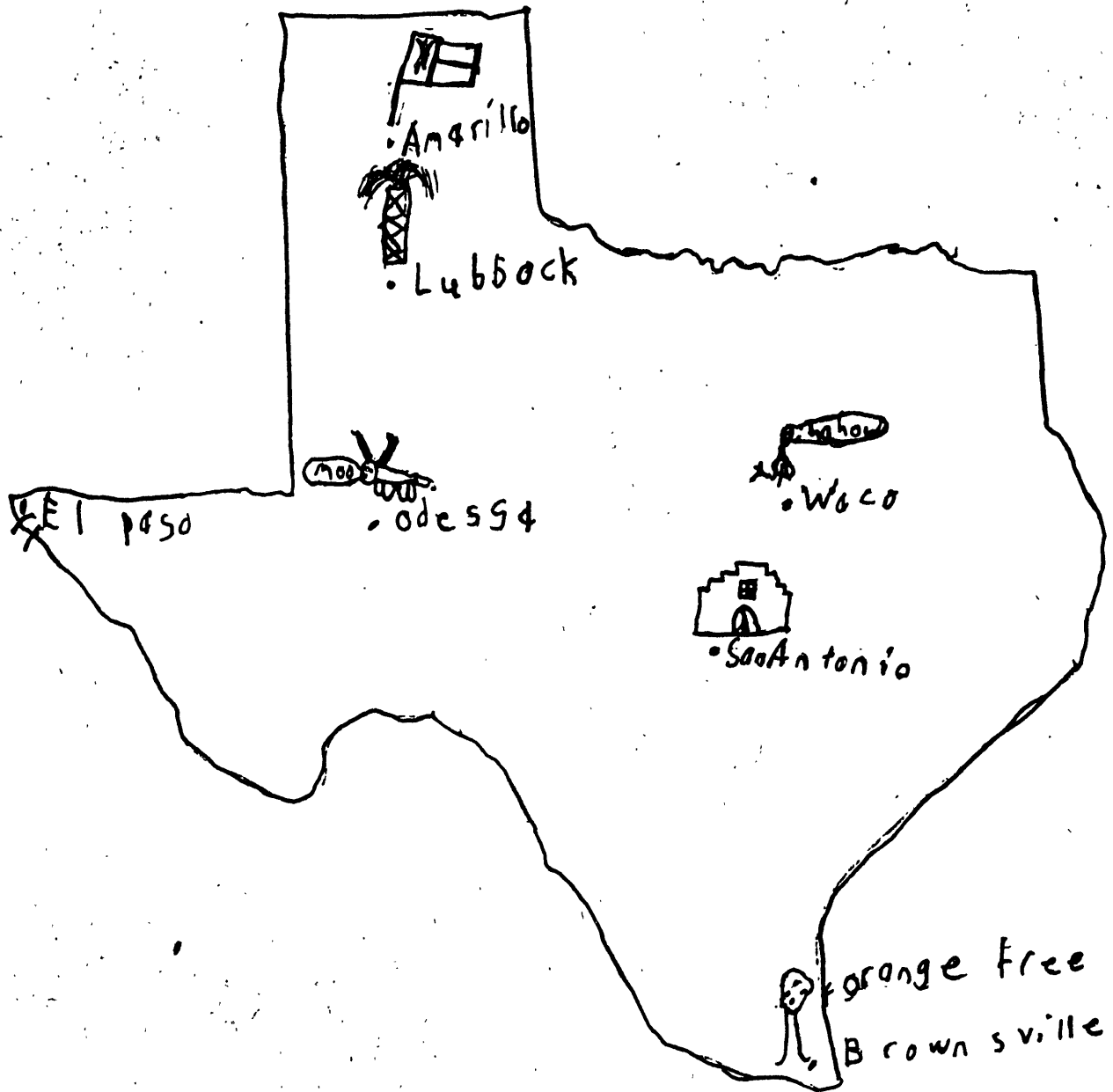
TRD-8905152 Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: June 12, 1989.

Proposal publication date: April 14, 1989.

For further information, please call: (512)
450-3785





Name: Kevin Robinson

Grade: 4

School: Colonies North Elementary, Northside

Kevin Robinson

Adopted Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Rates

• 16 TAC §23.27

The Public Utility Commission of Texas adopts an amendment to §23.27, with changes to the proposed text as published in the December 9, 1988 issue of the *Texas Register* (13 TexReg 6063).

The amendment will further implement the legislative mandate found in Texas Civil Statutes, Article 1446c, §18(e), to promulgate rules for the determination of the level of competition in specific telecommunications markets and submarkets and for the provision of appropriate regulatory treatment to allow local exchange companies to respond to significant competitive challenges.

The amendment establishes the procedures for making such determinations. The amendment alters the manner in which rates for the services are determined and the extent to which such services are offered.

Comments received from parties in response to the December publication generally fell into one of two categories: those who opposed changing the requirements that local exchange carriers offer competitively regulated services on a systemwide basis, using a systemwide costing methodology; and those who advocated adopting a costing methodology based on customer-specific costs, with services offered either in a more limited geographic area or on a customer-specific basis. Parties were permitted to carry forward comments made in response to an earlier publication of changes to this section, and many parties indicated that they wished to do so. These prior comments were not significantly different from those received in response to the December publication.

Commenters generally objecting to the changes described above include: ClayDesta Communications, Consumers Union, IntCom Inc., MCI Telecommunications Corporation (MCI), Network Communications, Inc., and the Texas Cable T.V. Association. Parties in favor of the changes include: Southwestern Bell Telephone, GTE Southwest, Inc., and the State Purchasing and General Services Commission.

The commission voted to amend the section generally in response to comments submitted by Southwestern Bell, citing the adopted changes as being more in line with legislative intent on this matter. With reference to the

December publication, the commission took the following actions on §23.27: rejected the proposed modification to the definition of service market as too restrictive; deleted the requirement that a local exchange carrier provide information pertaining to its systemwide market in its application to have a particular geographic market declared subject to significant competition, but added a requirement that information on market share and elasticity be included in such application if it is not prohibitively difficult; rejected Southwestern Bell's argument that the basic costing methodology (long run incremental costs) not be computed on a systemwide basis, but permitted a waiver to be granted on a showing of good cause; clarified that the commission need only consider market share and elasticity data to the extent such data is required to be provided; permitted the local exchange carrier to offer the flexibly-regulated competitive services in a geographic market or, in the alternative, systemwide; revised the requirements concerning the affidavits that must be submitted when a local exchange carrier files a customer-specific contract to require an affidavit from the person or entity contracting for the telecommunications services in each instance; deleted the requirement that the long run incremental costing methodology for customer-specific contracts for services listed in the Public Utility Regulatory Act, §18(e)(3)(B), be calculated on a systemwide basis, but added a requirement that if customer-specific long run incremental unit costs are utilized, the justification for its use in lieu of systemwide costs must be reasonable; and directed that a review of the provisions of this section be initiated by January 1, 1990.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provides the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

§23.27. Rate-Setting Flexibility for Services Subject to Significant Competition.

(a) Application. This section applies to local exchange carriers (LECs), as that term is defined by §23.61 of this title (relating to Telephone Utilities), which are subject to the rate-making jurisdiction of the commission for any service or market.

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

(1) Significant competition—Competition in a service market in which the commission determines that, while competition may not be sufficient to

make the LEC non-dominant in the market, extant competition is sufficient to pose a substantial threat to the contribution that the service provides or has provided to joint and common costs or which threatens to leave the LEC with substantial stranded investment in facilities previously used to provide the service. Service markets which have not provided a contribution to joint and common costs may also be found to be subject to significant competition upon a commission determination that extant competition is sufficient to preclude such a contribution unless pricing flexibility is granted.

(2) Geographic market—Any market for a service which is no smaller than a single local exchange and may include multiple exchanges up to the full inclusion of an LEC's entire system. The commission may find that the geographic market for a service is statewide for all LECs.

(3) Administrative review—A process whereby a contract is reviewed by the commission staff and the Office of Public Utility Counsel and ruled on by the presiding examiner without an evidentiary hearing and without an order signed by the commission.

(4) Customized service—A package of LEC services which is unique because of its size or configuration. Customized services may not include basic local exchange services, local measured service, message toll service, wide area telecommunications service, or switched access service.

(5) Similar services—Services which have the same characteristics and are provided at or near the same point in time and under the same or similar circumstances.

(6) Service market—Any tariffed service of an LEC or any submarket of customers of a tariffed service of an LEC.

(c) Filings requesting a service market to be declared subject to significant competition. After the effective date of this section, an LEC may file an application to have one or more of the following service markets declared to be subject to significant competition: packet switching service; digital private line service; central office-based PBX-type service of more than 100 stations; mobile telephone service; and paging service. No sooner than 18 months after the

effective date of this section, an LEC may petition the commission to accept an application related to any other service market, except basic local exchange service including local measured service. The commission may modify or deny any such petition. Applications to declare a service market subject to significant competition shall indicate:

(1) the LEC's intent to use the procedures described in this section;

(2) the service market which the LEC is requesting be declared subject to significant competition;

(3) the geographic market in which the LEC is requesting the service be declared subject to significant competition:

(4) the services or products competing with the LEC's service within that geographic market:

(5) the number, size, names, and addresses of telecommunications utilities or other persons providing the same, equivalent, or substitutable services or products in that geographic market for the service:

(6) the extent to which the same, equivalent, or substitutable service is available in that geographic market for the service;

(7) the ability of customers to obtain the same, equivalent, or substitutable services at comparable rates, terms, and conditions in that geographic market for the service:

(8) the ability of telecommunications utilities or other persons to make the same, equivalent, or substitutable service readily available at comparable rates, terms, and conditions in that geographic market for the service:

(9) the existence of any significant barrier to the entry or exit of a provider of the service in that geographic market for the service;

(10) information demonstrating that extant competition in the geographic market proposed by the LEC poses a substantial threat to the contribution the service provides or threatens to strand substantial investment in the geographic market proposed by the LEC. If the service does not require substantial capital investment and has not provided a contribution in the past, the LEC shall provide information demonstrating that competition precludes such a contribution unless pricing flexibility is granted;

(11) information on the systemwide, long run incremental costs related to the service, including the specific categories of costs which are to be recovered by the rates for such service, as well as detailed documentation supporting the LEC's cost calculations including the LEC's assumptions related to those costs;

(12) if the LEC is requesting a

modification of the systemwide, long run incremental cost standard, information related to the alternative cost standard, including the specific categories of costs which are to be recovered by the rates for the service as well as detailed documentation supporting the LEC's cost calculation and the LEC's assumptions related to those costs;

(13) information demonstrating that the type of pricing flexibility being requested by the LEC (rate-banding, use of customer-specific contracts or both, detariffing, or some other form of flexibility) is appropriate given the extent of competition. If rate-banding is proposed, the application shall state the maximum and minimum rates. Proposed, demonstrate that the minimum rate is above the systemwide, long run incremental cost of such service, and include all workpapers and supporting documentation relating to computations or assumptions supporting this assertion;

(14) the market share of the LEC for the service, the market share of specific competitors relative to the LEC's market share, and information on concentration ratios, the elasticity of demand, and the cross-elasticity of demand, to the extent that such information is not prohibitively difficult to produce;

(15) information on whether pricing flexibility, if granted by the commission, would affect high-cost LECs to the extent that additional support for those LECs from the universal service fund is in the public interest; and

(16) any other information the LEC wants considered in connection with the commission's review of its application.

(d) Modifications and waivers of requirements. In its application under subsection (c), an LEC may request for good cause the modification or waiver of any systemwide, long run incremental cost requirements set forth in this section. The commission may grant such a request on a showing by the LEC of good cause through clear and convincing evidence that a departure from such systemwide, long run incremental cost standard is necessary to enable the LEC to respond to significant competitive challenges that overcome the public policy benefits of minimizing rate differences among geographic areas of the state. A waiver of such systemwide, long run incremental cost standard shall also be granted if the commission determines that such standard imposes an unreasonable burden on an LEC which has inadequate resources to produce the required cost information to meet that standard and if the commission determines that an appropriate alternative cost standard is available. If such systemwide, long run incremental cost standard is waived, the LEC must provide other cost information demonstrating its proposed rates will recover the costs of the service as well as a contribution for joint and/or com-

mon costs. Any requests for modification or waiver of such systemwide, long run incremental cost support requirement shall include a complete statement of the LEC's arguments supporting that request.

(e) Determination of service markets subject to significant competition. The commission shall hold an evidentiary hearing to determine whether a service market is subject to significant competition in any geographic market and whether barriers to entry or exit exist in any geographic markets in which the service is offered by the LEC. The commission may consolidate applications filed by two or more LECs related to similar service markets into a single evidentiary proceeding and may join any other LEC in such a proceeding but shall make separate determinations regarding whether a service market is subject to significant competition for the appropriate geographic markets of each LEC applying or joined in the proceeding. An LEC may file a request to be excluded from any such proceeding provided that such request is accompanied by an explanation of why the LEC should not be joined in the proceeding. An LEC which is excluded from such a proceeding upon its own request shall not file an application related to that service under this section for two years after the date of the commission's approval of its request to be excluded from the proceeding. If two or more undocketed applications are pending before the commission at any time, the commission staff may recommend and the director of hearings may determine the order in which those applications are docketed based on an assessment of the public interest in those applications. In determining whether a service market is subject to significant competition in any geographic market, the commission shall hold an evidentiary hearing to consider the following:

(1) the threat posed by competition to the contribution the service provides to joint and common costs of the LEC and to the LEC's capital investment related to the service in the geographic market in question, or if the service does not require substantial investment and has not provided a contribution in the past, whether pricing flexibility will allow the service to provide such a contribution;

(2) the number and size of telecommunications utilities or other persons providing the same, equivalent, or substitutable service, and the geographic areas served by those providers;

(3) the financial and technical resources of specific competitors relative to the financial and technical resources of the LEC in providing the service;

(4) the market share of the LEC for the service, the market share of specific competitors relative to the LEC's market share, and concentration ratios for the largest suppliers in the market, to the extent

such information is required to be provided under subsection (c)(14);

(5) the extent to which the same, equivalent, or substitutable service is available; the ability of customers to obtain such alternative services at comparable rates, terms, and conditions; and customer Perceptions and knowledge regarding the availability of such alternative services in the geographic market in question;

(6) the ability of telecommunications utilities or other persons to make the same, equivalent, or substitutable service readily available at comparable rates, terms, and conditions in the geographic market in question;

(7) the existence of any significant legal, economic and other barriers to the entry into or exit from the geographic market in question and all other such markets for that service, the rate at which competitors are entering and leaving those geographic markets for the service, and the rate at which the market share of competitors is increasing or decreasing;

(8) evidence of cream-skimming strategies of competitors made possible by regulatory decisions or policies which have raised rates above the LEC's long run incremental costs in the market proposed by the LEC;

(9) any deterioration or diminished growth of revenues, market share or service volumes of the LEC attributable to increasing competition for that service and how pricing flexibility, if granted, would mitigate or halt that deterioration or diminished growth;

(10) the relative ability of the LEC and of competitors to make use of scale or scope economies in providing the service;

(11) the ability of the LEC to use bottleneck facilities to discriminate against competitors, and measures needed to prevent such actions;

(12) the elasticity of demand both for all providers and for the largest providers of the service and of substitutes for the service, and the cross-elasticity of demand for the largest providers of the service and of substitutes for the service, to the extent such information is required to be provided under subsection (c)(14); and

(13) any other information the commission considers relevant in determining the level of competition in the market.

(f) Approval of application. The LEC shall give such notice of its application as is required by the commission. If, after notice and hearing, the commission determines in an order that the service market is subject to significant competition in a geographic market, it shall indicate in that order whether rate-banding, use of customer-specific contracts (or both), detariffing, or some other form of pricing

flexibility is appropriate in those geographic markets where the LEC has requested pricing flexibility. If the commission determines that no barriers to entry or exit exist in any geographic market in which the LEC offers the service, the commission may require that the form of pricing flexibility which it authorizes be applied to similar services in all such geographic markets of the LEC. If the commission determines that barriers to entry or exit do exist in any geographic market in which the LEC offers the service, pricing flexibility may be approved for all such geographic markets in which there are no barriers to entry or exit. If the commission authorizes pricing flexibility in only those markets in which there are no barriers to entry or exit, the commission may also require implementation plans to be filed by the LEC demonstrating its plans for removing all such barriers to entry and exit which are under the control of the LEC. When authorizing pricing flexibility, the commission shall order a form of flexibility which reflects the level and nature of competition within the LEC geographic market where pricing flexibility has been requested or, in the alternative, in the LEC's systemwide market. When authorizing pricing flexibility, the commission shall also consider the impact of such flexibility on high-cost LECs and whether changes in the universal service fund are therefore in the public interest. In making all such determinations, the commission shall seek to balance the public interest in a technologically advanced telecommunications system with such concerns as preserving universal service, prohibiting anticompetitive practices, and preventing the subsidization of services subject to competition with revenues from regulated monopoly services.

(9) Changes in the universal service fund. If the commission declares a service to be subject to significant competition and determines that pricing flexibility will affect high-cost LECs to the extent that additional support for such LECs is in the public interest, the commission shall specify in its order the manner in which the universal service fund is to be changed so as to provide additional support to high-cost LECs.

(h) Subsequent review of a service market found to be subject to significant competition. Nothing in this section shall preclude the commission from investigating the competitiveness of a service market previously found to be subject to significant competition and from revoking such designation if it finds that the service market is no longer subject to significant competition.

(i) Banded rates. If the commission in an order declares a service market to be subject to significant competition and authorizes an LEC to utilize banded rates, the commission shall establish in that order the minimum and maximum rates to be used. The minimum rate shall recover the systemwide, long run incremental cost as

well as a contribution for joint and/or common costs or, if the systemwide, long run incremental cost standard was waived, such other costs as are approved by the commission. The commission shall also specify in the order the manner in which the LEC shall provide notice to the public, the Office of Public Utility Counsel, and the commission of subsequent changes in rates within the range specified by the commission. Thereafter, the LEC may make rate changes within the range upon completion of public notice and notice to the commission and the Office of Public Utility Counsel as required in the commission's order authorizing banded rates. Rates and other terms established under this provision shall not be unreasonably preferential, prejudicial or discriminatory, predatory, or anticompetitive, nor subsidized by regulated monopoly services.

