

Texas Register

Volume 14, Number 69, September 19, 1989

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Texas Register

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Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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



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The Governor

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

Appointments made August 24, 1989

To be a member of the Crime Stoppers Advisory Council for a term to expire September 1, 1991: John McKissick, 250 Glenwood Trail, Forney, Texas 75216. Mr. McKissick is being reappointed.

To be a member of the Crime Stoppers Advisory Council for a term to expire September 1, 1991: Robert B. Aguirre, 8611 Honiley, San Antonio, Texas 78250. Mr. Aguirre is being reappointed.

To be a member of the Texas Department of Licensing and Regulation Board for a term to expire February 1, 1991: Acie O. Phillips, Jr., 3610 Elms Court, Missouri City, Texas 77459. Mr. Phillips is being appointed to a new position pursuant to House Bill 863, 71st Legislature.

To be a member of the Texas Department of Licensing and Regulation Board for a term to expire February 1, 1993: Marjorie Meyer Arshnt, 4425 Basswood Lane, Belaire, Texas 77401. Mrs. Arshnt is being appointed to a new position pursuant to House Bill 863, 71st Legislature.

To be a member of the Governing Board of the Texas School for the Blind for a term to expire January 31, 1995: Marcia Mogetz Grimsley, 10610 Morado Circle, #1301, Austin, Texas 78759. Mrs. Grimsley

will be replacing Dr. Anne Corn of Austin whose term expired.

To be a member of the Texas Board of Irrigators for a term to expire January 31, 1995: Joe H. Key, 1209 Oak Shadows, Austin, Texas 78758. Mr. Key will be replacing Samuel Dale Ousley of Dallas whose term expired.

To be a member of the Department of Information Resources for a term to expire February 1, 1995: Dr. Donald A. Maxwell, 2601 Wayside Drive, Bryan, Texas 77802. Dr. Maxwell is being appointed to a new position pursuant to House Bill 2736, 71st Legislature.

To be a member of the Commission on Fire Protection Personnel Standards and Education for a term to expire June 11, 1995: Wayne C. Sibley, 209 Mount Zion Road, Midlothian, Texas 76065. Mr. Sibley will be replacing Alton Bostic, Sr. of Fort Worth whose term expired.

To be a member of the Finance Commission of Texas for a term to expire February 1, 1990: Charles S. Teeple, IV, 4002 Balcones Drive, Austin, Texas 78731. Mr. Teeple is being appointed to a new position pursuant to Senate Bill 607, 71st Legislature.

To be a member of the Finance Commission of Texas for a term to expire February

1, 1992: Leonard B. Rosenberg, 5639 Doliver, Houston, Texas 77056. Mr. Rosenberg is being appointed to a new position pursuant to House Bill 2736, 71st Legislature.

To be a member of the Finance Commission of Texas for a term to expire February 1, 1994: Dana H. Cook, 3011 Canyon Court, Missouri City, Texas 77459. Mr. Cook is being appointed to a new position pursuant to Senate Bill 607, 71st Legislature.

To be a member of the Finance Commission of Texas for a term to expire February 1, 1992: Lewis E. Bracy, Jr., 1100 North Fourth Street, Uvalde, Texas 78801. Mr. Bracy is being appointed to a new position pursuant to Senate Bill 607, 71st Legislature.

To be a member of the Council on Child Abuse and Neglect Prevention (Children's Trust Fund) for a term to expire September 1, 1995: Celia M. Salomons, 12938 Park Forest Drive, San Antonio, Texas 78230. Ms. Salomons will be replacing Martha A. Ortega of El Paso whose term expired.

issued in Austin, Texas, on August 24, 1989.

TRD-8908455

William P. Clements, Jr.
Governor of Texas



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.

Open Records Decisions

ORD-528 (RQ-1581). Request from A. W. Pogue, Commissioner, State Board of Insurance, Austin, concerning whether records held by a court-appointed liquidator-receiver in the Liquidation Division of the State Board of Insurance are subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

Summary of Decision. Information held by a liquidator receiver appointed pursuant to the Texas Insurance Code, Article 21.28, §12, to administer the court-supervised receivership of insolvent insurance companies is subject to the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a. Such information may be withheld only if one of the act's exceptions protects the information. When a decision on the applicability of the act or on the applicability of the act's exceptions is not requested within 10 days, and the act applies, the information is presumed public.

TRD-8908415

Opinions

JM-1090 (RQ-1696). Request from Abelardo Garza, Duval County Attorney, San Diego, concerning authority of a county judge to sell prescription drugs to indigents for reimbursement by the county.

Summary of Opinion. The Local Government Code, Chapter 171 applies to transactions between a county and the county judge or another member of the commissioners court. Transactions that are not subject to Chapter 171 are still subject to the Local Government Code, §81.002.

TRD-8908412

JM-1091 (RQ-1644). Request from William H. Cunningham, President, University of Texas System, Austin, concerning use of campus mail services at state universities.

Summary of Opinion. The Texas Constitution, Article III, §51, would permit the use of the campus mail system of the University of Texas by a private organization if the use is for a public purpose. A finding

that the private organization in question is academically relevant to the educational mission of the university is not the equivalent of a finding that a particular use of the campus mail system serves a public purpose.

Determinations as to whether organizations come within various exceptions to the Private Express Statutes, 18 United States Code, §§1693-1699; 39 United States Code, §§601-606, involve questions of fact that are to be resolved in accordance with federal law standards.

TRD-8908411

JM-1092 (RQ-1637). Request from J. E. Birdwell, Jr., Chairman, Texas Agricultural Finance Authority, Austin, concerning liability of members of the board of directors of the Texas Agricultural Finance Authority.

Summary of Opinion. Members of the board of the Texas Agricultural Finance Authority may be found personally liable for causes of action in favor of the state arising out of the performance of board duties, but board members, acting within the scope of their office, will not be held personally liable to members of the public for errors or omissions in the issuance of bonds or the execution of contracts which do not constitute fraudulent or willful conduct.

The authority may use public funds to purchase for its directors insurance to protect the state's or the public's interest in the funds it handles.

Members of the board of directors of the Texas Agricultural Finance Authority are covered by the Civil Practice and Remedies Code, Chapter 104 which indemnifies employees, members of a governing board, and other officers of a state agency, institution, or department in certain causes of action.

TRD-8908410

JM-1093 (RQ-1770). Request from Wallace Collins, Administrator, Texas Real Estate Commission, Austin, concerning

whether House Bill 976, which requires a real estate licensee to disclose AIDS information to a potential purchaser or lessee conflicts with Texas Civil Statutes, Article 4419b-1, and related questions.

Summary of Opinion. Those provisions of House Bill 976, Acts 1989, 71st Legislature, Chapter 1171, at 4802, that purport to allow or require statements regarding the fact that a current or previous occupant of real property has or had AIDS or a related illness contravene the federal Fair Housing Amendments Act of 1988 and are therefore invalid.

TRD-8908405

JM-1094 (RQ-1522). Request from John Owens, Henderson County Attorney, Athens, concerning whether a county may recover expenses incurred under the Indigent Health Care Act.

Summary of Opinion. A county has no authority, under current law, to seek reimbursement from an indigent whose medical expenses are paid by the county in accordance with the Indigent Health Care and Treatment Act and who subsequently recovers damages in a personal injury suit. However, the Department of Human Services does have authority under the Indigent Health Care and Treatment Act to promulgate a rule requiring that applicants for county assistance under the Indigent Health Care and Treatment Act assign their rights to reimbursement from another person for personal injury caused by the other person's negligence or wrong.

TRD-8908414

Requests for Opinions

(RQ-1801). Request from Thomas Lowe, Clerk, Court of Criminal Appeals, State of Texas, Austin, concerning whether a copy of the contract between the Court of Criminal Appeals and West Publishing Company for the publication of the courts opinions is a public record under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a.

(RQ-1802). Request from Lynn B. Polson, Acting Executive Director, Department of Information Resources, Austin, concerning construction of conflict of interest provisions of House Bill 2736, Acts, 71st Legislature Regular Session, Chapter 788, at 3569, which creates the Department of Information Resources.

(RQ-1803). Request from Daniel W. Leedy, Austin County Attorney, Bellville, concerning authority of a commissioners court to increase the salary of a county court-at-law judge after adoption of the budget.