(j) Filings of customer-specific contracts. Use of customer-specific contracts shall not be approved for basic local exchange service including local measured service, message telecommunications service, wide area telecommunications service, and switched access service for interexchange carriers. If the commission declares a service market to be subject to significant competition and authorizes the LEC to enter into customer-specific contracts for that service, the commission shall specify in its order whether the cost standard to be applied in subsequent administrative reviews shall be systemwide or customer-specific long run incremental costs (or if the long run incremental cost standard was waived by the commission, such other cost standard as the commission finds reasonable), the appropriate minimum contribution for joint and/or common costs which shall be recovered under those contracts, and the notice requirements the LEC must meet prior to filing such contracts for approval by the commission. Thereafter, the LEC shall apply to the commission for approval of any such contracts and shall, on the filing date of such an application, provide a copy of the filing to the Office of Public Utility Counsel. In addition to service markets which the commission declares to be subject to significant competition, an LEC may also apply to the commission for approval of such contracts for the following services: central office based PBX-type service of 200 stations or more, billing and collection services, high-speed private line services of 1544 megabits or greater, and customized services. However, at least 10 days before any application for these enumerated services may be filed by an LEC, the LEC shall file with the commission and the Office of Public Utility Counsel a notice of intent to file such an application and the expected filing date. Such notice shall also include a statement of the LEC's intent to use the expedited provisions of this section, a description of the service, and a description of the geographic market or markets in which the

service is proposed to be offered. The commission shall then publish notice of the LEC's intent to file such application in the *Texas Register*. All applications for approval of customer-specific contracts shall be filed at least 30 days before the date on which the LEC proposes that the service contracted for be initiated. In addition to copies filed pursuant to other commission rules, a copy of the application shall be delivered to the Telephone Division and the Office of Public Utility Counsel. The application shall include:

(1) a statement of intent by the LEC to use the procedures established in this subsection;

(2) a description of the service to be contracted;

(3) the date on which the LEC proposes that the service contracted for be initiated;

(4) a copy of the contract;

(5) proof that the LEC has accomplished public notice as required in this section or by the commission in its order authorizing the LEC to enter into customer-specific contracts;

(6) the geographic market or markets in which the service is to be provided;

(7) detailed documentation demonstrating the relationship between the prices included in the contract and the cost standard specified in the commission's order authorizing customer-specific contracts, including the contribution for joint and/or common costs specified by the commission, and all workpapers and supporting documentation relating to computations or assumptions underlying this assertion;

(8) an affidavit from the person or entity contracting for the service stating that such person or entity considered acquiring the same, equivalent or substitutable services by bid or quotation from a source other than the LEC. In the case of customized services, each individual service included in the package of customized services shall be specified in the affidavit and the customer must have considered acquiring equivalent or substitutable services for each such service from sources other than the LEC. In the case of contracts which involve services enumerated in the Public Utility Regulatory Act, §18(e)(3)(B), an affidavit from the person or entity contracting for the telecommunications services is required for each customer-specific contract that is filed;

(9) any other information which, in its order authorizing the LEC to enter into customer-specific contracts, the commission may have required the LEC to file; and

(10) any other information which the LEC wants considered in connection with the administrative review of the application.

(k) Administrative review of customer-specific contracts. The presiding examiner shall examine the application for sufficiency. If the presiding examiner concludes that material deficiencies exist in the application, the applicant shall be notified within 10 working days of the filing date of the specific deficiency in its application, and the earliest possible effective date of the application shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding examiner. After a sufficient application has been filed, the presiding examiner shall conduct an administrative review to determine whether the LEC's application meets the following requirements:

(1) the contracted service is a service found by the commission to be subject to significant competition under this section or specified in the Public Utility Regulatory Act, §18(e)(3)(B);

(2) the proposed rates will recover all costs associated with the cost standard specified by the commission in its order authorizing customer-specific contracts, including an appropriate contribution for joint and/or common costs;

(3) if the contract is for a service specified in the Public Utility Regulatory Act, §18(e)(3)(B), the proposed rates will recover the long run incremental costs of providing the service specified in each individual contract, as well as an appropriate minimum contribution of 5.0%, and if customer-specific long run incremental unit costs are utilized, the justification for its use in lieu of systemwide costs must be reasonable;

(4) there exists an affidavit as required in subsection (j)(B) of this section;

(5) public notice was provided as required in this section or otherwise required by the commission;

(6) the specific contract terms are not unreasonably preferential, prejudicial or discriminatory, and similar services are not priced in an unreasonably discriminatory manner;

(7) the terms of the contract are such that the contracted service will not be subsidized directly or indirectly by regulated monopoly services or be predatory or anticompetitive;

(8) the contracted service does not include basic local exchange service, local measured service, message telecommunications service, switched access service for interexchange carriers, or wide area telecommunications service; and

(9) approval of the contract is consistent with the public interest in a technologically advanced telecommunications system, the preservation of universal service, and the prevention of anticompetitive practices and the subsidization of services

subject to competition with revenues from regulated monopoly services.

(l) Requests for information. During the administrative review, the commission staff and the Office of Public Utility Counsel may submit requests for information to the LEC. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within 10 days after receipt of the request by the LEC. No later than 20 days after the filing date of the application, interested persons may provide to the staff written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding examiner written comments or recommendations concerning the application.

(m) Approval or denial of customer-specific contracts. The application shall be approved or denied within 30 days after a complete filing is submitted by the LEC unless the presiding examiner for good cause suspends the effective date for an additional 35 days. If, based on the administrative review, the presiding examiner determines that any of the above requirements has not been met, the application shall be denied. If, based on the administrative review, the presiding examiner determines that all requirements have been met, the application shall be approved. Service under a contract approved under this subsection shall be initiated no sooner than the latest of the following dates: 30 days after a complete filing under this subsection has been submitted by the LEC; the date on which the period for reviewing the application, including the suspension period, expires; or the date on which the LEC proposed in its application that the service contracted for be initiated. If an LEC claims that a contract, information related to the costs of providing service under the contract, and/or that information in a customer's affidavit that identifies the customer and the customer's address submitted pursuant to this section is proprietary or a trade secret, such information shall be treated in the same manner as is information submitted pursuant to §23.61(1)(6) of this title (relating to Telephone Utilities). If appropriate, the contract and supporting documentation may be disclosed to interested persons during the administrative review or to parties in any subsequent contested proceeding pursuant to a protective agreement. Such protective agreement shall afford the protected information an appropriate degree of protection accorded by law. If, based on the administrative review, an application filed under this subsection is denied, the LEC may request that its application be docketed and a hearing held. In that event, the commission's rules applicable to docketed proceedings shall apply to such a request, and the service contracted for shall not be initiated without the approval of the commission or the presiding examiner.

(n) Rate case review of rates established under this section. Any rate, term, or condition established under this section by commission order or upon administrative review, including rates established through customer-specific contracts, may be reviewed and changed by commission order in a subsequent rate case under the Public Utility Regulatory Act, §42 and §43.

(o) Detariffing of a service. If the commission declares a service to be subject to significant competition and authorizes the LEC to detariff the service, the LEC shall maintain at the commission at all times a current price list for the service, and the commission shall retain authority to regulate the terms and conditions of the detariffed service other than rates, including the quality of the service. Further, in any subsequent rate case under the Public Utility Regulatory Act, §42 or §43, any revenues in excess of the long run incremental costs of the service may be retained above the line by the commission but any losses related to such costs of the service shall not be recovered from the general body of ratepayers but shall be borne by the shareholders of the LEC.

(p) Subsequent review of the rates, terms, and conditions of a flexibly priced service under this section. The commission's general counsel, the Public Utility Counsel or any affected person may file with the commission a petition seeking modification of the rates, terms, and conditions under which any service which utilizes a form of pricing flexibility as authorized under this section is offered or a petition seeking the withdrawal of the service.

(q) Review of cost standard under this section. Any cost standard established by the commission in this section shall be subject to change pending the commission's deliberations in the cost standard rulemaking required by the Public Utility Regulatory Act, §18(h).

(r) Commission review of this section. A review of the provisions of this section shall be initiated by January 1, 1990, to allow LECs an opportunity to provide documentation and/or evidence related to the effect of this section on the general body of ratepayers; and the effectiveness of this section in meeting competitive challenges faced by the LECs in the systemwide market.

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

Issued in Austin, Texas, on June 7, 1989.

TRD-8905093

Mary Ross McDonald
Administrative Law Judge
Public Utility Commission
of Texas

Effective date: June 29, 1989

Proposal publication date: December 9, 1988

For further information, please call: (512) 458-0100

TITLE 19 EDUCATION.

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

Subchapter J. The Physician Student Loan Repayment Program

• 19 TAC §§21.251-21.263

The Texas Higher Education Coordinating Board adopts the repeal of §§21.251-21.263 without changes to the proposed text as published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6245).

The sections are being repealed so that the subchapter can be rewritten, because the purpose of the program should be better fulfilled.

The sections are being repealed so that the subchapter can be completely re-written so the new rules incorporate the use of federal grant funds as benefits for physicians qualifying under the program. They also raise the benefit for an eligible physician from \$6,000 to \$9,000 per year and allow undergraduate student loans to be included in program eligibility. Qualifying physicians will receive more benefits and the program should enlist more participants.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Higher Education Code, Chapter 61, Subchapter J, which provide the Coordinating Board with the authority to adopt rules regarding the Physician Student Loan Repayment Program.

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

Issued in Austin, Texas, on June 7, 1989.

TRD-8905075

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: June 28, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 462-6420

• 19 TAC §§21.251-21.266

The Texas Higher Education Coordinating Board adopts new §§21.251-21.266. Section 21.251, 21.253-21.266 are adopted without changes to the proposed text as published in the December 20, 1988, issue of the *Texas Register* (13 TexReg 6245). Section 21.252 is adopted without changes and will not be repealed.

The new sections incorporate the use of federal grant funds as benefits for physicians qualifying under the program. They also raise the benefits for an eligible physician from \$6,000 to \$9,000 per year, and allow undergraduate student loans to be included in program eligibility.

The new sections allow qualifying physicians to receive more benefits, and the program should enlist more participants. The purpose of the program should be better fulfilled.

Comments received addressed the following issues: eligibility for state program prerequisite for expanded program eligibility; the difference between a recommendation by the state that an area be designated as a Health Manpower Shortage Area (HMSA) and actual designation by the federal government; limitation of HMSA designation to primary care and psychiatry and need to identify primary care priorities for state program; the need for a separate criteria from HMSA to address economic depression of an area; clarification of definitions (1), (3), (5), and (6) of areas of highest need; a change in the entity providing federal HMSA designations; and refinement of the requirement that physicians serve Medicaid patients.

Commenting in favor of the new sections was the Texas Department of Health.

The Coordinating Board agreed with comments and made appropriate changes.

The new sections are adopted under the Texas Education Code, Chapter 61, Subchapter J, which provide the Coordinating Board with the authority to adopt rules regarding the Physician Student Loan Repayment Program.

§21.251. Purpose. The purpose of the Physician Student Loan Repayment Program is to encourage qualified physicians to practice medicine in designated areas of the state or for specified state agencies. The purpose of the state-funded part of the program is to encourage qualified physicians to practice medicine in an economically depressed or rural medically underserved area of Texas, or for the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Corrections, or the Texas Youth Commission. The purpose of the federally funded portion is to encourage qualified physicians to practice in areas of highest need in Texas.

§21.253. Delegation of Powers and Duties. The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 61, Subchapter J.

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

Board—The Texas Higher Education Coordinating Board.

Commissioner—The commissioner of

higher education, the chief executive officer of the board.

Economically Depressed Medically Underserved Area—Any economically depressed area or county of the state that is also a state recommended health manpower shortage area as defined in §21.255. Economically depressed areas of the state are those designated as economically depressed by the economic development administration of the United States Department of Commerce. Economically depressed counties of the state are those having a poverty rate of 20% or over as determined by the Texas county poverty population model and estimates developed by the Texas Department of Health and the Texas Department of Human Services. (Portions of counties, facilities, or population groups that are state recommended health manpower shortage areas within an economically depressed area or county are considered economically depressed medically underserved areas.)

Economically depressed or rural medically underserved area—See economically depressed medically underserved area and rural medically underserved area of this section. Such an area may also be any state recommended health manpower shortage area in the state.

Health manpower shortage area—An area of the state designated by the Office of Shortage Analysis Bureau of Health Care Delivery and Assistance, of the United States Department of Health and Human Services, or its successors, as having a shortage of primary health care physicians.

Pro rata—A proportionate basis upon which payment amounts will be scaled, depending upon the share of a full work year for state employees.

Rural medically underserved area—Any state recommended health manpower shortage area in Texas that is not designated as a metropolitan statistical area by the United States Bureau of the Census.

Service period—A 12-month period during which a physician qualifies for repayment of student loans.

§21.255. State Recommended Health Manpower Shortage Area. A state recommended health manpower shortage area shall be any area of the state recommended by the Texas Department of Health to the Office of Shortage Analysis, Bureau of Health Care Delivery and Assistance, of the United States Department of Health and Human Services, or its successors, as having a shortage of primary health care physicians.

(1) Denial of designation by the Office of Shortage Analysis does not remove a state recommended health manpower shortage area from the list of eligible areas in the state-funded portion of the program.

(2) A state recommended health manpower shortage area may be removed from the list of eligible areas in the state-

funded portion of the program only after a recommendation to that effect by the Texas Department of Health to the Office of Shortage Analysis.

§21.256. Area of Highest Need. An area of highest need shall be any one of the following:

(1) hospitals in health manpower shortage areas that would have qualified for disproportionate share medicare reimbursements but for a lack of physicians during the previous state fiscal year according to the Texas Department of Human Services;

(2) community health centers in Texas which are located in health manpower shortage areas;

(3) health manpower shortage areas of Texas in which graduates of the Texas Family Practice Residency Training Program practice;

(4) health manpower shortage areas of Texas having a Degree of Shortage of one as reported by the Office of Shortage Analysis, Bureau of Health Care Delivery Assistance, United States Department of Health and Human Services;

(5) counties which are served under provisions of the Texas Maternal and Infant Health Improvement Act as administered by the Texas Department of Health; and

(6) economically depressed medically underserved areas of Texas as defined in §21.254 of this subchapter (relating to Definitions).

§21.257. Eligible Lender. The board shall retain the right of determining eligibility of lenders to which payments may be made. An eligible lender shall, in general, make loans to individuals for purposes of attending institutions of higher education and shall not be any private individual. An eligible lender may be, but is not limited to, a bank, savings and loan association, credit union, institution of higher education, governmental agency, pension fund, private foundation, or insurance company, provided the loan conforms to the definition of an eligible student loan in §21.259 of this subchapter (relating to Eligible Student Loan).

§21.258. Eligible Physician. An eligible physician is one who:

(1) is licensed to practice medicine in Texas by the Texas State Board of Medical Examiners and against whom no professional disciplinary actions have been taken; and

(2) has satisfactorily completed a postgraduate program approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic As-

sociation in an appropriate field of medicine.

§21.259. Eligible Student Loan. A student loan eligible for repayment is one that:

(1) was obtained through an eligible lender in the State of Texas for purposes of attending an institution of higher education;

(2) is not a loan made to oneself from one's own insurance policy or pension plan or from the insurance policy or pension plan of a spouse or other relative;

(3) is not from a program with an existing service obligation; and

(4) is not in default at the time of the physician's application.

§21.260. State-funded Physician Student Loan Repayment Program. The state-funded Physician Student Loan Repayment Program is limited to repayments on student loans on behalf of physicians who practice in economically depressed or rural medically underserved areas of Texas or for one of the following state agencies:

(1) the Texas Department of Health;

(2) the Texas Department of Mental Health and Mental Retardation;

(3) the Texas Department of Corrections; and

(4) the Texas Youth Commission.

§21.261. Expanded Physician Student Loan Repayment Program. The expanded Physician Student Loan Repayment Program is limited to federally funded repayments on student loans on behalf of physicians. Payments in the expanded program are matched with an equivalent amount of state funds. This program is limited to physicians providing services in areas of family practice, osteopathic general practice, or obstetrics/gynecology. Repayments may be made under terms of the expanded program to any eligible physician whose service period ends October 1, 1988, or later.

§21.262. Qualifications for Student Loan Repayment. The commissioner may authorize, or cause to be authorized, repayment of student loans made to an eligible physician who shows evidence of a strong service commitment and who:

(1) in the state-funded program:

(A) has submitted the appropriate application to the board;

(B) has not applied for nor is receiving repayment for service through another student loan repayment program; and

(C) has completed at least one year of medical practice:

(i) in private practice in an economically depressed or rural medically underserved area of the state; or

(ii) for one of the four state agencies indicated in §21.260 of this subchapter (relating to State-funded Physician Student Loan Repayment Program); and

(2) in the expanded program, in addition to fulfilling the requirements of the state-funded portion of the program:

(A) has submitted the appropriate application to the board;

(B) has not applied for nor is receiving repayments for service through another student loan repayment program;

(C) has completed at least one year of private medical practice in an area of highest need as defined in §21.256 of this subchapter (relating to Area of Highest Need);

(D) is enrolled as a medicaid provider and has accepted both medicaid and medicare assignment as payment for medical services during the 12-month period preceding repayment as verified by the Texas Department of Human Services; and

(E) has fulfilled paragraph (2)(D) of this section or participated as a provider in the Texas Maternal and Infant Health Improvement Program in counties served under provisions of the Texas Maternal and Infant Health Improvement Act.

§21.263. Priorities of Application Acceptance. Acceptance of applicants will depend on the availability of funds and will be based on a set of priorities as indicated below.

(1) Renewal applicants in the state-funded and expanded programs will be given priority treatment over first-time applicants.

(2) For applicants working in economically depressed or rural medically underserved areas, priority will be given in the state-funded program to persons trained in the following primary care specialties: family practice, osteopathic general practice, obstetrics/gynecology internal medicine, pediatrics, emergency medicine, general surgery, or psychiatry.

§21.264. Prior Conditional Approval. Prior conditional approval of applications for repayment of loans may be granted

by the board. Such approval may occur no earlier than the beginning of the applicant's final year of postgraduate training or the beginning of the applicant's year of service in one of the approved areas defined in §21.262 of this subchapter (relating to Qualifications for Student Loan Repayment). Repayments are dependent upon confirmation of completion of graduate or professional education and/or employment in one of the approved areas. Repayments are dependent also upon availability of funds. The board may reserve funds for applicants who have received prior conditional approval.

§21.265. Repayment of Student Loans. Eligible student loans of qualified physicians shall be repaid under the following conditions.

(1) A total annual repayment to one or more eligible lenders shall not exceed the applicant's unpaid principal loan balance, including capitalized interest, from all sources or \$9,000 in the state-funded program or \$18,000 in the expanded program, whichever is less.

(2) The service period qualifying physicians for the annual repayment amounts in the state-funded program and the expanded program in paragraph (1) of this section must have ended October 1, 1988, or later.

(3) Repayment shall be made at the end of each year of eligible service.

(4) Student loan repayment may be renewed annually upon successful completion of the application process, but for no more than a total of five years.

(5) The annual repayment shall be made copayable to the eligible physician and to any eligible lender(s) to be applied only to the outstanding principal balance of the loan, including capitalized interest.

(6) The annual repayment may be made on a pro rata basis for verified part-time service.

(7) In the case of a practice with one of the four state agencies specified in §21.260 of this subchapter (relating to State-funded Physician Student Loan Repayment Program), an applicant must have practiced medicine on at least a part-time basis and have received a favorable recommendation from the chief executive officer of the state agency.

§21.266. Dissemination of Information. The board shall publish and disseminate information about the Physician Student Loan Repayment Program to health-related institutions of higher education, the appropriate state agencies, and any interested professional associations.

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

cy's legal authority.

Issued in Austin, Texas, on June 7, 1989.

TRD-8905077

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: June 28, 1989

Proposal publication date: December 20, 1988

For further information, please call: (512) 462-6420

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 3. Life, Accident, and Health Insurance and Annuities

Subchapter A. Requirements for Filing of Policy Forms, Riders, Amendments, and Endorsements for Life, Accident, and Health Insurance and Annuities

• 28 TAC §§3.1-3.9

The State Board of Insurance adopts the repeal of §§3.1-3.9, without changes to the proposed text as published in the April 7, 1989, issue of the *Texas Register* (14 TexReg 1709).

Sections 3.1-3.9, have concerned the filing requirements for submission of policy forms to the Individual Life Section of the Life Group of the State Board of Insurance. Repeal of these sections is necessary to eliminate unnecessary provisions and to enable the board simultaneously to adopt new Subchapter A, concerning requirements for filing of policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities.

The repeals eliminate narrow language in §§3.1-3.9, concerning filing requirements applicable only to policy forms for individual life insurance and annuities. Notification appears elsewhere in this issue of the *Texas Register* of the adoption of new Subchapter A with broader language in new §§3.1-3.5, applicable to forms for all types of life, accident, and health insurance policies and annuities.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Insurance Code, Article 3.42(k), which authorizes the State Board of Insurance to adopt rules necessary to implement and accomplish the specific provisions of the article, which requires filing, review, and/or approval of life insurance and annuity forms and accident and health insurance forms.

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

Issued in Austin, Texas, on June 9, 1989.

TRD-8905123

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 30, 1989

Proposal publication date: April 7, 1989

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

28 TAC §§3.1-3.5

The State Board of Insurance adopts new §§3.1-3.5. Section 3.2 and §3.3 are adopted with changes to the proposed text as published in the April 7, 1989, issue of the *Texas Register* (14 TexReg 1709). Sections 3.1, 3.4, and 3.5 are adopted without changes and will not be republished. In order to reflect the broader scope of Subchapter A after adoption of these new sections, this adoption includes a change in the title of the subchapter.

Sections 3.1-3.5, concern preparation and submission of certain forms to the Life Group of the State Board of Insurance. The new sections concern preparation and submission of policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities. The new sections are necessary for more effective regulation of insurance and annuity forms through a more expeditious review process, which will standardize and disencumber the procedure for submitting policy forms to the State Board of Insurance for filing and/or approval, and will thereby facilitate and streamline the board's process for receiving and reviewing policy forms. Regulated entities will file these forms with the Life Group, comprised of the Individual Life and Annuity Section, the Group Life and/or Group Accident and Health Section, the Credit Life and/or Credit Accident and Health Section, and the Individual Accident and Health Section. Adoption of a uniform set of rules for all sections should alleviate confusion concerning the specific filing requirements for each section of the Life Group and result in a more expeditious review process. In response to comments, this adoption includes changes to §3.2 and §3.3. In §3.2(f) the third sentence has been divided into two sentences and rewritten for clarification. The adoption includes the addition of §3.3(a)(2)(G) to list a rider containing an acceleration-of-life-insurance-benefits provision as a severable form under certain conditions. Listing of this form was inadvertently omitted from the proposed text. The adoption changes §3.3 (a)(3)(E) to clarify that the type of corrective endorsement that may not be independently reviewed is a corrective endorsement which adds language to a form as required by state statute or State Board of Insurance rule.

New §3.1, lists the types of forms to which the subchapter applies. New §3.2, establishes general requirements for content and form of the submission. New §3.3, establishes additional requirements for particular kinds of forms. In order to prevent a backlog of pending forms for which additional information is necessary, new §3.4, provides for additional communication between the Life Group of the State Board of Insurance and regulated entities. New §3.5, requires that forms be submitted in accordance with §3.2 in order to be accepted by the Life Group. The adoption of new §§3.1-3.5 as

Subchapter A, relating to requirements for filing of policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities, is simultaneous with the repeal of the old §§3.1-3.9 as Subchapter A, relating to preparation and submission of individual life insurance and annuity forms, and with the repeal of §3.3030, relating to standards for policy forms submitted for approval. Notice of adoption of these repeals appears elsewhere in this issue of the *Texas Register*.

Objecting to the sections as proposed were State Farm Insurance Companies and Great American Reserve Insurance Company.

One commenter complained about the burden of the requirement in §3.2(f) that companies must include within the identifying form number the additional identification of the article of the Insurance Code under which the form is being filed. The board is of the opinion that the use of statutory identification is an aid to staff in reviewing the form and premium rates. The adoption retains the requirement but rewords the subsection to clarify that it applies only to credit life and credit accident and health forms. One commenter questioned the omission of acceleration-of-life-insurance-benefits provisions as severable riders. The board responds that the omission was inadvertent and the board has added §3.3(a)(2)(G) to include this type of rider. The commenter also objected to §3.3(a)(3)(E) which concerns the nonseverability of amendments that add required language to individual life and annuity forms. The comment addressed endorsements that are affected by federal law. In response, the board has changed §3.3(a)(3)(E) to reflect that Subparagraph (E) refers to endorsements required by state law. This commenter objected to §3.3(a)(7)(B) (iv) relating to the actuarial memorandum required for individual annuities and suggested that the requirement should apply only when an insurer changes the minimum guaranteed interest rate. The board disagrees with this suggestion. Statutory reserve and cash surrender requirements must be verified for the annuity contracts. Annuity cash surrender values and reserves are calculated on interest rates guaranteed within the contract. If a particular interest rate, in excess of the minimum rate, is guaranteed for a period of time, that particular interest rate must be taken into account for determination of cash values and reserves for the contract. This commenter questioned the need for precluding the use of any group form with more than one type of group and recommended changing §3.3(b)(6)(A). The board declines to change this subparagraph and notes that different statutory requirements exist for the various eligible groups. This causes difficulty in designing one group master contract to be used for more than one group. This commenter urged deletion of §3.3(d)(1) which bars correction by amendatory endorsement of statutory or board objections to individual accident and health policies. In response, the board notes that this requirement is necessary for consistency with other rules of the board which require general readability for an individual accident and health insurance policy. The use of corrective amendments or endorsements to correct individual accident and health forms would greatly reduce the readability of an individual accident and sickness form.

The new sections are adopted under the Insurance Code, Articles 1.04(b), 3.42(k), and 3.53. Article 1.04(b) authorizes the State

Board of Insurance to determine rules in accordance with the laws of this state. Article 3.42(k) authorizes the State Board of Insurance to adopt such reasonable rules and regulations as are necessary to implement and accomplish the specific provisions of the article, which requires filing, review, and/or approval of life insurance and annuity forms and accident and health insurance forms. Article 3.53, §12, authorizes the State Board of Insurance to adopt such reasonable rules and regulations as are necessary to implement and accomplish the specific provisions of that article, which requires filing, review, and/or approval of credit life insurance and credit accident and health insurance forms.

§3.2. General Submission Requirements.

(a) Address. Send forms to the Life Group, Division 830, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. To expedite the return of notices of proposed disapprovals or approvals, a company may enclose an overnight mail envelope together with either a completed form for transmittal or the company's billing number. The forms shall be sent to the attention of the appropriate section of the Life Group Division. The sections of the Life Group Division and the forms handled by each of these sections are as follows.

(1) Individual life and annuity section. Individual life forms, individual annuity forms, and group annuity forms.

(2) Group section. Group life forms and group accident and health forms.

(3) Credit section. Individual and group credit life forms and individual and group credit accident and health forms.

(4) Individual accident and health section. Individual accident and health forms.

(b) Number of copies. All forms, including resubmissions and corrections for pending forms, shall be submitted in duplicate.

(c) Specimen language and fill-in material. All forms shall be filled in with specimen language and specimen fill-in material. For individual life and annuity forms, the fill-in material in both copies of the form shall be completed for specimen age 35 unless the form is not issued at age 35. If the form is not issued at age 35, the youngest age at which the form may be issued shall be used for the fill-in material. If reduced death benefits are provided for any age at issue, the specimen form shall be filled in for the age at issue for which the greatest reduction in benefits is made. The fill-in material shall be for the longest premium paying period available under the form.

(d) Type of paper. Forms shall be submitted on paper that will accept a rubber

stamp and that is suitable for permanent filing and microfilming. Glossy stock paper is not acceptable.

(e) Print format. Forms and corrections shall be submitted in final print, if possible. However, they may be submitted in typewritten, computer generated, or printer's proof format. All filings must be legible. Handwritten forms or handwritten corrections will not be accepted.

(f) Form numbers. Each form shall be designated by a form number sufficient to distinguish it from all other forms used by the insurer. The form number shall be located in the lower left-hand corner of the cover page or on the first page of the form if the form number would be visible with the cover closed. Forms submitted for consideration under the scope of the Insurance Code, Article 3.53, shall have additional identifying form numbers. The additional identifying form numbers shall be: (3.53) if used only within the scope of Article 3.53; (3.53 and 3.50) if group credit life and used within the scope of Article 3.53 and Article 3.50; (3.53 and 3.44) if individual credit life and used within the scope of Article 3.53 and Article 3.44; (3.53 O.E.) or (3.53 R.A.) to only be used if credit life and/or accident and health is written for use with open-end transactions.

(g) Filing fee. Each new submission shall be accompanied by the appropriate filing fee required by §7.1301 of this title (relating to Regulatory Fees).

(h) Domiciliary approval. For companies domiciled outside of Texas, a statement shall be submitted indicating whether domiciliary approval of the form has been granted and the date of the domiciliary approval. If the domiciliary state does not require approval of a form for use in the domiciliary state, a statement shall be submitted indicating whether the form has been filed and/or accepted for use in the domiciliary state and/or the date of acceptance by the domiciliary state. If the form is not to be used in the domiciliary state, a statement to that effect shall be submitted.

(i) Filings under the Insurance Code, Article 3.42. A statement shall be submitted electing the Insurance Code, Article 3.42, either paragraph (d)(1) or paragraph (d)(2). Some of the distinctions between a (d)(1) and a (d)(2) filing are as follows.

(1) A filing under the Insurance Code, Article 3.42 (d)(1), allows the insurer to immediately issue, deliver, or use such form prior to review and approval, as applicable, after it has been received. All such filings shall be accompanied by the certification required by said statute. If such form is disapproved by the board, the insurer, upon receiving written notice, shall immediately cease issuing or using such form. The procedures for corrective actions are set forth in said statute.

(2) A filing under the Insurance Code, Article 3.42 (d)(2), requires the insurer to file the form for review and approval, as applicable, prior to issuance, delivery, or use of such form as required by said statute.

(j) Transmittal documents. A transmittal letter and/or checklist in duplicate shall accompany every form submission. The transmittal letter and/or checklist shall be addressed to the appropriate section of the State Board of Insurance, as specified in subsection (a) of this section. The transmittal letter and/or checklist shall supply the following information listed in paragraphs (1)-(20) of this subsection.

(1) The identifying form number of each form being submitted must be supplied.

(2) A statement of the type of coverages provided by the forms must be supplied.

(3) A statement must be supplied indicating whether the form is being filed under the Insurance Code, Article 3.42, paragraph (d)(1) or paragraph (d)(2). If the filing is made under paragraph (d)(1), the certification required by said statute shall be included in the filing.

(4) A statement must be supplied indicating whether domiciliary approval of the forms has been granted, if applicable, and the date of domiciliary approval. If the domiciliary state does not approve forms, a statement must be supplied indicating whether the forms have been filed and accepted for use in the domiciliary state and the date of acceptance by the domiciliary state.

(5) For individual life and annuity forms and group life, accident, and health and annuity forms only, if the forms are exempt from review, a statement to that effect must be supplied as well as a statement specifying which subparagraph of §3.4004 of this title (relating to Exempt Forms) under which the form is considered exempt from review. The exempt certification required by §3.4005 of this title (relating to General Information) shall be included with the filing.

(6) If the forms are new, a statement to that effect shall be included, along with one of the following statements contained in subparagraph (A), (B), or (C) of this paragraph.

(A) The new forms are not (to our knowledge) substantially similar to any other previously approved form.

(B) The new forms are substantially similar to a previously approved form. The insurer shall then also specify all the following information in clauses (i)-(iv) of this subparagraph.

(i) The form number of the previously approved form shall be specified.

(ii) The approval date of the previously approved form shall be specified.

(iii) The company name for which the previously approved form was approved shall be specified.

(iv) A summary of the differences between the previously approved form and the new form shall be provided. If possible, the insurer shall include a copy of the previously approved form with the portions of the form which have been changed highlighted in the previously approved form. The insurer shall not highlight any portion of the new form because when microfilmed the highlighted portions may be illegible.

(C) The new forms are exact copies of previously approved forms with the exception of the company name. The certification required by §3.4008 of this title (relating to Copies of Previously Approved Forms) shall be included with the filing.

(7) If the forms are corrected versions of pending forms which have been reviewed, a statement to that effect shall be included, and the transmittal letter shall be addressed to the analyst reviewing the forms. The following information shall also be provided:

(A) the form numbers of the pending forms for which the corrections are submitted; and

(B) a summary of all changes made in the corrected version of the forms.

(8) If the forms are a resubmission of previously disapproved forms, a statement specifying the form numbers of the previously disapproved forms and the date of disapproval, along with a summary of any changes made in the resubmitted forms, must be supplied.

(9) If the form is a substitution for a previously approved form which has never been issued in the state, a certification to that effect must be supplied, along with the approval date and form number of the previously approved form, and an explanation of the changes made to the form.

(10) For individual life and annuity forms only, if the form is an update to a previously approved form which has been issued in the state, an explanation of the benefits being provided by the update, a statement indicating the form numbers and approval dates of the forms being updated, and a statement explaining which policyholders will be offered, the update must be supplied.

(11) If the submitted form (rider, amendment, endorsement, insert page, or supplemental form) is for use with specific policies, a listing of the policy form numbers and approval dates with which the submitted form is to be used, along with a statement explaining when the form will be used with the policy forms in the listing, must be supplied.

(12) If the submitted form (rider, amendment, endorsement, insert page, or supplemental form) is for general use with various policies, a description of the types of policies with which the submitted form is to be used and a statement explaining when the form will be used with those policies must be supplied.

(13) For individual life and annuity forms only, if the form is not a policy, then policy schedule/data pages showing all material pertinent to the form must be supplied if such material is necessary for a comprehensive review of the form.

(14) For group life and group accident and health forms only, the section of the Insurance Code, Article 3.50; Article 3.51-6; or both, that describes the group to be issued the forms must be supplied. Be sure that the composition of the group to be covered meets the definition in the statute.

(15) For group life and group accident and health forms only, a statement must be supplied indicating whether the company wants the form considered for issuance on a discretionary basis under the Insurance Code, Article 3.50, §1(6); Article 3.51-6, §1(a)(6); or Article 3.51-6, §2(a)(9), if the group is not precisely described in the Insurance Code, Article 3.50, §1, Article 3.51-6, §1(a); or Article 3.51-6, §2(a).

(16) For group life, group accident and health, credit life, and credit accident and health forms only, a statement must be supplied clarifying if the forms are a partial filing. If so, provide the following:

(A) a statement indicating if the forms are for general use along with a description of the types of policies with which the forms will be used;

(B) a statement clarifying the purposes of the forms submitted; and

(C) a statement specifying if the forms are to be used with previously approved forms. If so, provide the form numbers and the approval dates.

(17) For credit life and credit accident and health forms only, a statement must be supplied specifying the range of duration of loans or credit transactions for which insurance coverage will be provided.

(18) For individual accident and health forms only, a brief statement of the marketing approach to be used must be supplied.

(19) Any actuarial information necessary for a complete review of the forms must be supplied. For individual life and annuity forms, specific requirements are set forth in §3.3(a)(7) of this title (relating to Specific Additional Submission Requirements).

(20) Any additional information necessary for a comprehensive review of the forms must be supplied.

(21) A transmittal letter/checklist, for each section of the Life Group of the State Board of Insurance, is set forth in the following forms to assist in the preparation of filings. The checklist may be duplicated, expanded, filled in, and/or used as or with the transmittal letter.

GROUP LIFE AND/OR ACCIDENT & HEALTH FORMS

Transmittal Letter/Information Checklist

- Company Name _____
Name & Title of Person to Contact _____
Telephone Number _____
Fax Number _____
(1) Form Number _____
(2) Type of Coverage - Life _____ A&H _____ Life, A&H _____
(3) Type of Group: Article 3.50, Section _____
Article 3.51-6, Section _____
(4) (d)(2) Filing _____ (d)(1) Filing _____
(d)(1) Certification _____
(5) Domiciliary Approval: Yes _____ Date of Approval _____
No _____ Why _____
(6) Exempt from Review: Yes _____ / No _____
Exempt Certification attached _____
Subsection _____ of Sec. 3.4004 _____
(7) New Form: Yes _____ / No _____
New Form is similar to form number _____ / Approval Date _____
Explanation of the differences _____
(8) Resubmission for Disapproved Form # _____
Disapproved on _____
Changes made _____
(9) Substitution for Form # _____
Approved on _____
Certification that the previously approved
forms have not been issued in Texas _____
Changes made to substitute form _____
(10) Submitted Form is for use with Form # _____
Approved on _____
General use _____
Purpose of Filing _____
(11) Corrections to Pending Form # _____
Submitted on _____
Analyst reviewing pending forms _____
Corrections made _____
(12) Miscellaneous information pertinent to the submission _____
(13) Filing Fees Included - Yes _____ / No _____
Amount of Fee Included _____
Reason Not Included _____
(14) Actuarial Information Included - Yes _____ / No _____

INDIVIDUAL ACCIDENT & HEALTH FORMS
Transmittal Letter/Information Checklist

- Company Name _____
Name & Title of Person To Contact _____
Telephone Number _____
Fax Number _____
(1) Form Number _____
(2) Type of Form _____
(3) (d)(2) Filing _____ (d)(1) Filing _____
(d)(1) Certification attached _____
(4) Domiciliary Approval - Yes _____ /No _____
(5) New Form - Yes _____ /No _____
New Form is similar to form number _____
Approval Date _____
Explanation of the differences _____
(6) Resubmission for Disapproved Form # _____
Disapproved on _____
Changes to resubmitted form are _____
(7) Substitution for form # _____
Approval Date _____
Certification regarding issuance of previously approved form
attached - Yes _____ /No _____
Changes to form due to substitution are _____
(8) Form similar to previously approved Form # _____
(9) Corrections to Pending Form # _____
Submitted on _____
Corrections made _____
(10) Submitted form is for use with Form # _____
Approval Date _____
(11) Form changes a provision in Form # _____
Approval Date _____
Will be used in the following manner _____
(12) Miscellaneous information pertinent to the form _____
(13) Filing Fees Included - Yes _____ /No _____
Amount of Fee Included _____
Reason Not Included _____
(14) Actuarial Information Included - Yes _____ /No _____

CREDIT LIFE AND/OR CREDIT ACCIDENT & HEALTH FORMS
Transmittal Letter/Information Checklist

- Company Name _____
Name & Title of Person To Contact _____
Telephone Number _____
Fax Number _____
- (1) Form Number _____
(2) Type of Plan - Life _____ A&H _____ Life, A&H _____
(3) Type of Coverage - Group _____ Individual _____
(4) (d)(2) Filing _____ (d)(T) Filing _____
(d)(T) Certification _____
- (5) Domiciliary Approval: Yes _____
Date of Approval _____
No _____ Why _____
- (6) Rates and Refund Formulae: Life _____ A&H _____
(7) New Form: Yes _____ /No _____
New Form is similar to form number _____
Approval Date _____
Explanation of the differences _____
- (8) Resubmission for Disapproved Form # _____
Disapproved on _____
Changes made _____
- (9) Substitution for Form # _____
Approved on _____
Certification that the previously approved forms have not
been issued in Texas _____
Changes made to substitute form # _____
- (10) Submitted Form is for use with Form # _____
Approved on _____
General use _____
Purpose of filing _____
- (11) Corrections to Pending Form # _____
Submitted on _____
Analyst reviewing pending forms _____
Corrections made _____
- (12) Miscellaneous information pertinent to the submission _____
- (13) Filing Fees Included - Yes _____ /No _____
Amount of Fee Included _____
Reason Not Included _____
- (14) Actuarial Information Included - Yes _____ /No _____

- (9) Form updates previously approved form # _____
 Approval Date _____
 Update is offered to _____
 Explanation of benefits provided by the update _____
- (10) Submitted form is for use with form # _____
 Approval Date _____
 Submitted form is used with form _____ under the following
 circumstances _____
- (11) Schedule pages showing material pertinent to form are
 attached Yes _____ /No _____
- (12) Submitted form which provides different benefits for certain
 issues of form # _____
 Approval Date _____
 Will be used in the following manner _____
- (13) Form changes a provision in form # _____
 Approval Date _____
 Will be used in the following manner _____
- (14) Miscellaneous information pertinent to the form _____
- (15) Filing Fees Included - Yes _____ /No _____
 Amount of Fee Included _____
 Reason Not Included _____
- (16) Actuarial Information Included - Yes _____ /No _____

§3.3 Specific Additional Submission Requirements.