(RQ-1804). Request from A. W. Pogue, Commissioner, State Board of Insurance,

Austin, concerning construction of Senate Bill 255, Arts, 71st Legislature, Regular Session, Chapter 1082, at 4370, regarding supervision and conservatorship for delinquent insurers.

TRD-8908413



Emergency Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Licensing and Regulation

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

• 16 TAC §§75.1-75.14

The Texas Department of Licensing and Regulation is renewing the effectiveness of the emergency adoption of repealed §§75.1-75.14, for a 60-day period effective September 16, 1989. The text of repealed, §§75.1-75.14 was originally published in the May 26, 1989, issue of the *Texas Register* (14 TexReg 2525).

Issued in Austin, Texas on September 11, 1989.

TRD-8908393

Joseph Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Effective date: September 16, 1989

Expiration date: November 15, 1989

For further information, please call: (512) 463-2906

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• 16 TAC §§75.1, 75.10, 75.20,
75.30, 75.40, 75.50, 75.60, 75.
70, 75.80, 75.90, 75.100

The Texas Department of Licensing and Regulation is renewing the effectiveness of the emergency adoption of new §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75.70, 75.80, 75.90, 75.100, for a 60-day period effective September 16, 1989. The text of new §§75.1, 75.10, 75.20, 75.30, 75.40, 75.50, 75.60, 75.70, 75.80, 75.90, 75.100 was originally published in the May 26, 1989, issue of the *Texas Register* (14 TexReg 2532).

Issued in Austin, Texas on September 11, 1989.

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Joseph Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Effective date: September 16, 1989

Expiration date: November 15, 1989

For further information, please call: (512) 463-2906

• 16 TAC §§75.10, 75.20, 75.30,
75.40, 75.60, 75.70

The Texas Department of Licensing and Regulation adopts on an emergency basis amendments to §§75.10, 75.20, 75.30, 75.40, 75.60, and 75.70, concerning air conditioning and refrigeration contractors. These amendments are adopted in order to comply with House Bill 863, House Bill 822, House Bill 1631, and House Bill 2936, which amend the Act, and they also include minor editorial changes. These are amendments to an emergency action filed on May 19, 1989.

The amendments are adopted on an emergency basis to protect the safety, welfare and health of air conditioning and refrigeration consumers in Texas.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 8861, which provide the commissioner of the Texas Department of Licensing and Regulation with the authority to promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act.

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

Assumed name—A business name which has been legally registered with the secretary of state, or a county clerk' as an assumed name being used by a company.

Commission—The Texas Commission of Licensing and Regulation.

Commissioner—The commissioner of Licensing and Regulation [the Texas Department of Labor and Standards].

Department—The Texas Department of Licensing and Regulation, Air Conditioning and Refrigeration Licensing Section [Labor and Standards, Boiler Section], P. O. Box 12157, Austin, Texas 78711.

Environmental air conditioning maintenance work—Repair work and all other work required for the continued normal performance of an environmental air conditioning system. The term does not include the installation of a total replacement

of the system or the installation of boilers or pressure vessels that must be installed by licensed persons pursuant to rules and regulations adopted by the commissioner [promulgated by the Texas Department of Labor and Standards] under the Texas Boiler Law, Chapter 436, 45th Legislature, 1937, Texas Civil Statutes, Article 5221c.

Program manager—The program manager of the Air Conditioning and Refrigeration Section [Boiler Section] of the Texas Department of Licensing and Regulation [Labor and Standards].

§75.20. Licensing Requirements.

(a) Applications.

(1) Each person desiring a State of Texas air conditioning and refrigeration contractor license shall request an application from the department. All applications shall be submitted only on the form approved by the commissioner and provided by the department. Acknowledgment of the receipt of an acceptable application will be made within 10 working days and will indicate the next actions to be taken.

(A) (No change.)

(B) Applications submitted indicating a conviction or a felony are processed separately. The applicant is requested to explain in writing the circumstances regarding their conviction(s).

The provisions of subsection (d) of this section [§75.24 of this title (relating to Denial, Suspension, or Revocation of License: Criminal Background)] are followed and must be responded to by the applicant.

(2)-(4) (No change.)

(b) Exams

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

(6) An applicant who fails an examination may request from the commissioner an analysis of his performance on the examination. The request must be in writing and must be received within 30 days of the date of the exam grade notification form.

(7) An applicant may request an oral exam. The request must be in writing and must be received at least 45 days before the exam date.

(c) Licenses.

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

(6) A person who holds a valid Class A air conditioning contractor license on September 1, 1987, is entitled, without additional examination, to a license as a Class A air conditioning and refrigeration contractor with endorsements for environmental air conditioning and for commercial refrigeration and process cooling and heating if the licensee applies to the commissioner of the Texas Department of Licensing and Regulation [Labor and Standards] not later than September 1, 1990 [1988].

(7) A person who holds a valid Class B air conditioning contractor license on September 1, 1987, is entitled, without additional examination, to a Class B air conditioning and refrigeration contractor license of the same class with endorsements for environmental air conditioning and for commercial refrigeration and process cooling and heating if the licensee applies to the commissioner of the Texas Department of Licensing and Regulation [Labor and Standards] not later than September 1, 1990 [1988].

(8)-(16) (No change.)

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

§75.30. Exemptions.

(a) The Act and its rules and regulations do not apply to a person who:

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

(9) is regulated under the Natural Resources Code, Chapter 113. A person licensed under the Act may not perform or offer or attempt to perform any act, service, or function regulated under the Natural Resources Code, Chapter 113, unless licensed or exempted by rule under that law. A person regulated under the Natural Resources Code, Chapter 113, may not perform or offer or attempt to perform air conditioning or refrigeration contracting unless licensed under the Act;

(10)-(11) (No change.)

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

§75.40. Insurance Requirement.

(a) Each Class A license applicant or holder shall have in force commercial general liability insurance in an amount not less than \$300,000 combined for property damage and bodily injury sustained by one or more persons, \$300,000 aggregate (total amount the policy will pay), and \$300,000 aggregate for products and completed operations[, and \$300,000 aggregate (total amount the policy will pay)]. In the event claims occur which reduce the required coverage to a level of \$250,000 or less, the licensee shall reinstate the coverage to the original \$300,000 amount or greater.

(b) Each Class B license applicant or holder shall have in force commercial general liability insurance in an amount not

less than \$100,000 combined for property damage and bodily injury sustained by one or more persons, \$100,000 aggregate (total amount the policy will pay), and \$100,000 aggregate for products and completed operations[, and \$100,000 aggregate (total amount the policy will pay)]. In the event claims occur which reduce the required coverage to a level of \$75,000 or less, the licensee shall reinstate the coverage to the original \$100,000 amount or greater.

(c)-(g) (No change.)

§75.60. Responsibilities of the Department.

(a) Exams.

(1) Exams shall be administered and monitored by examiners employed by the department. Examiners shall be employed by contract on a 12-month basis and approved by the commissioner. Examiners shall be full-time air conditioning and refrigeration professionals. For the purpose of this section, an air conditioning and refrigeration professional is anyone who meets the criteria established in the Act, §4(e) [4(b)], and additionally has a total of eight years of practical experience in air conditioning and refrigeration work. For the purpose of this experience requirement, a degree or diploma in air conditioning engineering or mechanical engineering from an institute of higher education whose program is approved by the Texas State Board of Registration for Professional Engineers for the purpose of licensing professional engineers is considered to be the equivalent of two years of practical experience.

(2)-(4) (No change.)

(b) Licenses and renewals.

(1) Each license shall clearly indicate the name and permanent address of the holder, the name and address of the business affiliation, and the license class. A license being used with a legally registered assumed name(s) must show the company name[, and may show one assumed name]. If the company has legally registered assumed name(s), the license will so indicate.

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

(4) The commissioner shall publish annually a directory of the persons licensed under the Act. The commissioner may sell the directory on payment of a reasonable fee set by the commissioner.

§75.70. Responsibilities of the licensee.

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

(c) All advertising by contractors requiring a license under the Act designed to solicit business shall include the contractor's license number. Advertising which requires the license number shall include printed material, [radio ads,] television ads, newspaper ads, yellow pages, business cards, solicitations, proposals, quotations,

invoices, and other items for the purpose of attracting business. Yellow page listings that do not contain any information except the name, address, and telephone number are not required to contain the contractor's license number. Letterheads and printed forms not used to solicit business are not required to have the license number included. Any promotional item of value, including ball caps, tee shirts, pens, pencils, and other gift items are not required to have the license number included. Signs located at the contractor's permanent business location are not required to have the license number displayed.