(a) Individual life and annuity forms.

(1) Riders, endorsements, amendments, insert pages, and other supplemental forms. Although it is recognized that a rider, endorsement, amendment, insert page, or supplemental form is merely a part of the entire written contract between the policyholder and the insurer, each form will be reviewed and approved (as applicable) and/or accepted for filing independently of the basic contract of which it is a part, provided that:

(A) the form does not change the basic concept and/or plan of the contract;

(B) the form can be comprehensively analyzed and reviewed and is understandable apart from the base policy (contract);

(C) the form does not provide benefits which are combined with base policy benefits in a manner such that the benefits of the form cannot be analyzed and reviewed apart from the base policy; and

(D) the form, if changing the benefits provided under the basic contract for some issues of the basic contract, will not be used such that the basic contract will be issued to provide benefits on a basis which is unfairly discriminatory.

(2) Severable and nonseverable forms. A form which can be reviewed independently of the basic contract is considered severable. A form which cannot be reviewed independently of the basic contract is considered nonseverable. Some examples of severable forms are the following.

(A) A waiver of premium rider is a severable form.

(B) An application is a severable form.

(C) An endorsement amending the calculation of nonforfeiture benefits is a severable form if the endorsement is for use in a particular market (such as all new issues of a particular policy).

(D) An endorsement amending the partial surrender provision is a severable form if the endorsement is for use in a particular market (such as all new issues of a policy when the initial amount of insurance is \$100,000 or more).

(E) An insert page for nonforfeiture values, for a previously approved policy form, is a severable form when the policy form is intended for use in a market which requires the use of nonforfeiture values which are different from those approved in the original policy form. This could be applicable to policies which are for use in the unisex market, when the insurer decides (after receiving approval of a particular base policy for use in the sex distinct market) to seek approval of a version of the policy for use in a market which is subject to the Norris Decision.

(F) An update endorsement which is optional to existing policyholders of a particular policy form and which provides a benefit that is more favorable than benefits which are provided under the in-force policy is a severable form.

(G) An acceleration-of-life-insurance-benefits provision is a severable form when contained in a rider which meets the requirements of §3.129 of this title (relating to Acceleration of Life Insurance Benefits), provided that such rider is filed with a listing of the numbers of approved policy forms to which it will be attached.

(3) Acceptance for independent review. In handling forms under this section, the commissioner will determine whether the form is acceptable for independent review. The contract form to which a nonseverable rider, endorsement, amendment, insert page, or other supplemental form is to be attached, must be filed under an adjusted form number if that contract form has been previously approved without the nonseverable form. The adjusted form number may be made by a typewritten prefix or suffix or rubber stamp for cases where the contract is issued with the nonseverable form. Nonseverable forms include, but are not limited to, the following:

(A) a form which adds an option to suspend premium payments;

(B) a form which changes the contract from a fixed premium life policy to a flexible premium life policy;

(C) a form which changes the contract from a fixed benefit policy to a variable benefit policy;

(D) a policy cover or policy shell;

(E) a corrective endorsement which adds state-statutory or State-Board-of-Insurance-adopted-rule required language to a form;

(F) a form which adds additional insurance with cash values and refers to the policy for the paid-up nonforfeiture benefits to be provided by the cash value of the form; and

(G) an insert page providing nonforfeiture benefits on the basis of one interest rate (such as 6.0%) which is to be issued as part of a particular policy form when that policy form is also being issued with an insert page providing nonforfeiture benefits on the basis of a different interest rate (such as 5.0%).

(4) Complete submission of a basic policy form or certificate form. In order to be complete, the submission of a basic policy form or certificate form shall include the application to be used with it, any amendments or endorsements which will be included in all issues of the form, and all insert pages which may be used with the form. For example: a basic life insurance policy, intended for issue as a unisex plan and a sex distinct plan, should be submitted with the insert pages for both plans included in the policy and with the application included. Any optional rider which is severable should not be included in the basic policy.

(5) Variable material. The text and specifications of nonforfeiture assumptions included in individual life forms generally cannot be considered variable material. Any variable material in a form should be bracketed and a clear explanation of how the material will vary should be provided. It is acceptable for certain material to vary due solely to the age, sex, or classification of the insured; but other types of variations may require a limited partial refiling or a complete refiling depending on the manner in which the company plans to use the variations.

(6) Limited/partial refiling. A change in the text or nonforfeiture assumptions of a previously approved form shall be handled as a limited/partial refiling provided that such a refiling is severable in accordance with paragraphs (1)-(3) of this subsection. Paragraphs (2)(C)-(E) of this subsection contain examples of acceptable limited/partial refilings.

(7) Actuarial information. Each form (including insert pages and other forms which change the nonforfeiture values of a particular form) shall be accompanied by the information listed in subparagraphs (A)-(C) of this paragraph, when applicable. If calculated material for the requirements of paragraph (1) of this subsection is available in standard published books, the letter of transmittal may cite such books in lieu of providing the information required.

(A) The mathematical formulas and sample calculations for the following items shall accompany the form.

(i) Net premiums for the specimen age and plan of insurance should be provided.

(ii) Specimen nonforfeiture calculations necessary to verify consistency between the nonforfeiture values and the text of the form for years one, 20, and 50 should be provided.

(iii) Terminal reserves for the specimen age and plan should be provided.

(iv) Any other calculations necessary to verify nonforfeiture values and reserves should be provided.

(B) An actuarial memorandum which provides the following information in clauses (i)-(iv) of this subparagraph shall accompany the form (as applicable).

(i) For universal life and interest sensitive forms, the mortality table, guaranteed interest rates, maximum surrender charges, maximum expense charges, maximum risk rates (cost of insurance rates), maximum loads, and maximum fees at issue and, upon a change in basic coverage, for all ages, bands, and risk classes should be provided.

(ii) For universal life forms, actuarial proof that cash surrender values meet the minimum requirements of the Insurance Code, Article 3.44a, should be provided. A comparison table of all guaranteed cash surrender values, standard nonforfeiture law minimum cash surrender values, guaranteed death benefits, and reserves should be provided. Such comparison should be based on the fill-in issue age (usually age 35), a premium which will provide coverage to the latest available maturity date, the minimum issue amount, minimum guaranteed interest rates, maximum guaranteed cost of insurance rates (mortality rates), and maximum guaranteed charges.

(iii) For variable life forms, actuarial material should be provided as required by §3.804 of this title (relating to Insurance Contract and Filing Requirements), and as required by this section if the form contains an option to allocate premiums to a fixed account.

(iv) For annuities, an actuarial memorandum should be provided specifying the guaranteed interest rates, the maximum surrender charges, and any other maximum charges applicable in the determination of the nonforfeiture values. If the insurer wishes to change the guaranteed interest rates specified in the form, notification must be submitted prior to the change. The notification must specify the new guaranteed interest rate and the date when it will be effective for new issues of a specified policy form, as required by §3.1004 of this title (relating to Policy Form Review).

(v) For variable annuities, the actuarial material required by §3.705 of this title (relating to Contract Requirements) should be provided as well as actuarial material required by this section for annuities, to the extent such material is applicable.

(C) A statement should be provided to the effect that plans of insurance and ages other than the specimen plan and age for which the form will be used will have premiums, reserves, and nonforfeiture values calculated in a manner consistent with the information furnished with such specimen. Any exceptions must be specified, including any variation in formulas at different ages at issue or at time of a change.

(b) Group life and group accident and health forms.

(1) Partial form filings. The company may separately submit amendments, riders, endorsements, or alternate insert pages to be added to a form to make it comply with Texas statutes and rules, to add additional benefits to a previously approved group contract, or to amend a previously approved group contract. Each must bear an identifying form number as required by §3.2(f) of this title (relating to General Submission Requirements).

(2) Resubmitted forms. If the company resubmits previously disapproved forms, the resubmission must include all forms for which the company is seeking approval.

(3) Variable material. If a form with variable material is submitted, enclose the variable material in brackets and be clear how the company intends to use it. This material may not be less favorable than required by Texas statutes or rules and regulations.

(4) Complete submission of a policy or certificate. In order to be complete, a submission of a policy or certificate must include all applications that will be used with it. It must also include amendments, riders, or endorsements to the policy or certificate that are necessary to comply with Texas statutes or rules. These must be included even if previously approved.

(5) Submission of certificate. A copy of the master policy must accompany any certificate submitted, even if the master policy is issued outside Texas.

(6) One form submission: one type of group.

(A) Designation of type of group. The company must clearly state the type of group to which the form will be issued, referring to the appropriate section of the Insurance Code, Article 3.50; Article 3.51-6; or both. Do not submit a policy and certificate for use with more than one type of group.

(B) Association group. The following instructions apply to submission of a form intended to be issued to an association.

(i) The company shall submit documentation including, but not limited to, a copy of constitution and by-laws to show that the association meets the requirements of the Insurance Code, Article 3.50, §1(10); Article 3.51-6, §1(a)(2); or both.

(ii) The company may submit forms on an ABC Association basis. If a form is approved on this basis, the company shall submit the documentation called for in clause (i) of this subparagraph when the form is issued. In addition, the company shall submit an alternate policy face page, identifying the association and the policy number assigned, each time the form is issued to a different eligible association.

(C) Multiple employer trustee group. The following instructions apply to submission of a form intended to be issued to a multiple employer trustee group.

(i) The company shall file a copy of the trust agreement for information.

(ii) The company may use alternate policy face pages with the policy numbers assigned, as well as alternate insert pages, for various related industries.

(iii) The company may submit forms on an ABC Trust basis. If a form is approved on this basis, the company shall file the individual trust agreements when the form is issued. In addition, the company shall submit an alternate policy face page, identifying the policyholder and the policy number assigned, each time the form is issued to a particular trust.

(c) Credit life and disability forms.

(1) Partial form filings. The company may separately submit amendments, riders, endorsements, or alternate insert pages to be added to a form to make it comply with Texas statutes and rules, to add additional benefits to a previously approved group contract, or to amend a previously approved group contract. Each must bear a unique identifying form number.

(2) Resubmitted forms. If the company resubmits previously disapproved forms, the resubmission must include all forms for which the company is seeking approval.

(3) Variable material. If a form with variable material is submitted, enclose the variable material in brackets and be clear how the company intends to use it. This material may not be less favorable

than required by Texas statutes or rules and regulations.

(4) Complete submission of a policy or certificate. In order to be complete, a submission of a policy or certificate must include all applications that will be used with it. It must also include amendments, riders, or endorsements to the policy or certificate that are necessary to comply with Texas statutes or rules. These must be included even if previously approved.

(5) Submission of certificate. A copy of the master policy must accompany any certificate submitted, even if the master policy is issued outside Texas.

(5) Submission of rates. A schedule of premium rates to be used with all forms delivered or issued for delivery in the state must be submitted. Additionally, the formula or a reference to the method that is used to compute refunds must be submitted.

(d) Individual accident and health forms.

(1) Objections to the forms submitted for approval shall be corrected through resubmission rather than by attachment of riders or endorsements.

(2) Any policy form, rider, or endorsement which is to be issued with the application attached shall have a copy of the application form attached at the date of submission.

(3) The appropriate outline of coverage shall be filed with each policy form submission. The readability test applied and the resulting score of outline of coverage must also be filed.

(4) A brief statement of the marketing approach to be used shall be filed.

(5) The rate schedule to be utilized with each individual accident and sickness policy shall be filed in duplicate at the time the policy form is submitted for approval. All rate increases shall be filed in duplicate. Rate increases exceeding 150% require actuarial data to substantiate the increase.

(6) Supporting actuarial data shall be submitted with all Medicare supplement policy rate filings.

(7) Any supplemental coverage policy form submitted for approval shall be accompanied by a letter, signed by an officer of the company, certifying that the policy shall be marketed only as supplemental coverage as it is defined in §3.3080 of this title (relating to Supplemental Coverage).

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

Issued in Austin, Texas, on June 9, 1989.

TRD-8905122 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 30, 1989

Proposal publication date: April 7, 1989

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

◆ ◆ ◆
Subchapter S. Minimum Standards and Benefits and Readability for Accident and Health Insurance Policies

• 28 TAC §3.3030

The State Board of Insurance adopts the repeal of §3.3030, without changes to the proposed text as published in the April 7, 1989, issue of the *Texas Register* (14 TexReg 1719).

Section 3.3030 has concerned the standards for accident and health insurance policy forms submitted to the State Board of Insurance for approval. The repeal of this section is necessary to eliminate unnecessary provisions and to enable the board simultaneously to propose new Subchapter A, concerning requirements for filing of policy forms, riders, amendments, and endorsements for life, accident, and health insurance and annuities.

The repeal eliminates from Subchapter S language concerning standards applicable to policy forms for accident and health insurance. notification appears elsewhere in this issue of the *Texas Register* of new Subchapter A with consolidated language in new §§3.1-3.35, applicable to forms for all types of life, accident, and health insurance and annuities.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Insurance Code, Article 3.42(k), which authorizes the State Board of Insurance to adopt rules necessary to implement and accomplish the specific provisions of the article, which requires filing, review, and/or approval of life insurance and annuity forms and accident and health insurance forms.

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

Issued in Austin, Texas, on June 9, 1989.

TRD-8905124 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: June 30, 1989

Proposal publication date: April 7, 1989

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

Chapter 15. Surplus Lines Insurance

Subchapter A. General Regulation of Surplus Lines Insurance

• 28 TAC §15.25

The State Board of Insurance adopts an amendment to —15.25, with changes to the proposed text as published in the January 27, 1989, issue of the *Texas Register* (14 TexReg 555).

Section 15.25 concerns surplus lines insurance premium tax trust funds. The amendment is necessary to facilitate implementation of recommendations of the state auditor, concerning the manner in which surplus lines premium tax trust accounts are established and maintained by surplus lines agents. This adoption includes several changes to the proposed text for the reasons explained in the following sentences. The adoption changes subsection (b)(1) to specify that depositor's insurance must be with the FDIC or the FSLIC rather than leaving open the appropriateness of any other federal agency and to specify that the account must be maintained in Texas. The adoption adds language to subsection (b) (2) to clarify that premium tax monies must be deposited into the premium tax account, regardless of the source of the payment, and to amplify the meaning of the term promptly. The adoption includes a change to subsection (b)(3) to state that the insured limit of an account is \$100,000. The adoption also adds language to subsection (e)(2) to better define the agent's responsibility with respect to interest earned on the account, to provide that service charges may be deducted from interest earned, and to provide that a difference of \$10 or less between the rate payable on a passbook savings account and the net earnings on the premium tax account will be disregarded in determining compliance with §15.25. The adoption includes a change to subsections (b)(1) and (e)(2) whereby the reference to demand deposit account or savings account has been removed and interest-bearing account has been substituted to clarify the type of account an agent must maintain. In addition, the adoption includes a change to subsection (g)(3) by deleting the last clause to make the paragraph consistent with subsection (b)(1) as adopted.

The amendment provides direction for agents in establishing and maintaining accounts as to type of account to be opened and the permissible ceiling for account balances. The amendment also provides for accounting and reporting procedures designed to enhance protection of the public interest by providing for closer monitoring of account activity in requiring monthly balance reporting.

Objecting against the section as proposed was the Texas Surplus Lines Association.

The association suggested that the section should specify that the FDIC and FSLIC are acceptable insurers of deposits of premium tax trust funds, but should not refer to an unnamed other federal agency. The association also questioned whether funds could be held in an account outside the state of Texas. In response, the board has changed subsec-

tions (b)(1) and (g)(3). The association requested clarification of prompt deposit, and in response the board has added language to the subsection (b)(2). The association urged simplification for requirements in subsection (b)(3) for monitoring of balances in premium tax trust accounts, but the board is of the opinion that considerations of clarity would result in no change except to state that the insured limit of an account is \$100,000. The association noted that subsection (e)(2), as proposed, was unclear and failed to address service charges on accounts. The board has changed subsection (e)(2) and added language in response to this comment. The association also suggested that subsection (e)(4) be modified to allow some person designated by a surplus lines agent, and identified to the State Board of Insurance, to make withdrawals from the account for legitimate purposes. The board responds that it is of the opinion such modification is unnecessary, because the proposed wording provides protection for the funds and adequate flexibility for the depositor.

The amendment is adopted under the Insurance Code, Article 1.14-2, §3A and §12(b). Section 3A authorizes the board to promulgate rules to enforce the article which pertains to surplus lines agents. Section 12(b) provides that all surplus lines premium receipt taxes collected are trust funds in the hands of the surplus lines agent and the property of the state and shall be maintained in a separate account.

§15.25. Surplus Lines Insurance Premium Tax Trust Funds.

(a) (No change.)

(b) Such funds shall be maintained by the surplus lines agent pursuant to the following conditions:

(1) that the funds be maintained in a separate interest-bearing account of a bank or savings and loan institution in Texas that is supervised by either a state or federal regulatory institution which provides depositor's insurance in an amount no less than \$100,000 on all accounts with the FDIC or FSLIC;

(2) that upon payment by the insured or his agent, representative, or other entity making payment on his behalf of the premium tax monies to the surplus lines agent, the surplus lines agent shall deposit the monies in the premium tax account promptly, and in no event later than 10 business days after actual receipt of such monies, or receipt of the Surplus Lines Stamping office monthly statement of taxes due, whichever occurs later; and

(3) that the surplus lines agent shall be responsible to monitor the balance of said account and ensure that it does not exceed its insured limits of \$100,000 by promptly transferring any amount exceeding the limits of insurance to another financial institution meeting the requirements stated in this section. Upon the transfer of such excess, the surplus lines agent shall notify the State Board of Insurance in writing within 30 days of such transfer about

such transaction, the amount involved, and the name of the institution with which the excess was deposited.

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

(e) The surplus lines agent shall establish the surplus lines insurance premium tax trust account with an institution as described in this section only upon the following conditions and pursuant to the agreement with the bank or savings and loan association:

(1) (No change.)

(2) that the account must be an interest-bearing account, and must earn, at a minimum, the rate payable on a passbook account; provided, however, that if the monies are deposited into a savings account other than a passbook savings account, then:

(A) any fees or charges associated with maintenance of and transactions on such account may be deducted from the interest income earned thereon, but only from interest and not from tax monies so deposited;

(B) the net earnings on such account after such deductions must at least equal the rate payable on a passbook account, at a minimum; and

(C) any difference between the rate payable on a passbook savings account and the net earnings on any account established under this section which is equal to or less than \$10 shall be disregarded in determining compliance with the section;

(3) that the surplus lines agent shall obtain from the bank or savings and loan association a monthly balance accounting and shall maintain such records at all times in the surplus lines agent's business office for inspection by the State Board of Insurance; and that the agent shall send a copy of such records to the State Board of Insurance personally, or be responsible to ensure that a copy of such records will be sent to the State Board of Insurance directly from such bank or savings and loan association upon request; and

(4) that withdrawal of monies from such account shall be made only by the individual licensed surplus lines agent or a partner of a surplus lines agency that is a partnership or an officer of a surplus lines agency that is incorporated.

(f) (No change.)

(g) Withdrawals from the account of tax trust monies shall be made only for the following purposes:

(1) (No change.)

(2) returning to the insured unearned tax monies; and

(3) removing any excess amount necessary to keep the account fully insured pursuant to provisions of the FDIC or FSLIC enactments and regulations promulgated thereunder;

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

Issued in Austin, Texas, on June 9, 1989.

TRD-8905125

Nicholas Murphy
Chief Clerk

State Board of Insurance

Effective date: July 1, 1989

Proposal publication date: January 27, 1989

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

Part II. Industrial Accident Board

Chapter 42. Medical Benefits

Subchapter B. Medical Cost Evaluation

• 28 TAC §42.110

The Industrial Accident Board adopts an amendment to §42.110, without changes to the proposed text as published in the April 28, 1989, issue of the *Texas Register* (14 TexReg 2065).

The amended section, as adopted, requires all data and financial information submitted to the board by health facilities, with certain exceptions, to be certified by the facility's chief executive officer. This replaces the original requirement that such data be examined by an independent certified public accountant. The amendment appears in §42.110(f), establishing general provisions regarding required reports by health facilities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8307, §4 (a), which authorize the board to adopt rules necessary to administer the Workers' Compensation Act, and Article 8306, §7b, which specifically authorizes the board to adopt rules to implement the guidelines for medical fees, charges, and treatment.

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

Issued in Austin, Texas, on June 7, 1989.

TRD-8905092

Inez Foster
Acting Executive Director
Industrial Accident Board

Effective date: June 28, 1989

Proposal publication date: April 28, 1989

For further information, please call: (512) 448-7960

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 305. Consolidated Permits

Subchapter N. Memorandum of Understanding

• 31 TAC §305.521

The Texas Water Commission adopts new §305.521, without changes to the proposed text as published in the March 10, 1989, issue of the *Texas Register* (14 TexReg 1171)

The first memoranda of understanding (MOU) is between the Texas Department of Health, the Texas Air Control Board, and the Texas Water Commission. This memorandum is to foster inter-agency cooperation, to avoid duplication of effort, to avoid placing the burden of dual regulation on owners and operators, to apprise the public of state agencies' activities, to establish an enforceable compliance-monitoring regime, and to provide for the coordination of activities of agencies relating to the management of sewage sludge.

The second MOU is §305.521 is between the Texas Department of Health and the Texas Water Commission. The purpose of this MOU is to institute an integrated approach for the licensing and permitting of the management of non-hazardous wastewater that contains radioactive constituents, to implement and coordinate the regulatory requirements of the agencies, and to provide a consistent approach to licensing and permitting in order to avoid duplication of efforts.

No comments were received regarding adoption of the new section.

New §305.521 is proposed under the Texas Water Code, §5.104, which requires the Texas Water Commission to adopt by rule any memorandum of understanding between the Texas Water Commission and any other state agency. Copies of the memoranda are available upon request from the Texas Water Commission, Legal Division, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8087.

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

Issued in Austin, Texas, on June 12, 1989.

TRD-8905142

Jim Haley
Director, Legal Division
Texas Water Commission

Effective date: July 3, 1989

Proposal publication date: March 10, 1989

For further information, please call: (512) 463-8087



TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter V. Bingo Regulation and Tax

• 34 TAC §3.548

The Comptroller of Public Accounts adopts an amendment to §3.548, without changes to the proposed text as published in the May 5, 1989, issue of the *Texas Register* (14 TexReg 2140).

The amendment added new subsections (l) and (m) requiring verification of winning cards and winning numbers, providing for inspection of bingo equipment, and prohibiting tampering with bingo equipment.

The amendment was proposed to ensure that games are fairly conducted as mandated by the legislation in Texas Civil Statutes, Article 179d, §16(a).

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179d, which provide the comptroller with authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

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

Issued in Austin, Texas, on June 7, 1989.

TRD-8905056

Bob Bullock
Comptroller of Public
Accounts

Effective date: June 28, 1989

Proposal publication date: May 5, 1989

For further information, please call: (512) 463-4004



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 50. Day Activity and Health Services

Program Overview

The Texas Department of Human Services adopts amendments to §§50.903, 50.904, 50.1901, 50.1902, 50.2903, 50.2904, 50.2909, 50.3901-50.3906, 50.3908, 50.3909, 50.3911, and 50.3912. Sections 50.903, 50.904, 50.1901, 50.1902, 50.2903, 50.2904, 50.2909, 50.3901-50.3906, 50.3908, 50.3909, 50.3911 and 50.3912 are adopted with changes to the proposed text published in the March 17, 1989, issue of *Texas Register* (14

TexReg 1401). Section 50.4902 is adopted without changes and will not be republished. These amendments are adopted to incorporate policy clarifications, change staff qualifications, and change the contract effective date.

The amendments are justified because they improve delivery of day activity and health services to clients.

The amendments will function by clarifying and updating existing agency rules that govern the administration of the program.

The department received one comment concerning the adoption of these sections. The United Cerebral Palsy of Metropolitan Dallas made the following comment concerning §50.3908, plan of care. Comment: Staff from this organization commented that this section requires at least 50% of the DAHS facility direct service staff to attend the plan of care meeting. Staff further commented that most DAHS programs would have a great burden placed on them by requiring 50% of the direct care staff to be present. Department's response: The department is amending §50.3908 to change the requirement of a monthly staffing to review the recipient's plan of care to a meeting at least once every six months. The organization's comment about the 50% staffing requirement focuses on a part of the section that the department is not changing. The department contends, however, that the 50% staffing requirement will be less burdensome because the meetings will be less frequent. The department is not changing the section based on the comment.

The department also made minor editorial changes to further clarify the language.

• 40 TAC §50.903, §50.904

The following amendments are 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.

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

Direct service staff—Includes the director, licensed nurse, activities director, and DAHS attendants.

Physician's orders—An order for day activity and health services that is signed and dated by a physician or doctor of osteopathy (DO) who is licensed to practice medicine and who does not have a prohibitive ownership or significant financial or contractual relationship (42 Code of Federal Regulations §405.1633(d)) with the facility that delivers DAHS. The physician's order must include the physician's license number.

§50.904. Service Descriptions. The department contracts with facilities that provide day activity and health services through vendor enrollment contracts. Participating facilities must have services available for at least 10 hours each day and at least five days a week, Monday through Friday, except for holidays. The facility must state in

its brochure which holidays the facility is closed. The department does not reimburse providers for services in excess of 10 hours per day per recipient. DAHS facilities must provide, at a minimum, the following services:

(1) (No change.)

(2) physical rehabilitative services.

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

(C) transportation to and from a facility approved to provide therapies if the recipient requires specialized services on days of attendance at the DAHS facility. Transportation to routine physician visits is not provided;

(3) (No change.)

(4) other supportive services, cultural enrichment, educational or recreational activities, and other social activities on site or in the community in a planned program to meet the social needs and interests of the recipients;

(5) (No change.)

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

Issued in Austin, Texas, on June 12, 1989.

TRD-8905155

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 17, 1989.

Proposal publication date: March 17, 1989.

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

Eligibility Requirements

• 40 TAC §50.1901, §50.1902

The amendments are 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.

§50.1901. Service Criteria.

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

(c) An adult protective services (APS) recipient with time-limited eligibility for up to 60 days does not have to meet the financial or medical/functional criteria for DAHS. The APS recipient with time-limited eligibility does not need a physician's order for DAHS.

§50.1902. Enrollment.

(a) (No change.)

(b) Referral. The facility nurse completes the level-of-care assessment form

and the identifying information on the physician's orders form and sends them to the applicant's physician for review and signature. On receipt of the physician's orders and level-of-care assessment forms, the facility nurse sends the appropriate forms to the regional nurse for determination of medical need. He also sends any additional information necessary for the regional nurse to determine the appropriateness of the service plan.

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

(e) Effective date of placement. The facility staff may bill for services provided to an eligible recipient beginning on the date the physician orders the service. Services provided before the date of the physician's orders are not reimbursable. Payment is made only if the applicant is financially eligible, meets the medical criteria as determined by the department, and has physician's orders. The facility staff must send accurately completed forms to the department, postmarked within 15 days from the date of admission. If accurate forms are not postmarked within the 15-day time frame, the beginning date of coverage is the date the department receives the accurately completed forms. The 15-day time frame applies to both worker-initiated intake and facility-initiated intake. If the physician forgets to enter the date of his signature on the physician's orders, the provider agency must do one of the following:

(1) return the physician's orders to the physician who signed the order to obtain the missing date; or

(2) date stamp the physician's order the day it is received from the physician. The date stamp must indicate the name of the provider agency and the day, month, and year the order is received. The provider agency's stamp-in date is considered the date of the physician's orders.

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

(h) Suspension of services. When the recipient threatens the health or safety of himself, other recipients, or staff, the facility must notify the worker immediately by telephone for his oral confirmation to suspend services immediately. The facility must notify the worker by telephone or in writing within five workdays of a situation that is included in this subsection. The facility must suspend services before the end of the prior approval period if one or more of the following circumstances occur:

(1) the recipient dies;

(2) the recipient moves out of the facility's geographic service boundaries;

(3) the recipient is admitted to a nursing home, state hospital, or state school;

(4) the recipient requests that service be terminated;

(5) the recipient becomes ineligible;

(6) the recipient threatens the health or safety of others or himself, and the worker and supervisor concur that services must be terminated immediately.

(i) Termination of service. Services must be terminated according to provisions of §48.3903 of this title (relating to Denial, Reduction, or Termination of 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.

Issued in Austin, Texas, on June 12, 1989.

TRD-8905155

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 17, 1989.

Proposal publication date: March 17, 1989.

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

Provider Eligibility

• 40 TAC §§50.2903, 50.2904, 50.2909

The amendments are 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.

§50.2903. Claims Processing.

(a) Billing. The provider agency must file claims for services using the community care purchased services delivery report. The provider agency must submit a purchase voucher with each claim. The normal sequence of events for a DAHS claim is as follows:

(1) The facility submits the community care purchased service delivery report and the purchase voucher monthly. The report and a purchase voucher must be received by DHS within 95 days of the date the service is provided.

(2) Department staff verify the claim for completeness.

(3) The Office for Information Systems processes the claim.

(4) The department pays all approved claims at the end of the month.

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

§50.2904. Provider Requirements.

(a) Notification.

(1) (No change.)

(2) Provider agencies must notify DHS in writing within 30 days of these occurrences.

(b) Facility requirements. The pro-

vider agency must ensure that the following requirements are met by the DAHS facility.

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

(5) Emergency phone numbers, including the Abuse Hotline number, must be posted near all phones.

(6) The facility must have a safe, secure, and suitable outdoor recreation/relaxation area for DAHS recipients.

(7) (No change.)

(8) The facility must have a supply of materials adequate for the participation of all recipients in program activities. Program activities include games, crafts, field trips, and any other activity that requires the use of materials or supplies.

(9) The facility must have first aid supplies, as recommended by the American Red Cross, on the premises.

(10) If the DAHS portion of the building and grounds is used for other purposes when the facility is in operation, written approval must be obtained from the DAHS certifying officer.

(c) If a recipient becomes ill or injured at the facility, the facility director or facility nurse must notify a relative or other responsible person during the same day of the occurrence. Recipients with communicable diseases are isolated from other recipients until suitable arrangements can be made for their care. If a recipient is absent from a regularly scheduled program without the prior knowledge of DAHS staff, the activities director or facility director must contact the recipient or someone knowledgeable of his condition on the same day that the absence occurs. If the activities director or facility director is unable to contact the recipient or someone knowledgeable of his condition, the activities director or facility director documents the inability to make contact in the recipient's record.

(d) If a facility staff member suspects that a recipient has been abused, neglected, or exploited, he must report the situation to the Adult Protective Services Hotline (1-800-252-5400) or to the local DHS office.

§50.2909. Limitations on Provider Charges to Patients. A provider of Medicaid (Title XIX) services may neither charge nor take other recourse against Medicaid recipient-patients or income-eligible recipients, their family members, or their representatives for any claim denied or reduced by the department because of the provider's failure to comply with any department rule, regulation, or procedure.

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

Issued in Austin, Texas, on June 12, 1989.

TRD-8905157

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 17, 1989.

Proposal publication date: March 17, 1989.

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

Standards of Operation

- 40 TAC §§50.3901-50.3906, 50.3908, 50.3909, 50.3911, 50.3912

The amendments are 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.

§50.3901. Staff Qualifications.

(a) Director. The director of a DAHS facility must:

(1) have graduated from an accredited four-year college or university and have no less than one year of experience in working with people in a human service or medically related program, or have an associate degree with three years of experience in working with people in a human service or medically related program; or

(2)-(3) (No change.)

(b) (No change.)

(c) Activities director. The activities director may fulfill the function of facility director if he meets the qualifications for director. One person cannot serve as nurse, director, and activities director, regardless of qualifications. The activities director must have graduated from high school and:

(1) have two years of college plus two years of experience in working with the elderly; or

(2) have completed a state-approved activities director's course plus two years of full-time experience in a patient-activities program in a health care setting.

(d)-(f) (No change.)

§50.3902. Staff Responsibilities.

(a) (No change.)

(b) Nurse. The DAHS nurse is responsible for:

(1) (No change.)

(2) developing each recipient's plan of care using the appropriate DHS forms; coordinating the plan of care with the activities director;

(3) administering medication and treatments;

(4)-(5) (No change.)

(6) obtaining physician's orders for medication and treatments to be administered; and

(7) (No change.)

(c) Activities director. The activities director is responsible for:

(1) (No change.)

(2) recording the recipient's social history and making recommendations on social services in the plan of care, which is written jointly with the facility nurse; and

(3) maintaining communications with the recipient's family members or responsible parties.

(d) Attendant. The attendant is responsible for:

(1) (No change.)

(2) assisting the activities director with recreational activities;

(3) (No change.)

(4) directing activities under the supervision of the activities director.

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

§50.3903. Staff Requirements.

(a) The nurse must be present at the facility when recipients are present up to a maximum of eight hours per day. If the nurse is an LVN, an RN must provide consultation at the facility at least four hours per week. Facilities staffed with an RN director and an LVN in patient care are not required to have RN consultation. If there are more than 60 recipients at the facility, two nurses must be present. One of the two nurses must be an RN.

(b) The activities director must perform the duties related to the provision of DAHS at least eight hours a day.

(c) The facility nurse, director, or activities director must be present when recipients are present at the facility. Staff who meet the same qualifications as the nurse or the director may be designated to fulfill this requirement. If there are no recipients in the facility, the nurse and/or director may leave the facility to perform duties related to the provision of DAHS.

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

§50.3904. Initial Training.

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

(c) The DAHS facility must provide direct service staff with a minimum of 24 hours of training during the first three months of employment and document that training includes:

(1) (No change.)

(2) cardiopulmonary resuscitation;

(3) orientation to community resources;

(4) contracted agency policies, procedures, and forms;

(5) department policies, procedures, and forms;

(6) confidentiality as required by law;

(7) applicable health and safety codes, ordinances, and regulations;

(8) orientation to health care delivery including the following components:

(A) basic body function and mechanics;

(B) personal care techniques and procedures; and

(C) the aging process and implications for care.;

(9) identification of abuse, neglect, or exploitation.

(d)-(e) (No change.)

§50.3905. Ongoing Training. The DAHS facility must also provide a minimum of three hours of ongoing training to direct service staff during each consecutive three-month period after the first three months of employment. The DAHS facility must ensure that the ongoing training includes, but is not limited to, the following topics within a year from the employee's hire date:

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

(7) death and dying;

(8) recreation needs; and

(9) cardiopulmonary resuscitation (CPR) refresher training.

§50.3906. Recipient Records.

(a) (No change.)

(b) The DAHS facility must ensure that each recipient's record contains at least the following information:

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

(8) records of termination;

(9) progress notes from months earlier than the current month; and

(10) documentation that the recipient was notified of complaint procedures and recipient rights.

(c) Staff must maintain all other pertinent and identifying information necessary for a complete recipient health/social record. After medical services end, staff must maintain the recipient's medical re-

ords for five years after the recipient leaves the facility.

§50.3908. Plan of Care.

(a) For each recipient, the facility nurse and activities director must jointly develop a plan of care (service plan) that includes information from the client intake and level-of-care assessment forms.

(b) A meeting must be conducted at least once every six months by the facility director at the facility. At this meeting the program plan for the next six months and all new and modified individual plans of care must be described/discussed. At least 50% of the DAHS facility direct service staff, including both the nurse and activities director, must attend. DHS staff may attend if appropriate.

(c) (No change.)

§50.3909. Miscellaneous Records.

(a) (No change.)

(b) The facility nurse must enter, date, and sign monthly progress notes on medical care provided. Daily progress notes are not required. The activities director must sign and date monthly progress notes about activities provided.

(c) The facility must maintain incident reports. Incidents include falls, arguments, and allegations of abuse, neglect, or exploitation.

§50.3911. Personnel Records. DAHS staff must keep personnel records in a central location in the facility. Records should be maintained in a manner that the certifying officer can easily review them. These records include staff qualifications, performance reports, attendance records, and staff development records. Staff must maintain these documents and records according to the retention requirements in the contract. Facility staff must document staff coverage for the days when regular staff are away from the facility on sick or vacation leave.

§50.3912. Medication Administration.

(a) Recipients are allowed to administer their own medication if the attending physician has certified in writing that they are capable of doing so. Medications that are not self-administered may be given only by the facility nurse. The same person who prepares the doses must administer the medication to those recipients who do not self-administer their medication. All medications must be administered as ordered by the recipient's physician. The same person who prepared and administered the medication must document this in the facility's records.

(b) The DAHS facility must ensure that each recipient has an individual medication record. In the medication record, the licensed nurse who administers the medication must record the dose and the method of administration. The facility nurse must also record the medications that are self-administered by the recipient. Staff must document when the recipient is reminded to take his medication and document what the recipient's response was when reminded. Staff must sign and date all entries.

(c) All medications must be labeled and stored according to established federal and state laws and the following requirements (except for self-administered medications that the recipient may keep).

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

(8) The recipient or responsible party may take his medication home daily. The facility, however, should plan with the recipient for medication to be available to the recipient while attending the facility.

(9) (No change.)