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

(h) The commissioner shall publish annually a directory of the persons licensed under the Act. The commissioner may sell the directory on payment of a reasonable fee set by the commissioner. The fees collected under this subsection shall be appropriated to the department for use in the administration of the Act.]

(i) [(i)] A contractor who is not contracting with the public may request inactive status for a period not to exceed 24 consecutive months. Insurance is not required on an inactive license. The original license and wallet card must be returned to the department during the inactive period. In order to return to active status, a request in writing and proof of insurance must be submitted to the department. Licenses expiring during inactive status must be renewed by payment of the renewal fee.

(j) [(j)] Each person licensed under the Act shall notify, within 10 days, the municipal authority who has control of the enforcement of regulations relative to air conditioning and refrigeration contracting in the municipality in which the person is engaged in air conditioning and refrigeration contracting that the person has obtained a state license. The notification must be in the form required by the municipality. A listing of all municipalities in which a licensee has registered shall be submitted to the department. The department must be notified within 10 days of any change.

Issued in Austin, Texas on September 11, 1989

TRD-8908389

Joseph Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Effective date: September 11, 1989

Expiration date: November 15, 1989

For further information, please call: (512) 463-2906

• 16 TAC §75.20

The Texas Department of Licensing and Regulation is renewing the effectiveness of the emergency adoption of amended §75.20, for a 60-day period effective September 26, 1989. The text of amended §75.20 was originally published in the July 18, 1989, issue of the *Texas Register* (14 TexReg 3445).

Issued in Austin, Texas on September 11, 1989.

TRD-8908391

Joseph Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Effective date: September 16, 1989

Expiration date: November 15, 1989

For further information, please call: (512) 463-2906

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.31

The State Board of insurance is renewing the effectiveness of the emergency adoption of new §7.31, for a 60-day period effective September 21, 1989. The text of new §7.31 was originally published in the May 30, 1989, issue of the *Texas Register* (14 TexReg 2567).

Issued in Austin, Texas on September 11, 1989.

TRD-8908386

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: September 21, 1989

Expiration date: November 20, 1989

For further information, please call: 463-6327

Proposed Sections

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

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

TITLE 16. ECONOMIC REGULATION

Part I Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §5.42

The Railroad Commission of Texas proposes a new §5.42, concerning a city with a single common carrier service, pursuant to a petition from NCH Corporation. The new section as proposed would provide that the fact that only one carrier is authorized to serve any community shall be prima facie evidence of a lack of adequate motor carrier service to the community.

Jackye S. Greenlee, assistant director—central operations, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ronald D. Stutes, hearings examiner, has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the section is a greater assurance of adequate motor carrier service to smaller communities. There is no anticipated cost to individuals who are required to comply with the proposed amendment.

Public comment is invited and may be submitted within 90 days to Raymond A. Bennett, Director, Transportation/Gas Utilities Division, and Ronald D. Stutes, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711.

The new section is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which authorize the commission to regulate motor carriers in all matters.

§5.42. City with Single Common Carrier Service.

(a) It is the policy of the Railroad Commission of Texas to ensure adequate, dependable, and consistent motor carrier service to all communities in the State of Texas. To that end, it is the policy of the Railroad Commission of Texas to avoid, within the bounds of the Motor Carrier Act,

required reliance on a single motor carrier by the shipping public.

(b) In an application for a new or amended certificate of public convenience and necessity, evidence that only one motor carrier has been granted authority to serve the shipper's need which has been shown in the transportation of particular commodities, or in the provision of a particular class of motor carrier service, shall constitute prima facie evidence that there exists a public necessity for an additional motor carrier service to transport those particular commodities or provide that class of service.

(c) The prima facie evidence may be overcome by a protestant by showing:

(1) that the protestant is rendering reasonably adequate service, and:

(A) that its financial condition, operational stability and other factors make its continued service probable;

(B) that the traffic for which the prima facie evidence has been shown is insufficient to support more than one motor carrier; or

(2) that a second motor carrier has been granted authority to serve the shipper need which has been shown in the transportation of the particular commodities or in the provision of the particular class of service. For the limited purposes of this subsection, evidence of the existence of a motor carrier not party to the proceeding is admissible, though the services and facilities of the non-party carrier may not be considered.

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 September 11, 1989.

TRD-8908453

Ciril Payne
Assistant Director, Legal
Division
Railroad Commission of
Texas

Proposed date of adoption: December 12, 1989

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



Chapter 11. Surface Mining and Reclamation Division

Subchapter D. Coal Mining

• 16 TAC §11.221

The Railroad Commission of Texas proposes an amendment to §11.221, concerning ownership and control of applicants for surface coal mining permits and processing of permit applications. The proposed amendment will provide additional information of an applicant's violation history and will provide additional means to prevent the issuance of permits to persons who have owned or controlled a mine with uncorrected violations or unpaid fines or fees. The amendment will also allow consideration of these factors in permit reviews. The amendment addressed in this proposal reflects changes in the adoption by reference material only.

Ron Reeves, assistant director, legal division—surface mining, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Reeves also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased efficiency in administering the state program regulations and a decreased potential for the issuance of permits to applicants owned or controlled by a person who has previously incurred uncorrected violations or unpaid fines or fees. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ron Reeves, Assistant Director, Legal Division—Surface Mining, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6841.

The amendment is proposed under Texas Civil Statutes, Article 5920-11, §6, which provide the Railroad Commission of Texas with the authority to promulgate rules pertaining to surface coal mining and reclamation operations.

§11.221. State Program Regulations.

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

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

Issued in Austin, Texas on September 11, 1989.

Earliest possible date of adoption: October 20, 1989

For further information, please call: (512) 463-7152

Part IV. Texas Department of Licensing and Regulation

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

• 16 TAC §§75.10, 75.20, 75.30, 75.40, 75.60, 75.70

(Editor's Note: The Texas Department of Licensing and Regulation 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 Licensing and Regulation proposes amendments to §§75.10, 75.20, 75.30, 75.40, 75.60, and 75.70, concerning definitions, licensing requirements, exemptions, insurance requirements, responsibilities of the department, and responsibilities of the licensee. These changes are necessary as a result of the passages of House Bill 863, House Bill 822, House Bill 1631, and House Bill 2936, which amend the Act, and they also include minor editorial changes.

Meryl Vaughan, administrative assistance, Boiler Section, has determined that 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 will be in effect is an estimated additional cost of \$3,500 for fiscal year 1989. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the sections.

Pursuant to Senate Bill 612, Chapter 845, Mr. Vaughan has determined that, for each year of the first five years the sections are in effect, there will be no impact on local employment.

Mr. Vaughn 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 not be applicable, as no new benefits to the public will result since no new requirements have been added. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to George Bynog, Boiler Section, P. O. Box 12157, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 8861, which provide the

Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and regulations and take all action necessary to assure compliance with the intent and purpose of the 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 September 11, 1989.

TRD-8908390

Joseph Huertas
Program Manager
Texas Department of
Licensing and
Regulation

Earliest possible date of adoption: October 20, 1989

For further information, please call: (512) 463-2906

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter P. Testing and Remediation

• 19 TAC §§5.311-5.314, 5.316-5.318

The Texas Higher Education Coordinating Board proposes amendments to §§5.311-5.314, 5.316-5.318, concerning testing and remediation. The proposed amendments make slight corrections and clarifications in various areas and brings this document in line with recent policy decisions. The changes clarify and correct the original version of the rules.

Bill Sanford, assistant commissioner for universities and health affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. Pursuant to Senate Bill 612, Chapter 845, Mr. Adams has determined that, for each year of the five years the sections are in effect, there will be no impact on local employment.

Mr. Sanford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a more explicative and understandable law. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

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

The amendments are proposed under the Texas Education Code, §51.306, which provides the Coordinating Board with the authority to adopt rules regarding testing and remediation.

§5.311. Purpose. In accordance with the Texas Education Code, §51.306, this subchapter is intended to delineate policies relating to the Texas Academic Skills Program and the treatment of students in public institutions of higher education who do not pass one or more sections of the TASP examination.

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

Pre-tasp test or campus form of the TASP examination—A version that may be administered and scored by qualified campus personnel on a schedule determined by the institution. The pre-tasp test [campus form] may not be used to satisfy the requirements of §5.313(e) or (g) of this title (relating to Eligibility).