(d)-(e) (No change.)

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

Issued in Austin, Texas, on June 12, 1989.

TRD-8905158

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 17, 1989.

Proposal publication date: March 17, 1989.

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

Recipients' Rights

• 40 TAC §50.4902

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 June 12, 1989.

TRD-8905159

Charles Stevenson
Acting Commissioner
Texas Department of
Human Services

Effective date: July 17, 1989.

Proposal publication date: March 17, 1989.

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

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

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

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

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has approved revision of the Texas property statistical plan for residential and commercial risks. The revision provides statistical coding to facilitate collection of statistics on contingent liability, editorial changes, and place codes.

The Insurance Code, Article 5.05(a), authorizes the State Board of Insurance to collect data with respect to the recording of loss experience and such other data with respect to the recording of loss experience and such other data as may be required. The Insurance Code, Article 5.96, authorizes the State

Board of Insurance to adopt amendments to the statistical plan under the procedure specified in that article.

This amended Texas property statistical plan for residential and commercial risks will be effective at 12:01 a.m., October 1, 1989, and is applicable to all property insurance companies reporting data under this plan.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on June 1, 1989.

TRD-8905113 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: October 1, 1989

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

◆ ◆ ◆
The State Board of Insurance has amended Rule 85, Texas Automobile Manual, 1981 edition (hereafter sometimes called Manual).

Beginning May 31, 1989, the Texas Education Agency will cause to serve as the accreditation entity that accredits private schools. There are 10 different accreditation entities that will replace the Texas Education Agency in this function. These 10 entities are recognized by and operate under the direction of the Texas Education Agency. Therefore, Manual Rule 85 (85.D.2.c. and 85.D.2.m.(1)(c)) is amended to reflect this change.

This amendment is effective on and after June 30, 1989. This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on June 1, 1989.

TRD-8905112 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: July 1, 1989

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

◆ ◆ ◆

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 State Board of Public Accountancy

Tuesday, June 20, 1989, 1 p.m. The Public Hearing of the State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will discuss complaint number 84-094-15L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

Filed: June 8, 1989, 3:41 p.m.

TRD-8905109

Monday, June 26, 1989, 9 a.m. The Public Utility Commission will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will review and discuss and complaint numbers 88-09-10L, 88-10-11L, and 88-10-12L.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

Filed: June 8, 1989, 3:41 p.m.

TRD-8905111

Texas Commission on Alcohol and Drug Abuse

Tuesday, June 20, 1989, 1:30 p.m. The Board of Commissioners of the Texas Commission on Alcohol and Drug Abuse will meet in Room 104, John H. Reagan Building, Austin. According to the agenda, the commission will discuss approval of February 28, 1989 minutes; public comment; action on nominations for Advisory Council membership; consideration and action on hearing officer's recommendations regarding Kids of El Paso County, Inc.; action on proposed DWI rule amendments; update on Open Meetings Act; report and discuss agency response to alleged unlicensed facilities; report on legislative priorities, 71st Legislature; action on SB 911 (re: mandated health insurance for chemical dependency); action on information seminar; chairman's report; executive director's report.

Contact: Bob Dickson or Larry Goodman, 1705 Guadalupe, Austin, Texas 78701, (512) 463-5510.

Filed: June 12, 1989, 9:49 a.m.

TRD-8905160

Texas Bond Review Board

Thursday, June 22, 1989, 10 a.m. The board will meet in State Capitol, Sergeant's Committee Room, Austin. According to the agenda, the board will discuss approval of minutes of previous meeting; consider proposed issues of Texas Department of Mental Health and Mental Retardation - Lease/Purchase; Texas Higher Education Coordinating Board - Lease/Purchase; Midwestern State University - constitutional appropriation bonds, series 1989 Tuition and general fee revenue bonds, series 1989; Texas Housing Agency - residential mortgage rev. bonds series 1989A and 1989B; Texas Turnpike Authority; other business.

Contact: Tom K. Pollard, 201 East 14th Street, Room 506, Austin, Texas 78711, (512) 463-1741.

Filed: June 12, 1989, 1:27 p.m.

TRD-8905172

Texas Education Agency

The Texas Education Agency will meet at 1701 North Congress, William B. Travis Building, Austin. Dates, times, rooms, and agendas follow.

Tuesday, June 20, 1989, 10:30 a.m. The Commissioner's Advisory Council for Regional Services-Committee for Research and Information will meet in Room 1-104, to consider public education information management system (PEIMS) update; review of actions taken by the State Board of Education; discussion of provision of computer services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:38 p.m.

TRD-8905175

Tuesday, June 20, 1989, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Educational Quality will meet in Room 1-104, to consider actions taken by the State Board of Education; discuss issues related to the provision of training services to school districts.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:38 p.m.

TRD-8905176

Tuesday, June 20, 1989, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Curriculum & Program Development will meet in Room 1-109, to consider actions taken by the State Board of Education; discuss TEA/Education service center efforts for curriculum and program development.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:38 p.m.

TRD-8905178

Tuesday, June 20, 1989, 1:30 p.m. The Commissioner's Advisory Council for Regional Services-Committee for Finance & Compliance will meet in Room 1-110, to consider actions taken by the State Board of Education; discuss issues related to the education service center comprehensive plan and application.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:38 p.m.

TRD-8905177

Wednesday, June 21, 1989, 8:30 a.m. The Commissioner's Advisory Council for Regional Services will meet in Room 1-104, to consider committee reports; comments from the commissioner of education.

Contact: J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:38 p.m.

TRD-8905174

Tuesday, June 27, 1989, 10:30 a.m. The Teachers' Professional Practices Commission of Texas will meet in Room 1-110, to discuss Sunset Commission Recommendations concerning the TPPC; discuss panel for Tabor vs. Summers; director's report; discussion of procedural steps and possible appeal of Trapp vs. Collins; discuss future work of the commission; setting of next meeting date.

Contact: Edward M. Vodicka J. Robert Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9371.

Filed: June 12, 1989, 1:37 p.m.

TRD-8905179

Advisory Commission on State Emergency Communications

Thursday, June 15, 1989, 2 p.m. The Administration Committee held an emergency meeting at Suite B-100, 1101 Capital of Texas Highway South, Austin. According to the agenda, the committee will review and consider recommendations for proposed budgets for fiscal years 1989-90 and 1990-91; public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway South, Suite B-100, Austin, Texas 78746, (512) 327-1911.

Filed: June 12, 1989, 3:19 p.m.

TRD-8905181

Texas Employment Commission

Tuesday, June 20, 1989, 8:30 a.m. The commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; internal procedures of commission appeals; consider and act upon higher level appeals in unemployment compensation cases on Commission Docket 25; and set date of next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: June 12, 1989, 3:26 p.m.

TRD-8905182

Texas Funeral Service Commission

Tuesday and Wednesday, June 20 and 21, 1989, 8:30 a.m. daily The commission submitted a revised agenda for a meeting to

be held at Austin Airport Hilton, 6000 Middle Fiskville Road, Austin. The commission will consider the hearing on case remanded back to the commission by court.

Contact: Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753, (512) 834-9992.

Filed: June 9, 1989, 4:05 p.m.

TRD-8905162

Texas Department of Health

Friday, June 16, 1989, 1:30 p.m. The On-Site Wastewater Treatment Research Council of the Texas Department of Health will meet at Center for Environmental Research, Hornsby Bend Wastewater & Treatment Facility, 2210 South FM 973, Austin. According to the agenda summary, the council will discuss minutes of May 12, 1989 meeting; staff reports; council's meeting arrangements and its direction to department's staff; proposal to the Texas Water Development Board for a demonstration project in South Texas.

Contact: Steve Tencza, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7293.

Filed: June 8, 1989, 4:05 p.m.

TRD-8905103

Texas Department of Human Services

Tuesday, June 20, 1989, 9 a.m. The Vendor Drug Formulary Subcommittee Meeting of Texas Department of Human Services will meet on First Floor, East Tower, 701 West 51st Street, Austin. According to the agenda, the committee will consider drug application review of cytotec, H2 antagonists and sucralfate utilization control measures; squibb novolin pen system followup; vendor drug policy of prescription dollar limit; TMAC and federal upper limits, and desi audits from Office of the Inspector General Federal Department HHS.

Contact: Robert Harris, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3188.

Filed: June 12, 1989, 11:20 a.m.

TRD-8905170

Industrial Accident Board

Monday, June 12, 1989, 9:30 a.m. The Industrial Accident Board met in Room 107, First Floor, Beevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed and consider approval of board minutes; Houston office lease; budget and items to be purchased; amendment 28 TAC, §65.10, to include a new rule stating it would be an

unethical act by the carrier representative for failure to file on receipt with the board any original employer's first report of injury, employer's supplemental report of injury and employer's wage statement; board's policy concerning employer's first report of injury; amendment of compliance manual regarding procedures discussed at May 31, 1989 board meeting; complaint tracking sanctions; review of board files-closed session; board activities.

Contact: Inez Foster, 200 East Riverside Drive, Austin, Texas 78704.

Filed: June 8, 1989, 4:46 p.m.

TRD-8905104

Monday, June 12, 1989, 9:30 a.m. The Industrial Accident Board submitted a revised agenda for a meeting held in Room 107, First Floor, 200 East Riverside Drive, Austin. According to the agenda, the board discussed executive session - litigation - hospital fee guidelines lawsuit; hospital fee guidelines lawsuit; delete discussion and consideration of complaint tracking sanctions.

Contact: Inez Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: June 9, 1989, 9:15 a.m.

TRD-8905115

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms and agendas follow.

Tuesday, June 20, 1989, 9 a.m. The commission will meet in Room 342 to consider issuance of a certificate of authority for Air Force Village II, Inc., San Antonio, Texas, under the Texas Continuing Care Facility Disclosure and Rehabilitation Act, Section 4(g).

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:07 a.m.

TRD-8905143

Tuesday, June 20, 1989, 10 a.m. The commission will meet in Room 414, for reconsideration of board order 54681 and request for hearing on application for exemption of American Risk Funding Insurance Company from membership in the Texas Workers' Compensation Assigned Risk Pool; board orders on several different matters as itemized on the complete agenda; proposal for decision in the appeal of Billy D. Johnson from Commissioner's Order 88-1792; personal matters pending and contemplated litigation; solvency matters.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 2:45p.m.

TRD-8905173

Tuesday, June 20, 1989, 10 a.m. The board submitted a revised agenda for the meeting to be held in Room 414, for consideration of adopting a uniform policy regarding smoking in buildings and other facilities occupied by the State Board of Insurance.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 12, 1989, 3:42 p.m.

TRD-8905186

Tuesday, June 20, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to discuss a public hearing to consider whether disciplinary action should be taken against Janie Delores Bradford, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license issued by the State Board of Insurance.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:07 a.m.

TRD-8905147

Tuesday, June 20, 1989, 3 p.m. The Commissioner's Hearing Section will meet in Room 353, to discuss a public hearing to consider whether disciplinary action should be taken against Gregory D. Bradford, who holds group I, legal reserve life insurance agent's license issued by the State Board of Insurance.

Contact: Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:07 a.m.

TRD-8905149

Wednesday, June 21, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to conduct a public hearing to consider whether disciplinary action should be taken against Frank Myron McBeath, San Antonio, who holds a group I, legal reserve life insurance agent's license and group II health and accident insurance agent's license issued by the State Board of Insurance.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:08 a.m.

TRD-8905146

Wednesday, June 21, 1989, 2 p.m. The board will meet in Room 414, to meet with the Attorney General's Office concerning pending and contemplated litigation.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: June 13, 1989, 9:05 a.m.

TRD-8905183

Friday, June 23, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to conduct a public hearing to consider the renewal application of Paul Joseph Bruck, San Antonio, for a group I legal reserve life insurance agent's license and to consider whether disciplinary action should be taken against Paul Joseph Bruck, San Antonio, who holds a group I, legal reserve life insurance agent's license.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:07 a.m.

TRD-89051509

Friday, June 23, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to conduct a public hearing to consider the application of Kent Gaston, Dallas, for a resident insurance adjuster's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:08 a.m.

TRD-8905145

Friday, June 23, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to conduct a public hearing to consider the local recording agent's license renewal application of Violet Jane Perez, and to consider whether disciplinary action should be taken against Violet Jane Perez, who holds a local recording agent's license issued by the State Board of Insurance.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:07 a.m.

TRD-8905151

Monday, June 26, 1989, 9 a.m. The Commissioner's Hearing Section will meet in Room 442, to conduct a public hearing to consider the application of Arthur Albert Hamilton, Houston, for a group I, legal reserve life insurance agent's license.

Contact: Earl Corbitt, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:08 a.m.

TRD-8905143

Monday, June 26, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 442, to conduct a public hearing to consider whether disciplinary action should be taken against Eugene Woodrow Hall, Jr., Everman, who holds a group I, legal reserve life insurance agent's license and a variable contract agent's license.

Contact: J. C. Thomas, 1110 San Jacinto

Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: June 12, 1989, 9:08 a.m.

TRD-8905144

University Interscholastic League

Wednesday, June 14, 1989, 9 a.m. The Policy Standing Committee of the University Interscholastic League will meet in Room 3.102, Thompson Conference Center, 26th and Red River, Austin. According to the agenda summary, the committee will discuss proposals for amendments to the University Interscholastic League Constitution and Contest Rules.

Contact: Bonnie Northcutt, (512) 471-5883.

Filed: June 8, 1989, 1:32 p.m.

TRD-8905096

Texas State Board of Medical Examiners

Sunday, June 11, 1989, 4 p.m. and Monday, June 12-15, 1989, 8 a.m. daily The Board of Medical Examiners submitted an emergency revised agenda for a meeting held at 1101 Camino LaCosta, Austin. According to the agenda summary, the board will consider deletion of a probationary appearance and discussion of a committee's recommendations; addition of duplicate licenses; change to probationary appearance. The emergency status was necessary because information has just come to the attention of the agency and merits prompt consideration.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: June 9, 1989, 4:01 p.m.

TRD-8905127

Monday, June 12, 1989, 4:30 p.m. The Disciplinary Process Review Committee held an emergency meeting at 1101 Camino LaCosta, Austin. According to the agenda summary, the committee discussed committee activities; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1) and Op. A.G. 1974, No. H-484. The emergency status was necessary because the committee membership newly appointed; information of importance needs to come to committee's attention prior to next scheduled meeting.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: June 12, 1989, 10:46 a.m.

TRD-8905168

Texas Department of Mental Health and Mental Retardation

Friday, June 9, 1989, 1 p.m. The Board of Directors of the Texas Department of Mental Health and Mental Retardation submitted an emergency revised agenda for a meeting held in Central Office, 909 West 45th Street, Austin. According to the agenda summary, the board considered citizen's comments; approval of April 14, 1989 minutes; litigation--Savidge v. Fincannon. If deaf interpreters required, notify Texas Department of Mental Health and Mental Retardation (512) 465-4585, Ernest Fuentes, 72 hour prior to the meeting. The emergency status was necessary because the trial in this case is scheduled before the Board can meet again.

Contact: Denis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: June 8, 1989, 10:43 a.m.

TRD-8905059

Board of Pardons and Paroles

Tuesday, June 20, 1989, 1:30 p.m. The Board will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet to consider executive clemency recommendations and related actions (other than Out of Country Conditional Pardons), including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: June 9, 1989, 10:58 a.m.

TRD-8905119

Monday, June 19-23, 1989, 1:30 p.m. daily except 11 a.m. on Friday The Board Panel will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel of the Board of Pardons and Paroles (composed of 3 Board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the Board's jurisdiction and initiate and carry through with appropriate action.

Contact: K. Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: June 9, 1989, 10:58 p.m.

TRD-8905120

Texas State Board of Podiatry Examiners

The Board of Podiatry Examiners held an emergency meeting at Ramada Hotel-Astrodome, 8111 Kirby Drive, Houston. The emergency status was necessary because there was a delay in having the agenda approved. Dates, times and agendas follows.

Thursday-Saturday, June 15-17, 1989, 11 a.m., 9 a.m., and 8 a.m. respectively The board discussed disciplinary hearing; discuss and review current complaint files; approval of Barry University College of Podiatric Medicine, Florida; discuss proposed format for the National Boards; discuss proposed format for the National Boards; Podiatry tracts; approve proposed rules on rules governing conduct for final adoption; discuss S.B. 742; set time, place and dates for January 1990 exam; inspection of credentials of the candidates to take the exam; written examinations for candidates; completion of oral exams; complete agenda by grading and compiling grades and signing of the licenses.

Contact: Sandra Marshall, (512) 834-0558.

Filed: June 8, 1989, 3:38 p.m.

TRD-8905106

Texas Racing Commission

Monday, June 19, 1989, 8 a.m. The Texas Racing Commission will meet on Third Floor Auditorium, First State Bank Building, 400 West 15th Street, Austin. According to the agenda summary, the commission will consider approval of minutes of April 2, 1989 and May 22, 1989 meeting; presentation by Walter Smith of the Texas Professional Horse Trainers Association; consider request to designate a Class 2 racetrack application period, presentation by R.R. Barfield, and vote; consider request to grant race dates, presentation by Heart of Texas Racing Inc., and vote; discuss compensation for racing officials and vote; discuss extension of contracts for hearings officers and vote; propose and adopt as emergency rules amendments to Chapter 301 relating to definitions; propose and adopt as emergency rules new sections and/or amendments in Chapter 303 relating to general provisions; Chapter 305 relating to licenses for pari-mutuel racing; chapter 309 relating to operation of racetracks, and Chapter 311 relating to conduct and duties of individual licensees; propose and adopt as emergency rules new sections in Chapter 313 relating to officials and rules of horse racing, and in Chapter 321 relating to pari-mutuel wagering, adopt, propose, and adopt as emergency rules new sections in Chapter 319 relating to veterinary practices and drug testing; vote to approve affirmative action plan; old business; and new business.

Contact: Paula Cochran Carter, 400 West 15th Street, Austin, Texas 78701, (512) 476-7223.

Filed: June 9, 1989, 3:49 p.m.

TRD-8905126

The University of Texas at Austin

Tuesday, June 13, 1989, 10 a.m. The Institutional Animal Care and Use Committee met in Conference Room AW7.707, Seventh Floor, M.D. Anderson Cancer Center, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: June 9, 1989, 8:09 a.m.

TRD-8905105

Wednesday, June 14, 1989, 11:30 a.m. The Intercollegiate Athletics for Women of the University of Texas at Austin met in Walter Webb Hall Faculty Center, 25th and Guadalupe Streets, Austin. According to the agenda, the commission discussed approval of 1989-90 budget proposal.

Contact: Dr. Donna A. Lopiano, Belmont Hall 606, (512) 471-7693.

Filed: June 9, 1989 9:29 a.m.

TRD-8905116

University of Texas Health Science Center at San Antonio

Wednesday, June 21, 1989, 3 p.m. The Institutional Animal Care and Use Committee will meet in Dental Dean's Conference Room 4.320R, 7703 Floyd Curl Drive, San Antonio. According to the agenda, the committee will discuss approval of minutes of May 17, 1989 meeting; protocols for review; subcommittee reports; USDA proposed regulations.

Contact: Molly Greene, 7703 Floyd Curl Drive, (512) 567-3717.

Filed: June 12, 1989, 8:46 a.m.