§5.313. Eligibility.

(a) Any student with at least three college-level credit hours accumulated prior to the fall of 1989 shall not be required to take the examination. Such credit hours must be certified as college-level by the granting institution and need not be applicable toward a degree or certificate. [If the student is transferring to an institution affected by the TASP, any previous college level hours must be acceptable to the receiving institution as counting toward a certificate or degree program not exempted under subsection (f) of this section.]

(b)-(f) (No change.)

(g) A student may not enroll in any upper division course completion of which would give the student 60 or more college-level semester credit hours or the equivalent, until the student's examination results meet or exceed the minimum standards in all test sections (reading, writing, and math). The student may continue to enroll in lower division, non credit or pre-collegiate courses only.

(h)-(i) (No change.)

(j) To assist with placement decisions only, institutions may elect to administer to freshmen entering a Texas public institution of higher education for the first time the pre-tasp test [campus form of the TASP] or any appropriate diagnostic instrument designated by the institution. Such students must then take the certification form of the TASP prior to the end of the semester in which they accumulate 15 or more college-level semester credit hours.

(k) (No change.)

(l) If any student tested under either subsection (j) or (k) of this section fails to take the certification form of the TASP during the designated semester, the student will [may] not be permitted to re-enroll or to enroll in any other Texas public higher

education institution in any courses other than non-credit remedial, developmental, or pre-collegiate courses until he or she has taken the examination.

§5.314. Administration.

(a) (No change.)

(b) The test instruments shall be diagnostic in nature and be designed to provide a comparison of the skill level of the individual student with the skill level necessary for a student to perform effectively in an undergraduate degree or certificate program. The content of the test instruments, as defined and reviewed by the Texas higher education faculty and approved by the Coordinating Board, fulfills the statutory requirements of House Bill 2182.

(1) For the purposes of this provision it is the intent of the board that the diagnostic feature of the TASP assures that for each of the three examination sections: reading, writing, and mathematics, the student score report will provide an indication of student performance on both the examination and on the specific skills or groups of skills assessed by the examination. This information will help to identify areas of student academic strength and weakness, and thereby will facilitate student remediation and preparation for retaking any section not passed.

(2) (No change.)

(c)-(e) (No change.)

§5.316. Standards. The board shall set statewide standards for the certification form of the examination, but an institution may require higher performance standards than those set by the board. In this case, a student wishing to transfer to an institution with a higher standard may not be denied admission on the basis of TASP test scores, but may, nonetheless, be required to meet other higher standards as determined by the institution.

§5.317. Remediation and Advisement.

(a) For initial placement of a student, an institution may use any appropriate diagnostic assessment procedures.

(b)-(k) (No change.)

§5.318. Institutional Reporting.

(a) Each institution shall report annually to the board, on or before a day set by rule of the board and in a manner prescribed by the board, data concerning the [results of the students being tested and the] effectiveness of the institution's remedial program and advising program. [The report shall identify by name the high school from which each tested student graduated and a statement as to whether or not the student's performance was above or below the stan-

dard. For the purposes of this report, students shall not be identified by name.]

(b) (No change.)

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

Issued in Austin, Texas on September 8, 1989.

TRD-8908418

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: October 20, 1989

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



Subchapter C.

**Hinson-Hazelwood College
Student Loan Program for
all Loans Which Are
Subject to the Provisions of
the Guaranteed Student Loan
Program, the College Access
Loan Program, the Health
Education Assistance Loan
Program, and the Health
Education Loan Program.**

• 19 TAC §§21.53, 21.55, 21.56,
21.57, 21.59

The Texas Higher Education Coordinating Board proposes amendments to §§21.53, 21.55, 21.57, and 21.59, concerning the Hinson-Hazelwood College Student Loan Program. The proposed amendments are being made to bring the rules into compliance with changes in federal law. The rules will protect loan holders and the loan program from the practices of institutions which employ recruiters of students on commission basis and/or which enroll significant numbers of students who are underprepared or unsuited for the course work to be attempted.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Pursuant to Senate Bill 612, Chapter 845, Mr. Adams has determined that, for each year of the first five years the section is in effect, there will be no impact on local employment.

Mr. Adams also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the enforcement of prohibiting schools from hiring commissioned recruiters to enroll unqualified students for educational courses. There is no

anticipated economic cost to individuals who are required to comply with the sections as proposed.

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

The amendments are proposed under the Texas Education Code, Chapter 52, which provides the Coordinating Board with the authority to adopt rules regarding the Hinson-Hazelwood College Student Loan Program.

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

GSL or GSLP—The Federal Guaranteed Student Loan Program and/or the Stafford Student Loan Program.

§21.55. Eligible Institution.

(a) Criteria. An eligible institution shall be any Texas institution of higher education within the State of Texas which:

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

(8) does not employ recruiters of students on a commission basis; and

(9) has entered into an agreement with the board, the terms of which are to be specified by the commissioner.

(b) Student attending other institutions. Any student attending an institution other than an eligible institution as set forth in subsection (a) of this section after May 1, 1985, may be eligible for a loan made from the fund under the governing provisions of the GSLP providing the postsecondary institution [is]:

(1) is an eligible school under provisions of the federal Guaranteed Student Loan Program (the Higher Education Act, Title IV, Part B, 1965, as amended); [and]

(2) is certified by the Texas Education Agency under provisions of the Texas Proprietary School Act (Texas Education Code, Chapter 32), licensed by the Texas Cosmetology Commission, licensed by the Texas State Board of Barber Examiners, or certified to grant or award degrees by the board under provisions of the Texas Education Code, Chapter 61, Subchapter G and;[.]

(3) is an institution which has its parent campus within the state of Texas.

(c)-(f) (No change.)

§21.56. Qualifications for Loans.

(a) Criteria. The commissioner may authorize, or cause to be authorized, Hinson-Hazelwood college student loans to students at any eligible institution which

certifies that the applicant meets program qualifications if the applicant:

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

(7) has provided the board with the signature of a cosigner for any of the following loans:

(A) **guaranteed student loans and supplemental loans to students loans**, if at the beginning of the loan period the borrower will not have progressed satisfactorily beyond the first two semesters or an equivalent enrollment period in a postsecondary institution, and the institution that the borrower attends has a default rate of 15% or greater. This default rate will be an average of the default rate at all of the institution's campuses;

(B) (No change.)

(8) (No change.)

(9) in the case of a SLS:

(A) has exhausted the annual loan limit for a GSL;

(B) has received a favorable evaluation of credit reports by the board;

(10) (No change.)

(11) meets the citizenship and residency status requirements as set forth in the GSLP regulations in the case of a CAL;

(12) is attending an institution that does not employ recruiters of students on a commission basis; and

(13) has complied with other provisions of these sections as are required of the student.

(b) Criteria for students attending other institutions as defined in §21.55(b) of this title (relating to Eligible Institution). The commissioner may authorize, or cause to be authorized, GSLs to students attending postsecondary institutions, as set forth in subsection (a) of this section, provided the applicant meets all of the criteria in subsection (a) of this section [and:]

[(1)] has a high school diploma or has received a certificate of high school equivalency for successfully completing the tests of general educational development (GED), and is unable to obtain a guaranteed student loan from a commercial lender. If the applicant is enrolled in a degree program approved by the board, evidence of inability to obtain a guaranteed student loan from a commercial lender is not required. [; and]

[(2)] has received a favorable evaluation of credit reports by the board.]

§21.57. Loan Limits.

(a) (No change.)

(b) Annual loan limit. The maximum loan amounts allowed for any qualified applicant during an academic year is stated in paragraphs (1)-(5) of this subsection for each type of Hinson-Hazlewood loan. When the student progresses satisfactorily to the next classification level, that student may be eligible for another GSL, SLS, or CAL.

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

(4) HEAL. Qualified students in pharmacy are eligible for a HEAL loan with a maximum principal amount of \$7,500 in a fiscal year; qualified students in public health are eligible for a HEAL loan with a maximum principal amount of \$12,500 in a fiscal year; qualified students in medicine, osteopathic medicine, dentistry, veterinary medicine, and optometry[,] and public health are eligible for a HEAL loan with a maximum principal amount of \$20,000 in a fiscal year.

(5) (No change.)

(c) Aggregate loan limits. The aggregate amount allowed for any qualified applicant for Hinson-Hazlewood college student loans is outlined in the following paragraphs.

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

(4) HEAL. Aggregate principal amounts may not exceed \$37,500 for qualified pharmacy students, \$50,000 for qualified public health students, nor more than \$80,000 for other qualified students.

(5) (No change.)

§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 September 13, 1989.

TRD-8908458

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: October 20, 1989

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

Subchapter J. The Physician Student Loan Repayment Program

• 19 TAC §§21.256, 21.259, 21.262

The Texas Higher Education Coordinating Board proposes amendments to §§21.256, 21.259, and 21.262, concerning the Physician Student Loan Repayment Program. The out-of-state lender provision implements changes contained in Senate Bill 457, passed in the 71st Legislature. The changes were made to clarify wording. The amendments §21.259 and §21.262 allow loans made by out-of-state lenders to qualify for repayment and permit repayments to be made on eligible loans which are not subject to another repayment program. The amendment to §21.256(3) would limit loan repayments under the section to physicians who are graduates of the Texas Family Practice Residency Training Program and who practice in a health manpower shortage area of the state.

Mack Adams, assistant commissioner for student services has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Pursuant to Senate Bill 612, Chapter 845, Mr. Adams has determined that, for each year of the first five years the sections are in effect, there will be no impact on local employment.

Mr. Adams 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 more understandable rules. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

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

The amendments are proposed under the Texas Education Code, Texas Civil Statutes, Chapter 61, Subchapter J, which provides the Coordinating Board with the authority to

adopt rules regarding the Physician Student Loan Repayment Program.

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

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

(3) for graduates of the Texas Family Practice Residency Training Program only, any health manpower shortage areas of Texas in which they practice [health manpower shortage areas of Texas in which graduates of the Texas Family Practice Residency Training Program practice];

(4)-(6) (No change.)

§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)-(3) (No change.)

(4) has not been repaid partially nor is it to be repaid through another student repayment program; and

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

§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]

(B)[(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 title (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;]

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

(C)[(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

(D)[(E)] has fulfilled the requirements of this paragraph 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.

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 September 8, 1989.

TRD-8908417

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: October 20, 1989

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 T. Minimum Standards for Medicare Supplement Policies

• 28 TAC §§3.3303-3.3309, 3.3313-3318

The State Board of Insurance proposes amendments to §§3.3302-3.3309 and 3.3313 and new §§3.3314-3.3318, concerning minimum standards for Medicare supplement policies. The amendments and new were adopted on an emergency basis and become effective on September 20, 1989. Notice of the emergency adoption appeared in the September 1, 1989, issue of the *Texas Register* (14 TexReg 4446). The amendments and new sections are necessary to facilitate implementation of amendments to the Insurance Code, Article 3.74, occasioned by the

passage of House Bill 116 into law during the 71st Legislature and to comply with recently enacted federal standards applicable to Medicare supplement insurance. The amendments to §§3.3302-3.3309 and 3.3313 implement, facilitate, and require compliance with the Omnibus Reconciliation Act of 1987 (Public Law 100-203) and supplemental federal legislation which followed its passage. New §3.3314 requires insurers to identify incremental amounts of premium for basic minimum coverage, additional coverages, and total benefits. It also incorporates by reference a form entitled "Comparison of Premiums and Benefits for Medicare Supplement Policies" which sets forth the format and content of the disclosure required by the new section. The board has filed a copy of the form with the Office of the Secretary of State, Texas Register Section. Persons desiring copies of the forms may obtain copies from the Life Group, Mail Code 830-0, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. New §3.3315 relates to standards for claims payment and requires compliance with federal law relating to Medicare supplement insurance. New §3.3316, concerning filing requirements for out-of-state group policies, requires that certificates for such policies be filed for prior approval and that a copy of the master group policy also be filed for informational purposes. New §3.3317 requires that compensation be restricted to renewal compensation for agents in situations where replacement of existing coverage is with the same entity and the replacement provides substantially similar benefits. It provides an exception for replacement before the first policy year has expired, during which an agent is to receive the pro rate portion of commission attributable to the original policy year. New §3.3318 states the effective date of the amendments and new sections and provides for distinctions between policies issued on and after September 20, 1989, and those issued before that date.

Kay Simonton, deputy insurance commissioner, life group, has determined that, for the first five-year period the proposed sections will be in effect, there will be no fiscal implications for state or local government or for small businesses as a result of enforcing or administering the sections.

Pursuant to Senate Bill 612, Chapter 845, Ms. Simonton has determined that, for each year of the first five years the sections are in effect, there will be no impact on local employment.

Ms. Simonton 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 more effective regulation of Medicare supplement insurance products and benefits in Texas by establishing minimum standards for benefits and by implementing, facilitating, and requiring compliance with the Omnibus Reconciliation Act of 1987 (Public Law 100-203) and supplemental federal legislation which followed its passage. Enforcement of the amendments and new sections will, in addition, facilitate public understanding and comparison of Medicare supplement insurance products and benefits by eliminating provisions which may mislead or confuse the public and by providing for reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement

insurance products. There is no anticipated cost to individuals who are required to comply with the proposed sections other than costs already necessitated by state and federal legislation.

Comments on the proposed sections may be submitted to Kay Simonton, Deputy Insurance Commissioner, Life Group, State Board of Insurance, Mail Code 830-0, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendments and new sections are proposed under the Insurance Code, Article 3.74, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 3.74, §2 (c) and (f), provides that the State Board of Insurance shall issue reasonable rules to establish specific standards for provisions of Medicare supplement policies including requirements that are at least equal to those required by federal law, rules, regulations, and standards. Article 3.74, §4 (d), provides that the State Board of Insurance may issue reasonable rules providing loss ratio standards applicable to rates charged for Medicare supplement policies. Article 3.74, §8, provides that the State Board of Insurance shall issue reasonable rules concerning compensation to agents or other producers of Medicare supplement insurance coverage. Article 3.74, §10, provides that the State Board of Insurance may adopt rules in accordance with federal law regulating Medicare supplement policies and any other reasonable rules that are necessary and proper to carry out Article 3.74, concerning Medicare supplement insurance and policies. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures; §5 prescribes the procedure for adoption of rules by a state administrative agency.

§3.3302. Applicability and Scope. Except as otherwise specifically provided, this subchapter applies [these sections apply] to:

(1) (No change.)

(2) all certificates issued under group Medicare supplement policies, which certificates [policies] have been delivered or issued for delivery in this state regardless of the place where the policy was delivered or issued for delivery [on or after the effective date hereof]. In this subchapter, the required minimum standards for Medicare supplement insurance which make specific reference to a policy or policies, are equally applicable to a group certificate or certificates.

§3.3303. Definitions. The following words and terms, when used in this subchapter [these sections], shall have the following meanings, unless the context clearly indicates otherwise.

Medicare supplement policy—A group or individual policy of accident and sickness insurance or a subscriber contract of a hospital service corporation subject to the Insurance Code, Chapter 20, or evidence of coverage issued by a health main-

tenance organization subject to the Texas Health Maintenance Organization Act, [as amended (Insurance Code, Chapter 20A),] which policy, subscriber contract, or evidence of coverage is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age. Such term does not include:

(A) (No change.)

[(B) a policy, contract, subscriber contract, or evidence of coverage of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:

[(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

[(ii) has been maintained in good faith for purposes other than obtaining insurance; and

[(iii) has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members;]

[(B) [(C)] a policy or health care benefit plan including [contract, subscriber contract, or evidence of coverage issued pursuant to a conversion privilege under] a policy or contract of group insurance or group contract of a hospital service corporation subject to the Insurance Code, Chapter 20, or group evidence of coverage issued by a health maintenance organization subject to the Texas Health Maintenance Organization Act, [as amended (the Insurance Code, Chapter 20A),] when such [group] policy or plan is not marketed or held to be a Medicare supplement policy or benefit plan[, subscriber contract, or evidence of coverage includes provisions which are inconsistent with the requirements of the Insurance Code, Article 3.74].

§3.3304. Policy Definitions and Terms. No insurance policy, subscriber contract, or evidence of coverage may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if such policy, subscriber contract, or evidence of coverage contains definitions or terms which do not conform to the requirements of this section.

(1) "Accident," [or] "Accidental Injury", or "Accidental Means" shall be defined to employ "result" language and shall [may] not include words which establish an accidental means test or use words such as "external, violent, visible wounds," or similar, words of description or characterization.