TRD-8905141

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, June 20, 1989, 10 a.m. The Hearings Division will discuss a prehearing conference in Docket No. 8715 application of Southwestern Bell Telephone Company for approval of C.O. Lan Service for Burgess Auto Parts.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 9, 1989, 2:30 p.m.

TRD-8905128

Wednesday, June 21, 1989, 9 a.m. The Hearings division will discuss a prehearing conference in docket No. 8832--application of Southwestern Public Service Company for authority to refund fuel cost overrecoveries and provide periodic opportunity sales margin credits.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 9, 1989, 2:30 p.m.

TRD-8905135

Monday, June 26, 1989, 10 a.m. The commission will discuss a prehearing conference in Docket No. 8838-application of AT&T Communications of the Southwest, Inc. to reduce rates for AT&T pro (sm) wats.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757 (512) 458-0100.

Filed: June 8, 1989, 2:06 p.m.

TRD-8905098

Thursday, July 13, 1989, 10 a.m. The commission will discuss a prehearing conference on Docket No. 8813-complaint of Erickson Refining Corporation against Gulf States Utilities regarding billing disputes.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: June 8, 1989, 2:07 p.m.

TRD-8905097

Wednesday, September 20, 1989, 10 a.m. The Hearings Division will discuss a hearing on the merits in Docket No. 8847-application of Lea County Electric Cooperative, Inc. for final approval of a leveled fuel and PCRF clause.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 12, 1989, 3:10 p.m.

TRD-8905180

Thursday, September 21, 1989, 10 a.m. The Hearings Division will discuss a hearing on the merits in Docket No. 8805 application of McLennan County Electric Cooperative, Inc. for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 9, 1989, 2:29 p.m.

TRD-8905132

Monday, October 2, 1989, 10 a.m. This meeting has been rescheduled from Septem-

ber 11, 1989. The commission will discuss the hearing on the merits in Docket No. 8395-petition for declaratory judgement and relief of AT&T Communications of the Southwest Inc, against Southwestern Bell Telephone Company.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin Texas 78757 (512) 458-0100.

Filed: June 8, 1989, 2:07 p.m.

TRD-8905099

Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, and agendas follow.

Friday, June 23, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149A, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will discuss a public hearing on application for water certificate of convenience and necessity and amendments to water and sewer certificates of convenience and necessity for Larry Brewer doing business as Gibson Street Water System, Docket No. 7798-C, Docket No. 7834-C (CCN 20048) and Docket No. 7798-C (CCN10115).

Contact: Angela Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:20 p.m.

TRD-8904809

Thursday, July 27, 1989, 9 a.m. The Office of Hearings Examiner will discuss San Antonio Pre-Stressed Co., P.O. Box 700250, San Antonio, Texas 78270-0250 applied to the Texas Water Commission for a permit (Proposed Permit No. 02961) to authorize disposal of process wastewater through a recycling treatment system. The recycled process wastewater has an approximate daily average rate of 40,000 gallons. The applicant operates a facility which produces pre-stressed concrete products. No discharge of pollutants into the waters of the State is authorized by this permit.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: June 8, 1989, 2:53 p.m.

TRD-8905100

Monday, July 31, 1989, 10 a.m. The commission will discuss B.P. Exploration, Inc. App. No. 5154A, which seeks to amend Permit No. 5154 by increasing the amount of water authorized for diversion and use from the underflow of the Brazos River, Brazos River Basin from 940.92 to 1646.92 acre-feet per annum and to increase the maximum diversion rate from 1000 to 1020 gpm in Stonewall County.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: June 9, 1989, 2:47 p.m.

TRD-8905134

Monday, July 31, 1989, 10 a.m. The commission will discuss Clarence E. Lautzenheiser, App. No. 19-2104B, to combine the water rights authorized by Certificate No. 19-2104A and his portion of the water rights authorized by Certificate No. 19-2105, under Certificate No. 19-2104. After the water rights have been combined, the applicant seeks to amend Certificate No. 19-2104A to increase the diversion rate from 0.22 cfs (100gpm) to 1.33 cfs (600 gpm).

Contact: Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 463-8260.

Filed: June 9, 1989, 2:47 p.m.

TRD-8905129

Monday, August 7, 1989, 10 a.m. The commission will discuss Pilgrim's Pride Corporation, Application No. 5233, applicant, seeks to divert a total of 3600 acre-feet of water per annum directly from Pine Creek, tributary of the Red River, Red River Basin, to irrigate three separate tracts of land (Tracts A, B, C) totalling 1779.124 acres, approximately 20 miles northeast of Paris, Lamar County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 9, 1989, 4:11 p.m.

TRD-8905167

Tuesday, August 22 1989, 10 a.m. The commission will discuss Lee J. Fazzino, Application No. 5236, applicant, seeks to divert 492 acre-feet of water per annum from the Brazos River, Bravos River Basin, to irrigate 246 acres of land within a 266 acre tract in the James Curtis, Jr. Grant, approximately 8 miles west Bryan, Brazos.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 9, 1989, 4:12 p.m.

TRD-8905166

Tuesday, August 22, 1989, 10 a.m. The commission will discuss Lee J. Fazzino, Application No. 5237, applicant, seeks a permit to divert 414 acre-feet of water per annum from the Brazos River, Brazos River Basin to irrigate 207 acres of land within a 210.17-acre tract in the William Mathis Grant, approximately 12 miles west of Bryan, Brazos County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 9, 1989, 4:12 p.m.

TRD-8905165

Tuesday, August 22, 1989, 10 a.m. The commission will discuss Lee J. Fazzino, Application No. 5238, applicant, seeks to

divert 400 acre-feet of water per annum from the Little Brazos River, tributary of the Brazos River, Brazos River Basin, to irrigate 200 acres of land within a 203.3-acre tract in the Francisco Ruiz Grant, approximately 8 miles west of Bryan County.

Contact: Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 463-8151.

Filed: June 9, 1989, 4:12 p.m.

TRD-8905164

Tuesday, August 29, 1989, 10 a.m. The commission will discuss Don W. Bolton, et al., Application No. 5235, applicant seeks a permit to maintain an existing, exempt (\$11.142, Texas Water Code) dam and reservoir which impounds 20 acre-feet of water on an unnamed tributary of the Trinity River, Trinity River Basin, for recreational purposes, approximately seven miles southwest of Palestine, Anderson County.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266.

Filed: June 9, 1989, 2:47 p.m.

TRD-8905133

Tuesday, August 29, 1989, 10 a.m. The commission will discuss H. B. Shanklin, Application No. 5240, applicant seeks a permit to maintain two existing off-channel reservoirs, to construct and maintain a proposed off-channel reservoir, to construct and maintain a proposed off-channel reservoir, and to divert into the reservoirs not to exceed 31 acre-feet of water per annum from the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, for industrial (fish-farming) purposes, approximately 16 miles northeast of Seguin, Guadalupe County, Texas.

Contact: Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

Filed: June 9, 1989, 2:47 p.m.

TRD-8905131

Tuesday, August 29, 1989, 10 a.m. The commission will discuss Richard C. Slack, App. No. 23-941A, seek authorization to use the 164 acre-feet of water authorized for diversion from the Rio Grande, Rio Grande Basin, in Bandera County, under certification No. 23-941 to supplement the irrigation of a total of 457 acres of land within five other tracts of land owned by the applicants and included in certificate Nos. 23-943; 23-946; 23-947; 23-963; and 23-964. Applicant is also requesting authority to utilize the diversion points authorized under the applicable certificate to divert water authorized under Certificate No. 23-941 at a maximum rate authorized for that certificate.

Contact: Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266.

Filed: June 9, 1989, 2:47 p.m.

TRD-8905130

West Texas State University Board of Regents

Wednesday, June 14, 1989, 11:30 a.m. The Committee to Study the Merger Issue met in Room 303, President's Conference Room, Old Main Building, West Texas State University, Canyon. According to the agenda, a minority of the board of regents of Texas A&M University system will be on the campus of West Texas State University to informally view the facilities and review the academic programs of West Texas State University.

Contact: Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-2100.

Filed: June 9, 1989, 4:09 p.m.

TRD-8905163

Regional Meetings Meetings Filed June 8, 1989

The Coryell County Appraisal District, Appraisal Review Board, met in the Coryell County Appraisal District, 113 North Seventh Street, Gatesville, on June 15, 1989 at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Denton Central Appraisal District, Board of Directors, met at 3911 Morse, Denton, on June 15, 1989 at Noon. Information may be obtained from John D. Brown, 3911 Morse, Denton, Texas 76205, (817) 566-0904.

The Education Service Center Region V, Board of Directors, met in the Board Room, 2295 Delaware Street, Beaumont, on June 15, 1989 at 1:15 p.m. Information may be obtained from Fred J. Waddell, (409) 835-5212.

The Hays County Appraisal District, Appraisal Review Board, met in Municipal Building, 632-A East Hopkins, San Marcos, on June 14, 1989 at 8:30 a.m. Information may be obtained from Lynnell Sedlar, 632-A Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Henderson County Appraisal District, Appraisal Review Board, met at 1751 Enterprise, Athens, on June 13-16 1989 at 9 a.m. daily. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (214) 675-9296.

The High Plains Underground Water Conservation District No. 1, Board of Directors, met in Conference Room, 2930 Avenue Q, Lubbock, on June 13, 1989 at 10 a.m. Information may be obtained from A.

Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

The Hood County Appraisal District, Appraisal Review Board, will meet in District Office, 1902 West Pearl, Granbury, on June 19, 1989 at 9:30 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Mason County Appraisal District, will meet at 206 Fort McKavitt Street, Mason, on June 21, 1989 at 7 p.m. Information may be obtained from Neal Little, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

The Nolan County Central Appraisal District, Appraisal Review Board, met at Nolan County Courthouse, Sweetwater, on June 15-16, 1989 at 9 a.m. daily. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-1327.

The Nueces-Jim Wells-Kleberg-Kennedy Soll and Water Conservation District, Board of Directors, will meet at 710 East Main Street, Robstown, on June 20, 1989 at 2 p.m. Information may be obtained from Joan D. Rumfield, 710 East Main Street, Robstown, Texas 78380.

TRD-8905090

Meetings Filed June 9, 1989

The Atascosa County Appraisal District, Board of Directors, met at 1010 Zanderson Avenue, Jourdanton, on June 15, 1989 at 1:30 p.m. Information may be obtained from Vernon A. Warren, (512) 769-2730.

The Bastrop County Appraisal District, Board of Directors, met at 1200 Cedar Street, Bastrop, on June 15, 1989 at 7:30 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Bastrop County Appraisal District, Appraisal Review Board, will meet at 1200 Cedar Street, Bastrop, on June 19, 1989 at 8:30 a.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

The Bexar Appraisal District, Board of Directors, will meet at 535 South Main, San Antonio, on June 19, 1989 at 5 p.m. Information may be obtained from Bexar Appraisal District, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Bosque Central Appraisal District, Board of Directors, met at 104 West Morgan Street, Meridian, on June 13, 1989 at 7 p.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665.

The Central Appraisal District of Rockwall County, Board of Directors, met at Appraisal Office, 106 North San Jacinto,

Rockwall, on June 13, 1989 at 7:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 771-2034.

The Dallas Area Rapid Transit, Minority Affairs Committee, met at 601 Pacific Avenue, Dallas, on June 13, 1989, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dallas Area Rapid Transit, Board of Directors, met at 601 Pacific Avenue, Dallas, on June 13, 1989, at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, on June 20, 1989 at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, on June 22, 1989 at 9 a.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

The East Texas Council of Governments, Private Industry Council met at East Texas Council of Governments Offices, Kilgore, on June 15, 1989 at 9: 30 a.m. Information may be obtained from Glynm Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

The Erath County Appraisal District, Appraisal Review Board, will meet in Board Room, 1390 Harbin Drive, Stephenville, on June 22, 1989 at 9 a.m. Information may be obtained from TreCIA Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-7301.

The Golden Crescent Service Delivery Area, Private Industry Council, Inc., met at 105 North Glass, Victoria, on June 14 1989 at 6:30 p.m. Information may be obtained from Jane A. Abell, P.O. Box 2149, Victoria, Texas 77902.

The Grand Parkway Association, met at 140 East Wing, 5757 Woodway, Houston, on June 14, 1989 at 8:15 a.m. Information may be obtained from Larry W. Nettles, 2823 First City Tower, 1001 Farmin, Houston, Texas 77002-6760, (713) 654-4586.

The Grayson Appraisal District, Board of Directors, met at 205 North Travis, Sherman, on June 14, 1989 at noon. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

The Hood County Appraisal District, Appraisal Review Board, will meet at 1902 West Pearl, Granbury, on June 20, 1989, at 9 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Hood County Appraisal District, Board of Directors, will meet at 1902 West Pearl, Granbury, on June 20, 1989, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471.

The Hunt County Tax Appraisal District, Appraisal Review Board, will meet in Hunt County Tax Appraisal District Board Room, 4801 King Street, Greenville, on June 15, 1989 - July 15, 1989 at 9 a.m. daily. Information may be obtained from Joe P. Davis or Linda S. Haynes, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Hunt County Tax Appraisal District, Board of Directors, met in Hunt County Tax Appraisal District Board Room, 4801 King Street, Greenville, on June 15, 1989, 7 p.m. Information may be obtained from Joe Pat Davis or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Lavaca County Central Appraisal District, Appraisal Review Board, will meet at 113 North Main, Hallettsville, on June 19-23, 1989 at 9 a.m. daily. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The North Texas Municipal Water District, Board of Directors, will meet at Administrative Offices, 505 East Brown Street, Wylie, on June 22, 1989 at 4 p.m. Information may be obtained from Carl W. Riehn, (214) 442-5405.

The Permian Basin Regional Planning Commission, Board of Directors, met at Permian Basin Regional Planning Commission, Midland, on June 14, 1989 at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 6391, Midland, Texas 79711.

The South Plains Association of Governments, Board of Directors, met at 1323 58th Street, Lubbock, on June 13, 1989 at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452.

The South Plains Rural Rail Transportation District, Executive Committee, met at 1323 58th Street, Lubbock, on June 13, 1989 at 9 a.m. Information may be obtained from Tim C. Pierce, P.O. Box 3730, Lubbock, Texas 79452.

The West Central Texas Economic Development District Corporation, Board of Directors, will meet at Embassy Suites, 4250 Ridgemont Drive, Abilene, on June 16, 1989 at 11:30 a.m. Information may be obtained from Tom Smith, 1025 East North Tenth Street, Abilene, Texas 79601, (915) 672-8544.

TRD-8905114

◆ ◆ ◆
Meetings Filed June 12, 1989

The Alamo Area Council of Governments, Budget & Workplan Committee,

met at 118 Broadway, Suite 400, San Antonio, on June 16, 1989 at 1:30 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 255-5201.

The Alamo Area Council of Governments, Area Judges of the Alamo Service Delivery Area and Executive Committee, will meet at Chaparral Country Club, 300 Chaparral Drive, Seguin, on June 21, 1989 at 2 p.m. and 2:45 p.m. respectively. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 255-5201.

The Austin-Travis County MHMR Center, Operations and Planning Committee, will meet at 611 South Congress, Room 500, Austin, on June 16, 1989, 7:30 p.m. Information may be obtained from Sharon Taylor, 611 South Congress, Austin, Texas 78704, (512) 447-4141.

The Brazos River Authority, Properties Committee, met at 4400 Cobbs Drive, Waco, on June 15, 1989 at noon. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Capital Area Planning Council, Executive Committee, will meet at 2520 South IH 35, Suite 100, Austin, on June 20, 1989 at 2 p.m. Information may be obtained from Richard G. Bean, (512) 443-7653.

The Carson County Appraisal District, Appraisal Review Board, will meet at 102 Main Street, Panhandle, on June 21, 1989 at 8:30 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79608-0970.

The Central Appraisal District of Johnson County, Appraisal Review Board, will meet in Room 202, 109 North Main, Cleburne, on June 28, 1989 at 9 a. m. Information may be obtained from Jackie Gunter, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

The Central Appraisal District of Johnson County, Appraisal Review Board, will meet in Room 202, 109 North Main, Cleburne, on June 29, 1989 at 9 a. m. Information may be obtained from Jackie Gunter, 109 North Main Cleburne, Texas 76031, (817) 645-3986.

The Cherokee County Appraisal District, Appraisal Review Board, will meet at 107 East Sixth Street, Rusk, on June 19, 1989 at 9 a.m. Information may be obtained from S. R. Danner, P.O. Box 494, Rusk, Texas 75785, (214) 683-2296.

The Comal Appraisal District, Board of Directors, will meet at 430 West Mill Street, New Braunfels, on June 19, 1989 at 6:30 p.m. Information may be obtained from R. Richard Rhodes Jr., P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597.

The Education Service Center Region One, Board of Directors, held an emer-

gency meeting at 1900 West Schunior, Edinburg, on June 13, 1989 at 6 p.m. The emergency status was necessary because the center needed approval on depository right away. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas, (512) 383-5611.

The The Education Service Center, Region III, Board of Directors, will meet at Ramada Inn Conference Room, 3901 Houston Highway, Victoria, on June 19, 1989 at 1:30 p.m. Information may be obtained from Dr. Julius Cano, 1905 Leary Lane, Victoria, Texas 77901.

The Education Service Center, Region XIII, Board of Directors, will meet at Education Service Center Region XIII, Room 205, 5701 Springdale Road, Austin, on June 19, 1989 at 12:45 p.m. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300.

The Edwards County Appraisal District, Board of Directors, will meet at New County Annex Building, Rocksprings, on June 16, 1989 at 10 a.m. Information may be obtained from Natalie McNealy, P.O. Box 378, Rocksprings, Texas 78880.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on June 15, 1989 at 7 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165.

The Golden Crescent Regional Planning Commission, met at Golden Crescent Regional Planning Commission Conference Room, Regional Airport, Building 102, Victoria, on June 15, 1989 at 4 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Gray County Appraisal District, Appraisal Review Board, will meet at 815 North Sumner, Pampa, on June 16, 1989, 9 a.m. Information may be obtained from Gray County Appraisal District, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791.

The Hockley County Appraisal District, Appraisal Review Board, held an emergency meeting at 1103C Houston, Levelland, on June 14, 1989 at 9 a.m. daily. The emergency status was necessary because of mail routing. Information may be obtained from Nick Williams, P.O. Box

1090, Levelland, Texas 79336, (806) 894-9654.

The Jack County Appraisal District, Board of Directors, held an emergency meeting at Los Creek Office Building, 216-D South Main, Jacksboro, on June 13, 1989 at 7 p.m. The emergency status was necessary because needed approval of 1990 budget. Information may be obtained from Gary L. Zeitler or Donna E. Hartzell, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Jasper County Appraisal District, Board of Directors, will meet at Brookland ISD, Loop 149, Brookland, on June 15, 1989 at 7 p.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Liberty County Central Appraisal District, Board of Directors, will meet at 1820 Sam Houston, Liberty, on June 28, 1989 at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Lower Neches Valley Authority, Board of Directors, will meet at Lower Neches Valley Authority, 7850 Eastex Freeway, Beaumont, on June 20, 1989 at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

The Martin County Appraisal District, Appraisal Review Board, will meet at 708 West Saint Anna Street, Appraisal Office, Stanton, on June 27, 1989 at 2 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

The Palo Pinto Appraisal District, Appraisal Review Board, will meet at Palo Pinto County Courthouse, Palo Pinto, on June 20, 1989 at 1:30 p.m. daily as announced until July 20, 1989. Information may be obtained from Jack Sanford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234.

The Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, on July 13, 1989, at 7:30 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The Rusk County Appraisal District, Board of Directors, will meet at Adminis-

tration Office, 107 North Van Buren, Henderson, on June 22, 1989 at 1:30 p.m. at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-9697.

The San Antonio River Authority, Board of Directors, will meet at San Antonio River Authority General Offices, 100 East Guenther Street, San Antonio, on June 21, 1989, 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0028, (512) 227-1373.

The South East Texas Regional Planning Commission, Executive Committee will meet at Beaumont City Council Chambers, 801 Main, Beaumont, on June 21, 1989 at 7 p.m. Information may be obtained from Jackie Vice, P.O. Box 1387, Nederland, Texas 77627, (409) 727-2384.

The Sulphur-Cypress Soil & Water Conservation District #419, met at 1602 North Jefferson, Mount Pleasant, on June 14, 1989, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1603 North Jefferson, Mount Pleasant, Texas 75455.

The Tyler County Appraisal District, Appraisal Review Board, will meet at 806 West Bluff, Woodville, on June 20-21, 1989, at 9 a.m. daily. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wise County Appraisal District, Board of Directors, will meet at Board Room, 206 South State Street, Decatur, on June 21, 1989 on 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3981, extension 70.

TRD-8905137

◆ ◆ ◆
Meetings Filed June 13, 1989

The Trinity River Authority of Texas, Utility Services Committee and Legal Committee, will meet at 5300 South Collins, Arlington, on June 19, 1989, at 10:30 a.m. and 2 p.m. respectively. Information may be obtained from Jack Worsham, 5300 South Collins, P.O. Box 60, Arlington, Texas, (817) 467-4343.

TRD-8905183
◆ ◆ ◆

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Commission on Alcohol and Drug Abuse

Notice of Public Hearings

The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, as amended) requires annual public hearings on the intended use of federal funds allocated under the alcohol, drug abuse, and mental health block grant. Consistent with this mandate, the Texas Department of Mental Health and Mental Retardation and the Texas Commission on Alcohol and Drug Abuse are jointly sponsoring public hearings in July. The purpose of these hearings is to solicit comments on the intended use of federal funds for fiscal year 1990.

Four public hearings have been scheduled at the following times and places: July 10, 1989, 9-11 a.m., Coastal Bend Council of Governments, 2910 Leopard Street, Corpus Christi; July 11, 1989, 5-7 p.m., Houston-Galveston Area Council, 3555 Timmons, Suite 500, Houston; July 12, 1989, 10 a.m.-noon, East Texas Council of Governments, 3800 Stone Road, Kilgore; July 13, 1989, 5-7 p.m., Permian Basin Regional Planning Commission, 2514 Pliska Drive, Midland.

Representatives from the Texas Department of Mental Health and Mental Retardation and the Texas Commission on Alcohol and Drug Abuse will be present to explain the planning process and consult with and receive comments from interested citizens and affected groups. All written and oral comments will be considered in the preparation of the final plan and budgets.

Preliminary intended use reports for the block grant funds will be available at each of the public hearings and can be obtained from all regional councils of governments or by contacting the following agencies: Texas Department of Mental Health and Mental Retardation, Dennis Jones, Commissioner, P.O. Box 12668, Austin, Texas 78711-2668, (512) 454-3761, contact person: Buddy Matthijetz; Texas Commission on Alcohol and Drug Abuse, Bob Dickson, Executive Director, 1705 Guadalupe Street, Austin, Texas 78701-1214, (512) 463-5510, contact per-

son: Rebecca Davis. Comments will be accepted through Monday, July 17, 1989.

Issued in Austin, Texas on June 8, 1989.

TRD-8905161 Bob Dickson
Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: June 12, 1989

For further information, please call (512) 463-5510

State Banking Board

Notice of Hearing

As no opposition has been noted in the application for Citizens National Bank, New Braunfels, to convert to a state charter under the name of Citizens Bank, the hearing previously scheduled for Thursday, June 15, 1989, has been cancelled.

Issued in Austin, Texas on June 8, 1989.

TRD-8905138 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: June 9, 1989

For further information, please call (512) 479-1200

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).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer⁽³⁾/Agri-cultural/Commercial⁽⁴⁾ thru \$250,000</u>	<u>Commercial⁽⁴⁾ over \$250,000</u>
Indicated (Weekly) Rate Art. 1.04(a)(1)	06/12/89-06/18/89	18.00%	18.00%
Monthly Rate ⁽¹⁾ Art. 1.04(c)	06/01/89-06/30/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	07/01/89-09/30/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 ⁽³⁾	07/01/89-09/30/89	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) ⁽³⁾	07/01/89-09/30/89	17.31%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) ⁽²⁾	07/01/89-09/30/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 ⁽³⁾	07/01/89-09/30/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	07/01/89-09/30/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	06/01/89-06/30/89	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, on June 5, 1989.

TRD-8905091 Al Endsley
Consumer Credit Commissioner

Filed: June 8, 1989

For further information, please call: (512) 479-1280

◆ ◆ ◆

Court of Criminal Appeals

Order Adopting Amendments to Texas Rules of Appellate Procedure and Certain Rules

BE IT ORDERED by the Court of Criminal Appeals that the following appended amendments to Texas Rules of Appellate Procedure are hereby adopted and promulgated to govern criminal cases and criminal law matters [Article V, §5 and Article 4.04, C.C.P.], under authority of and in conformity with Acts 1985, 69th Leg., Ch. 685, p. 5136, §§1-4, and Articles 44.33 and 44.45, Code of Criminal Procedure. Intended and designed to be interim measures to treat specific situations, these amended rules shall gov-

ern posttrial, appellate and review procedures only in criminal cases and criminal law matters. This order does not amend any existing rule, promulgate any new rule nor repeal any rule in the Texas Rules of Civil Procedure. No rule amended by this order shall be applicable to any civil case ["actions of a civil nature" (Rules 2, T.R. Civ. P.)] unless and until it has been promulgated by the Supreme Court of Texas.

BE IT FURTHER ORDERED that the Texas Rules of Appellate Procedure be and they are hereby made applicable to appeals by the State taken pursuant to Acts 1987, 70th Leg., Ch. 382, p. 1884, codified as Article 44.01, Code of Criminal Procedure.

BE IT FURTHER ORDERED that the Clerk of this Court shall file with the Secretary of State of the State of Texas, for and in behalf and as the act of this Court, a duplicate original copy of this order and Rule 54(b), and the Clerk shall cause them to be published in the *Texas Register* and the *Texas Bar Journal*, as provided by the above Act.

BE IT FURTHER ORDERED that these amended rules become effective July 1, 1989, and remain in effect unless and until disapproved, modified or changed by the Legis-

ature or unless and until supplemented or amended by this Court pursuant to the above Act.

BE IT FURTHER ORDERED that this order and these rules shall be recorded in the minutes of this Court, and that the original of this order signed by the members of this Court and of these rules shall be preserved by the Clerk of this Court as a permanent record of this Court.

Rule 41. Ordinary Appeal—When Perfected.

- (a) [Appeals in Civil Cases.] (No change.)
- (b) Appeals in Criminal Cases.

(1) **Time to Perfect Appeal.** Appeal is perfected when notice of appeal is filed within thirty (fifteen by the state) days after the day sentence is imposed or suspended in open court or the day an appealable order is signed by the trial judge; except, if a motion for new trial is timely filed, notice of appeal shall be filed within ninety days after the sentence is imposed or suspended in open court.

(2) [Extension of Time.] (No change.)

(c) [Prematurely Filed Documents.] (No change.)

Rule 202. Discretionary Review With Petition.

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

(1) [Index.] through (6) [Prayer for Relief.] (No change.)

(7) **Appendix.** A copy of any opinions deliv-

ered upon rendering the judgment by the court of appeals whose decision is sought to be reviewed shall be included.

(8)[7] (Renumbered, otherwise no change)

(9)[8] (Renumbered, otherwise no change)

Rule 210. Direct Appeals in Death Penalty Cases.

(a) [Record.] (No change.)

(b) **Briefs.** Appropriate provisions of Rule 74 govern preparation and filing of briefs in a case in which the death penalty has been assessed, except that a brief may exceed fifty pages and an original and ten copies of it shall be filed.

Issued in Austin, Texas on June 5, 1989.

TRD-8905062 Thomas Lowe
Clerk
Court of Criminal Appeals

Filed: June 7, 1989

For further information, please call (512) 463-1551

◆ ◆ ◆

Texas Department of Health
Licensing Actions for Radioactive
Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
Addison	MCP Machining Company/Dallas Turbine, Inc.	L04272	Addison	0	05/22/89
Houston	Southwest Laboratory of Toxicology	L04291	Houston	0	05/19/89
Houston	Enseco - Houston	L04261	Houston	0	05/22/89
Odessa	Odessa Womens and Childrens Hospital	L04249	Odessa	0	05/15/89
San Antonio	Andrew J. Cottingham, Jr., M.D.	L04282	San Antonio	0	05/23/89
Throughout Texas	Coastal Wireline Services Inc.	L04239	Pearland	0	05/22/89
Throughout Texas	C. A. Turner Construction Company	L04293	Port Arthur	0	05/25/89

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
Amarillo	Master Nuclear Pharmacy	L03398	Amarillo	6	05/15/89
Austin	Texas Research Institute, Inc.	L02632	Austin	6	05/17/89
Austin	South Austin Medical Center	L03273	Austin	16	05/23/89
Beasley	Hudson Products Corporation	L02370	Beasley	24	05/15/89
Beaumont	Beaumont Medical Surgical Hospital	L02102	Beaumont	26	05/24/89
Beaumont	St. Elizabethn Hospital	L00269	Beaumont	44	05/22/89
Carrollton	Phillips Lighting Company	L03823	Carrollton	4	05/12/89
Chillicothe	Chillicothe Hospital District	L03933	Chillicothe	1	05/12/89
College Station	Granada Genetics, Inc.	L04167	College Station	2	05/12/89
Corpus Christi	Radiology Associates	L04169	Corpus Christi	4	05/12/89
Corpus Christi	Memorial Medical Center	L00267	Corpus Christi	18	05/22/89
Dallas	St. Paul Medical Center	L01065	Dallas	25	05/19/89
Dallas	Humana Hospital Medical City Dallas	L01976	Dallas	57	05/19/89
Denison	Texoma Medical Center	L01600	Denison	18	05/15/89
Denton	Denton Regional Medical Center	L02764	Denton	16	05/12/89
Domino	International Paper Company	L01686	Texarkana	16	05/18/89
Dublin	Harris Methodist Dublin	L03221	Dublin	7	05/18/89
Fort Worth	Harris Methodist Hospital Southwest	L04146	Fort Worth	1	05/19/89
Fort Worth	Harris Methodist Hospital	L01837	Fort Worth	37	05/22/89
Glen Rose	Brown & Root, Inc.	L03176	Glen Rose	13	05/15/89
Houston	Cypress Fairbanks Medical Center, Inc.	L03424	Houston	13	05/19/89

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Houston	Exxon Production Research Company	L00205	Houston	29	05/18/89
Houston	Diagnostic Clinic of Houston	L03452	Houston	8	05/23/89
Houston	Diagnostic Center Hospital	L00131	Houston	30	05/23/89
Lubbock	Texas Tech University	L01536	Lubbock	42	05/15/89

Lufkin	Memorial Medical Center Kurth Radiation Center	L01346	Lufkin	39	05/15/89
Pasadena	Rexene Products Company	L02153	Pasadena	12	05/23/89
Port Arthur	Quantum Chemical Corporation	L00804	Port Arthur	31	05/11/89
Port Neches	Texaco Chemical Company	L04227	Port Neches	1	05/18/89
San Antonio	City Public Service Board	L02876	San Antonio	7	05/12/89
San Antonio	National Health Laboratories	L02112	San Antonio	9	05/12/89
San Antonio	San Antonio State Chest Hospital	L02218	San Antonio	14	05/15/89
San Antonio	Norman, Brannan, Riley, Works, Stewart and Associates	L00325	San Antonio	64	05/19/89
San Antonio	Santa Rosa Health Care Corporation	L02237	San Antonio	23	05/24/89
San Antonio	Southwest Texas Methodist Hospital	L00594	San Antonio	76	05/22/89
Seguin	Cone Biotech, Inc.	L02045	Seguin	14	05/16/89
Stephenville	Harris Methodist Stephenville	L03097	Stephenville	10	05/19/89
Throughout Texas	QMSOO Industries	L02726	Houston	7	05/11/89
Throughout Texas	Terra-Mar, Inc.	L03157	Houston	9	05/11/89
Throughout Texas	Bowers Tubular Service, Inc.	L04135	Hughes Springs	2	05/11/89
Throughout Texas	BJ-Titan Services Company	L02684	Houston	19	05/10/89
Throughout Texas	ACS Commercial Testing	L03752	Tyler	4	05/11/89
Throughout Texas	Syncor International Corporation	L01911	Houston	70	05/15/89
Throughout Texas	Raba-Kistner Consultants, Inc.	L02337	El Paso	9	05/17/89
Throughout Texas	Star-Jet Services, Inc.	L02214	Corpus Christi	12	05/16/89
Throughout Texas	Duval and Associates, Inc.	L02794	Dallas	5	05/17/89
Throughout Texas	LRC Logging and Perforating	L03174	Flint	5	05/17/89
Throughout Texas	Tuboscope, Inc.	L00287	Houston	77	05/18/89
Throughout Texas	Tru-Tec, Inc.	L03913	La Porte	20	05/18/89
Throughout Texas	Union Wireline Services, Inc.	L04176	Odessa	1	05/22/89
Throughout Texas	Trinity Engineering Testing Corporation	L01351	Corpus Christi	24	05/25/89
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	40	05/25/89
Throughout Texas	Goolsby Testing Laboratories, Inc.	L03115	Humble	22	05/25/89
Throughout Texas	Troxler Electronic Laboratories, Inc.	L01296	Res. Tri. Park, NC	26	05/22/89
Tyler	Doctors Memorial Hospital	L03505	Tyler	5	05/19/89
Tyler	Mother Frances Hospital	L01670	Tyler	33	05/19/89
Weimar	Colorado-Fayette Medical Center	L03470	Weimar	7	05/15/89

RENEWALS OF EXISTING LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Odessa	Odessa Diagnostic Imaging Center, Ltd.	L03687	Odessa	8	05/19/89
Pasadena	Pasadena Radiation Therapy Center	L03634	Pasadena	4	05/15/89
Taylor	Johns Community Hospital	L03657	Taylor	12	05/19/89
Throughout Texas	Hercules Engineering & Testing Services, Inc.	L03642	Houston	4	05/11/89
Throughout Texas	Testmasters, Inc.	L03651	Houston	5	05/19/89
Throughout Texas	Bee-Line Services, Inc.	L03436	Corsicana	3	05/22/89
Victoria	Victoria Regional Medical Center	L03575	Victoria	7	05/15/89

TERMINATIONS OF LICENSES ISSUED:

<u>Location</u>	<u>Name</u>	<u>License#</u>	<u>City</u>	<u>Amend- ment #</u>	<u>Date of Action</u>
Dallas	Dallas Laboratories, Inc.	L01133	Dallas	9	05/12/89
Lubbock	Oakwood Family Hospital	L02624	Lubbock	11	05/10/89

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on June 8, 1989.

TRD-8905102 Robert A. MacLean
Deputy Commissioner
Texas Department of Health

Filed: June 8, 1989

For further information, please call (512) 835-7000.

Texas Higher Education Coordinating Board

Notice of Meeting

The Program Committee will meet on Friday, June 30, 1989, from 10 a.m. to 4 p.m. The meeting will be held at the Coordinating Board in Room 255, at 200 East Riverside Drive in Austin. For additional information please contact Joan Matthews, in the Texas Academic Skills Program Office at the Coordinating Board, at (512) 462-6485.

Note: Will be open to the public.

Issued in Austin, Texas on May 31, 1989.

TRD-8905121 James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: June 9, 1989

For further information, please call (512) 462-6420

Texas Housing Agency Request for Proposals

The Texas Housing Agency (THA) invites proposals from interested firms with the qualifications and experience required to perform services related to securing, maintaining, and brokering real estate owned (REO) single family properties located throughout the State of Texas.

The one-year contract includes the areas of inspection, marketing, management, and disposal of the property. Additional activities include filing hazard and private mortgage insurance claims and providing appropriate reporting and accounting systems.

A complete package may be obtained from Sue McKinley, Director of Programs, P. O. Box 13941, Austin, Texas 78711-3941, (512) 474-2974.

Five copies of the proposal must be submitted to THA, P.O. Box 13941, Austin, Texas 78711-3941, Attention: Tish Gonzalez, Deputy Executive Administrator, by 5 p.m., Friday, July 7, 1989.

The board of directors of the Texas Housing Agency will review and make the final selections.

Issued in Austin, Texas on June 9, 1989.

TRD-8905136 Patricia F. Broline
General Counsel
Texas Housing

Filed: June 9, 1989

For further information, please call (512) 474-2974

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 name change by Commodore County Mutual Insurance Company, a domestic county mutual insurance company. The home office is in Dallas.
2. Application for admission to do business in Texas of United Trust Assurance Company, a foreign life insurance company. The home office is in Springfield, Illinois.
3. Application for admission to do business in Texas of First Landmark Life Insurance Company, a foreign life insurance company. The home office is in Omaha, Nebraska.
4. Application for name change by American Lloyds Insurance Company, a domestic lloyds insurance company. The home office is in Irving. The proposed new name is CIGNA Lloyds Insurance Company

Issued in Austin, Texas, on June 8, 1989.

TRD-8905139 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: June 9, 1989

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

Railroad Commission of Texas

Invitation for Bids-Searcy

The Railroad Commission of Texas, Surface Mining and Reclamation Division, is soliciting bids for the reclamation of approximately 40 acres including backfilling of an open pit uranium mine at the Search Abandoned Mine Land (AML) site. Earthwork volumes are estimated at 340,000 cubic yards. The site is located in Karnes County, eight miles southwest of Falls City on FM 791. Sealed bids will be received until 2 p.m. on July 18, 1989, at which time the bids will be publicly opened and read.

Construction shall include topsoil removal and placement; backfilling and regrading; drop structure construction; re-vegetation, and fencing.

Copies of the specifications, drawings, and other contract documents are on file in Austin at the address shown below and at the Commission Field Office, 1419 Third Street, Floresville, Texas 78114. The complete bid package may be obtained at cost (\$15) from the mailing

address given below. Bid documents must be purchased prior to the pre-bid conference.

Searcy AML Project, Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Austin, Texas 78701.

All interested parties are required to attend an on-site inspection at 11 a.m. on June 21, 1989, and a pre-bid conference on June 29, 1989, 11 a.m. at the Railroad Commission of Texas at the above address in Room 9-147.

The Texas AML Fund currently has \$20 million dollars available (100% federal funds) solely for abandoned mine reclamation.

Issued in Austin, Texas on June 9, 1989.

TRD-8905140

Cril Payne
Assistant Director, Legal Division-General
Law
Railroad Commission of Texas

Filed: June 9, 1989

For further information, please call (512) 463-7187