(A) The definition shall [may] not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(B) Such definition may provide that injuries do not include injuries for which benefits are provided under any workers' compensation, employer's liability, or similar law, or motor, vehicle no-fault plan, unless prohibited by law [or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit].

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

(7) "Mental or Nervous Disorders" shall [may] not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

(8)-(9) (No change.)

(10) "Sickness" shall [may] not be defined to have more restrictive than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition shall [may] not be construed to limit §3.3306(1) [§3.3006(1)] of this title (relating to Minimum Benefit Standards). The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

§3.3305. Prohibited Policy Provisions.

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

(d) The terms "Medicare supplement," "medgap," and words of similar import shall not be used unless the policy is issued in compliance with provisions of this subchapter.

(e) No Medicare supplement insurance policy, contract, or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

§3.3306. Minimum Benefit Standards. No insurance policy, subscriber contract, or evidence of coverage may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy unless the policy, contract, or evidence of coverage meets the standards in paragraphs (1) and (2) of this section. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) General standards. The following standards apply to Medicare supplement policies and are in addition to all other requirements of this subchapter [these sections], the Insurance Code, Article 3.74, and any other applicable law.

(A) A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a pre-existing condition. The policy may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by, or received from, a physician within six months before the effective date of coverage. A Medicare supplement policy issued by an insurer which replaces an existing Medicare supplement policy within the first 24 months of the date of issue of the existing policy, shall provide that any pre-existing conditions waiting periods already satisfied under the replaced policy shall considered satisfied under the new policy, except that if new or additional benefits are included in the succeeding insurer's policy, such policy may include appropriate waiting periods as a condition of payment for such new or additional benefits.

(B)-(C) (No change.)

(D) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall [may] not:

(i) provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium;[,] or

(ii) be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

(E) (No change.)

(2) Minimum benefit standards. A maximum of three separate Medicare supplement policies may be offered by any insurer or other entity designated in the Insurance Code, Article 3.74, §1(a), which offers Medicare supplement insurance or benefits for sale in this state. For a group master policy issued in connection with any certificates providing group Medicare supplement insurance benefits to a resident of this state, a maximum of three alternative sets of benefits may be provided in connection with such policy. Every insurance policy advertised, solicited, or issued for delivery as a Medicare supplement policy, however, must meet all the following minimum standards of coverage in subparagraphs (A)-(G) of this paragraph:

(A)-(G) (No change.)

(3) Explanation of percentages in parentheses in paragraph (2) of this section. The percentages within parentheses in paragraph (2)(A)-(G) of this section are intended to mean the copayment amounts, whatever those amounts are.

(4) Medicare eligible expenses. Medicare eligible expenses shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

§3.3307. Loss Ratio Standards.

(a) Minimum aggregate loss ratio standard. Medicare supplement policies delivered or issued for delivery in this state shall [are expected to] return to policyholders or certificateholders in the form of aggregate benefits under the policy, [as estimated] for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience or incurred health care expenses coverage is provided by a health maintenance organization on a service, rather than reimbursement, and earned premiums for such period, not including any changes in additional reserves, and in accordance with generally accepted actuarial principles and practices:

(1) at least 75% of the aggregate amount of premiums earned [collected in the case of group policies; and

(2) at least 60% of the aggregate amount of premiums earned [collected] in the case of individual policies. [For purposes of this section, Medicare supplement policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.]

(b) Calendar year experience loss ratio standard. For the most recent calendar year, the ratio of incurred losses to earned premiums for all policies or certificates which have been in force for three years or more, as of December 31st of the most recent year, shall be equal to or greater than:

(1) at least 75% of the amount of premiums earned in the case of group policies; and

(2) at least 60% of the amount of premiums earned in the case of individual policies. [Prior to the use of any Medicare supplement policy for in this state, every insurer shall submit to the commissioner an actuarial memorandum for each such policy form which includes claim

experience data and assumptions made thereon to sufficiently explain how the rates for such policy form were calculated.]

(c) Filing of rates and rating schedules. All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this section [On or before June 30 of each year, a company officer and a qualified actuary shall certify and submit to the commissioner as part of the accident and health policy experience exhibit supplementing the insurer's annual statement, complete and accurate information regarding earned premiums, incurred claims, and claim ratios for each Medicare supplement policy form used in this state].

(1) Each Medicare supplement policy or certificate form shall be accompanied, upon submission for approval, by an actuarial memorandum. Such memorandum shall be prepared and signed by a qualified actuary in accordance the generally accepted actuarial principles and practices, and shall contain the information listed in the following subparagraphs:

(A) the form number that the actuarial memorandum addresses;

(B) a brief; description of benefits provided;

(C) a schedule of rates to be used;

(D) a complete explanation of the rating process, including assumptions, claims data, methodology, and formulae used in developing the gross premium rates;

(E) a statement of what experience base will be used in future rate adjustments;

(F) a certification that the anticipated aggregate loss ratio is at least 60% (for individual coverage) or at least 75% (for group coverage), which certification should include a statement of the period over which the aggregate loss ratio is expected to be realized;

(G) a table of anticipated loss ratio experience for representative issue ages for each year from issue over the period of time over which the aggregate loss ratio is to be realized; and

(H) a certification that the premiums are reasonable in relation to the benefits provided.

(2) Subsequent rate filings, except for those rates filed solely due to a change in the Part A calendar year deductible, shall also provide an actuarial memorandum, prepared by a qualified actuary in accordance with generally accepted actuarial principles and practices, which shall contain the information in the following subparagraphs.

(A) The form number addressed by the actuarial memorandum shall be included.

(B) A brief description of benefits provided shall be included.

(C) A schedule of rates before and after the rate change shall be included.

(D) A statement of the reason and basis for the rate change shall be included.

(E) A demonstration and certification by the qualified actuary shall be included to show that the past plus future expected experience after the rate change will result in an aggregate loss ratio equal to, or greater than, the required minimum aggregate loss ratio.

(i) This rate change and demonstration shall be based on the experience of the named form in Texas only, if that experience is credible.

(ii) The rate change and demonstration shall be based on experience of the named form nationwide, if the named form is used nationwide and the Texas experience is not credible, but the nationwide experience is credible.

(iii) The rate change and demonstration shall be based on experience of forms used in Texas, which are similar to the named form if the experience in clause (i) or (ii) of this subparagraph is not credible, but the experience for all similar Texas forms is credible.

(iv) The rate change and demonstration shall be based on any other reasonable experience which is credible for purposes of this rate filing, if the experience in clauses (i), (ii), or (iii) of this subparagraph is not credible. For the purposes of this section, the definition of a credible basis shall be in accordance with generally accepted actuarial principles and practices. The assumptions used in this demonstration shall be reasonable and stated in the memorandum.

(F) For policies or certificates in force less than three years, a demonstration shall be included to show that the third-year loss ratio is expected

to be equal to, or greater than, the applicable percentage.

(G) A certification by the qualified actuary that the resulting premiums are reasonable in relation to the benefits provided shall be included.

(d) Annual filing required. Every insurance entity providing Medicare supplement policies or benefits in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums for the most recent calendar year broken down by calendar year of issue, for purposes of demonstrating that the insurance entity is in compliance with the loss ratio standards. The annual filing requirements in this subsection shall be as follows:

(1) the NAIC Medicare supplement experience exhibit for each form with business in force in Texas;

(2) the NAIC Medicare supplement experience exhibit which summarizes the experience of all individual forms with business in force in Texas;

(3) the NAIC Medicare supplement experience exhibit which summarizes the experience of all group forms with business in force in Texas;

(4) rates and rating schedules for each form with business in force in Texas;

(5) a certification by the qualified actuary that the policies or certificates in force less than three years are anticipated to produce a third-year loss ratio which is greater, than or equal to the applicable loss ratio percentage; and

(6) a certification by the qualified actuary that the expected losses in relation to premiums over the entire period for which the policy is rated comply with the required minimum aggregate loss ratio standard.

(e) Refund and credits. If the loss ratio for the most recent calendar year for all Texas Medicare supplement policies or certificates which have been in force for three years or more as of December 31st of the most recent year is less than the percentage under the calendar year loss ratio standard, then a premium refund or credit shall be made on an equitable basis to those policyholders or certificateholders with coverage in force as of December 31st. For future demonstration of compliance with loss ratio standards, such refunds or credits may be treated as incurred claims.

(f) Premium adjustments to conform with minimum standards for loss ratios. As soon as practicable, but no later than 60 days prior to the effective date of Medicare benefit changes required by the Medicare Catastrophic

Coverage Act of 1988, every insurer, health care service plan, or other entity providing Medicare supplement insurance or contracts in this state shall file with the board, in accordance with the applicable filing procedures of this state, the items required in paragraphs (1) and (2) of this subsection. Paragraph (1) of this subsection applies only to situations in which an anticipated loss ratio falls below that which was originally filed. Premium adjustments should be sufficient to generate an anticipated loss ratio as originally filed.

(1) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts shall be filed. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

(A) Every insurer, health care service plan, or other entity providing Medicare supplement insurance or benefits to a resident of this state pursuant to the Insurance Code, Article 3.74, shall make such premium adjustments as are:

(i) necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies; and

(ii) expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health care service plan, or other, entity for such Medicare supplement insurance policies or contracts.

(B) No premium adjustment which would modify the loss ratio experience under the policy, other than the adjustments described in this subsection, should be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(C) Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or within 60 days of the renewal date or anniversary date if a refund is provided to the premium payer.

(D) Premium adjustments shall be calculated for the period commencing with Medicare benefit changes.

(2) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare, shall be filed. Any such riders, endorsements, or policy forms shall provide a

clear description of the Medicare supplement benefits provided by the policy or contract.

§3.3308. Required Disclosure Provisions.

(a) General rules.

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

(5) Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder, shall have

the right to return the policy or certificate within 10 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.] Medicare supplement policies or certificates issued [pursuant to a direct response solicitation] to persons eligible for Medicare by reason of age shall have a notice prominently printed on the first page or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

(6)-(7) (No change.)

(b) (No change.)

(c) Form for outline of coverage. In providing outlines of coverage to applicants pursuant to the requirements of subsection (b)(1) of this section, insurers shall use a form which complies with the requirements of this subsection. The outline of coverage must contain each of the following paragraphs (1)-(11) of this subsection, in the order and form set out in this subsection. The outline of coverage must begin with the heading which follows this sentence.

(Company Name)

Outline of Medicare

Supplement Coverage

(1)-(9) (No change.)

(10) (A statement that the person to whom the policy is issued is permitted to return the policy within 30 [10] days (or more as stated in the policy) of its

delivery to that person and to have the premium paid refunded.)

(11) (No change.)

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

§3.3309. Requirements for Replacement.

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

(c) The notice required by subsection (b) of this section for an insurer, other than a direct response insurer, shall be provided, in substantially the following form:

NOTICE TO APPLICANT REGARDING
REPLACEMENT OF ACCIDENT AND
SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (Company Name) Insurance Company. Your new policy provides 30 [10] days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

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

(3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy has never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.[:]

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's signature)

(d) (No change.)

§3.3313. Filing Requirements for Advertising. A Medicare supplement policy shall not be deemed to meet the standards and requirements set forth in this subchapter unless the filing company has complied with the requirements of the following paragraphs.

(1) Until September 20 [30], 1989, every insurer, nonprofit hospital service corporation, health maintenance organization (including agents for these entities) providing Medicare supplement insurance or benefits in this state shall provide to the board [commissioner of insurance] for review, a copy of any advertisement as defined in §21.102 of this title (relating to Scope), used to promote a policy which is approved under the provisions of this subchapter. The copy of the advertisement must be provided to the board [commissioner] no later than 15 days after its first use in this state.

(2) After September 20 [30], 1989, any advertisement [advertisements] as referenced in paragraph (1) of this section shall be submitted to the board [commissioner] no later than 60 [30] days prior to its first use. At the expiration of the 60-day period provided by this paragraph, any advertisement filed with the board shall be deemed acceptable, unless before the end of that 60-day period the board has notified the entity of its nonacceptance.

(3) All advertisements shall comply with all applicable federal and state laws and shall be submitted in accordance with §21.120 of this title (relating to Filing for Review). This section does not require prior approval of the advertisement. [Lack of response by the commissioner may not be construed as a tacit approval of the material submitted, and] Nothing [nothing] in this section relieves any person from otherwise complying with all applicable laws or from any sanction imposed by law.

§3.3314. Standards for Facilitating Comparison Among Policies.

(a) Premium identification. Every Medicare supplement insurance policy or certificate delivered or issued for delivery in this state, and every application, shall identify separately the account for each of the following:

(1) the basic minimum standards coverage portion of the policy or certificate, which coverage shall be the minimum coverage required to meet this state's minimum standards for Medicare supplement insurance and may include coverage for the Part A in-hospital deductible amount only if that amount is provided as part of the minimum coverage;

(2) each additional coverage or benefit modification; and

(3) the combined total benefits under the policy or certificate.

(b) Notice format and timing.

(1) Such premiums and subpremiums referred to in subsection (a) of this section shall be set forth in detail with respect to each Medicare supplement insurance policy or certificate delivered or offered for delivery in this state.

(A) The content of such notice must be printed on a form incorporating information for each policy or certificate offered for sale or delivery, and must follow the layout, design, and column-and-row headings in the form entitled "Comparison of Premiums and Benefits for Medicare Supplement Policies," which the State Board of Insurance has adopted and incorporated herein by reference, effective September 20, 1989. (This form is published by the State Board of Insurance, and copies of this form are available from and on file at the offices of the Life Group, Mail Code 083-0, State Board of Insurance at 110 San Jacinto Boulevard, Austin, Texas 78701-1998.)

(B) All information required to be disclosed in the notice shall appear in no less than 10-point type.

(2) The notice concerning the premiums and subpremiums referred to in subsection (a) of this section shall be provided to all prospective insureds, including certificateholders under group policies, at the time application for insurance or enrollment for benefits is made.

§3.3315. Standards for Claims Payment.

(a) Every insurance entity providing Medicare supplement policies, contracts, or certificates for delivery in this state shall comply with all provisions of the Omnibus Reconciliation Act of 1987 (Public Law 100-203), §4081, and with all requirements set forth in Public Law 96-265, 42 United States Code §1395ss.

(b) Compliance with the requirements set forth in subsection (a) of this must be certified on the Medicare supplement insurance experience reporting form.

§3.3316. Filing Requirements for Out-of-State Group Policies. Every insurer providing group Medicare supplement insurance benefits to a resident of this state pursuant to the Insurance Code, Article 3.74, shall, for information purposes, file with the Group Life, Accident, and Health Section of the State Board of Insurance a copy of any master policy issued in connection with any certificate used in this state; all such certificates shall be filed in accord-

ance with the filing requirements and procedures applicable to group Medicare supplement policies issued in this state.

§3.3317. Compensation Restrictions Upon Replacement. No entity designated in the Insurance Code, Article 3.74, §1(a), which provides Medicare supplement insurance or coverage to a resident of this state, shall provide compensation to its agents or other producers that is greater than the renewal compensation which would have been paid on an existing policy or coverage, if that existing policy or coverage is replaced by another policy or coverage with the same entity, and if the new policy benefits or coverage benefits are substantially similar to the benefits under the old policy or coverage and the old policy was issued by the same insurer, insurer group, or entity. For a policy replaced within the first policy year, an agent shall be entitled to receive the pro rata unpaid portion of commission attributable to that original policy year and a commission not greater than renewal compensation thereafter.

§3.3318. Effective Date of Amendments; Impact on Existing Policies. Adoption of new sections and amendments to existing sections of this subchapter is necessary to facilitate implementation of amendments to the Insurance Code, Article 3.74, pursuant to Acts of the 71st Legislature, 1989. New sections and amendments effective September 20, 1989, to this subchapter apply only to Medicare supplement policies and certificates delivered, issued for delivery, or renewed on and after September 20, 1989. Policies and certificates delivered, issued for delivery, or renewed before September 20, 1989, are subject to the rules as they existed at the time the policy was delivered, issued for delivery, or renewed, respectively, and those sections or portions of sections are continued in effect for that purpose.

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

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

TRD-8908426

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: October 20, 1989

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

Chapter Y. Minimum Standards for Benefits for Long-Term Coverage Under Individual and Group Policies

§§ 3.3801-3.3812, 3.3821-3.3838

The State Board of Insurance proposes new §§ 3.3801-3.3812, 3.3821, 3.3838, concerning minimum standards for benefits for long-term coverage under individual and group policies applicable to insurers and other entities providing such insurance or benefits in Texas. New sections are necessary to provide uniform standards for benefits, thereby eliminating the availability of long-term care coverage that is in the best interest of the insurance consumers of this state, in conformity with the legislative mandate found in Insurance Code, Article 3.70(F)(5). The new sections provide parameters of definition for specific terms which may be incorporated in long-term care insurance products, as well as coverage, renewability, extension, conversion, and disclosure provisions which are to be required for specific types of policies. In addition, the rules provide organizational format and readability for long-term care policies.

Ms. Simonton, deputy insurance commissioner for the life group, has determined that, for the first five-year period the proposed sections are to be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. On the basis of cost per \$100 of sales, there will be no difference in cost of compliance between small businesses and larger businesses affected by the proposed sections. Pursuant to Senate Bill 612, Chapter 19, Ms. Simonton has determined that, for the first year of the first five years the sections are in effect, there will be no impact on local employment.

Ms. Simonton also has determined that, for the first year of the first five years the sections are in effect, the public benefit anticipated as a result of administering and enforcing the sections will be more effective regulation of long-term care insurance products by establishing the minimum standards for benefits. The adoption of such sections will, in addition, facilitate the availability of an insurance product for which there is an enhanced public need. The anticipated economic cost to consumers who are required to comply with the proposed sections is the same as the cost for providing any accident and health insurance business. Many of the costs associated with the accident and health insurance business are from the requirements of statute and not from these sections. The cost of entering into long-term care insurance business has been estimated to be \$100,000 for such items as actuarial fees, printing of advertising and policy forms, designing the policy forms, and making arrangements for claims payments and administration of policies.

Comments on the proposal may be submitted to Ms. Simonton, Deputy Insurance Commissioner for the Life Group, State Board of Insurance, Mail Code 830-0, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 1.04, which authorizes the State Board of Insurance to determine rules in accordance with the laws of this state; under the Insurance Code, Article 3.51-6, §5, which authorizes the State Board of Insurance to issue such rules and regulations as necessary to carry out the various provisions of the article; and under the Insurance Code, Article 3.70-1(F)(5), which authorizes and mandates that the board adopt rules and regulations establishing minimum standards for benefits for long-term care coverage under individual policies and group policies and certificates of accident and sickness insurance delivered or issued for delivery in this state, including group coverages delivered or issued for delivery by companies subject to the Insurance Code, Chapter 20.

§3.3801. Authority. This subchapter of rules and regulations of the State Board of Insurance is promulgated and adopted pursuant to the authority vested in the board under the Insurance Code, Article 1.04 and Article 3.70-1(F)(5), as amended.

§3.3802. Purpose. The purpose of this subchapter is to implement the Insurance Code, Article 3.70-1(F)(5), to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

§3.3803. Applicability and Scope. The sections in this subchapter apply to all long-term care insurance policies and group long-term care insurance certificates delivered or issued for delivery in this state on or after the effective date hereof, by insurers; by fraternal benefit societies, to the extent they are subject to provisions of Article 3.70-1(F)(5); and by nonprofit health, hospital, and medical service corporations, including a company subject to the Insurance Code, Chapter 20; except that they do not apply to a policy which is not advertised, marketed, nor offered as long-term care insurance or nursing home insurance.

§3.3804. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant—The person who seeks to contract for benefits, in the instance of an individual long-term care insurance policy; or the proposed certificate holder, in the instance of a group long-term care insurance policy.

Certificate—Any certificate issued under a group long-term care insurance policy, which certificate has been delivered or issued for delivery in this state.

Group long-term care insurance—A long-term care insurance policy or certi-

cate of group long-term care insurance which is delivered or issued for delivery in this state, and issued to an eligible group as defined by the Insurance Code, Article 3.51-6, §1(a).

Long-term care insurance—Any insurance policy, group certificate, or rider to such policy or certificate which is advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. The term "long-term care insurance" shall not include any insurance policy or group certificate which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

Policy—Any policy, contract, subscriber agreement, rider, or endorsement, delivered or issued for delivery in this state by an insurer, fraternal benefit society, or nonprofit group hospital service corporation.

§3.3805. Definitions in Policies. Except as otherwise provided by law or this subchapter, no long-term care insurance policy or certificate or group hospital service corporation subscriber contract delivered or issued for delivery in this state, may contain definitions respecting the matters set forth in §§ 3.3806-3.3820 of this title (relating to Minimum Standards for Benefits for Long-Term Coverage Under Individual and Group Policies) unless such definitions comply with the requirements of said sections.

§3.3806. Policy Definition of Care. Terms referring to care, such as "skilled nursing care," "intermediate care," "personal care," "home care," "home health care," and other services, shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.

§3.3807. Policy or Certificate Definition of Guaranteed Renewable.

(a) The term "guaranteed renewable" may be used only in an individual long-term care insurance policy which an insured has the right to continue in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force and cannot decline to renew, except that rates

may be revised by the insurer on a class basis.

(b) A group long-term policy shall not be described as a guaranteed renewable policy. The term "guaranteed renewable" may apply to a group certificate of coverage if and only if the certificate form provides that:

(1) the certificate holder may keep the certificate and it will become his individual policy, or that a conversion policy will be issued with identical benefits upon termination of coverage under the group policy for any reason;

(2) the certificate may be continued in force under the group policy when the certificate holder is no longer a member of the group, pursuant to a written agreement between the certificate holder and the policy holder regarding such continuation, and that a conversion policy with identical benefits must be provided in the event of policy termination;

(3) any termination of coverage upon attainment of a certain age must be clearly disclosed; and

(4) provisions of the policy may not be changed unilaterally.

§3.3808. Policy Definition of Medicare. The term "Medicare" shall be defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

§3.3809. Policy Definition of Mental or Nervous Disorder. A definition of mental or nervous disorder as used in a policy or certificate may not be more restrictive than a neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

§3.3810. Policy or Certificate Definition of Noncancelable.

(a) The term "noncancelable" may be used only in an individual long-term care insurance policy which the insured has the right to continue in force by the timely payment of premiums during which period the insurer has no right to make any change in any provision of the insurance or in the premium rate.

(b) A group long-term policy shall not be described as a non cancellable policy. The term "noncancellable" may apply to a group certificate of coverage if and only if the certificate form provides that:

(1) the certificate holder may

keep the certificate and it will become his individual policy, or that a conversion policy will be issued with identical benefits upon termination of coverage under the group policy for any reason;

(2) the certificate may be continued in force under the group policy when the certificate holder is no longer a member of the group, pursuant to a written agreement between the certificate holder and the policy holder regarding such continuation, and that a conversion policy with identical benefits must be provided in the event of policy termination;

(3) any termination of coverage upon attainment of a certain age must be clearly disclosed; and

(4) provisions of the policy, including rates, may not be changed unilaterally.

§3.3811. Policy Definition of Pre-Existing Condition. No long-term care insurance policy or certificate shall use a definition of pre-existing condition which is more restrictive in its terms than what is provided for in the Insurance Code, Article 3.70-1(H), and §3.3824 of this title (relating to Pre-existing Conditions Provisions).

§3.3812. Policy Definition of Provider.

(a) All providers of services, including, but not limited to, skilled nursing facility, extended care facility, intermediate care facility, convalescent nursing home, personal care facility, and home care agency, shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. Such definitions may not be more restrictive than definitions for the same or similar facilities contained in the Insurance Code or otherwise in legislative enactments for the State of Texas.

(b) The terms, "convalescent nursing home," "extended care facility," or "skilled nursing facility," shall be defined in relation to status, facilities, and available services.

(1) A definition of such home or facility may not be more restrictive than one requiring that it:

(A) be operated pursuant to law;

(B) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(C) provide continuous, 24-hours-a-day nursing service by or under the supervision of a registered graduate profes-

sional nurse (R.N.); and

(D) maintain a daily record of each patient.

(2) The definition of such home or facility may exclude:

(A) any home, facility, or part thereof used primarily for rest;

(B) a home or facility for the aged or for the care of drug addicts or alcoholics; or

(C) a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

(c) The term "home health agency" may not be more restrictive than that definition provided for in the Insurance Code, Article 3.70-3B, §1.

§3.3821. Limits on Group Long-Term Care Insurance. No group long-term insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in the Insurance Code, Article 3.51-6, §1(a), unless the board has made a determination that the group long-term care insurance requirements adopted by the State of Texas have been met, and the certificate for group long-term insurance coverage has been properly filed and approved by the board.

§3.3822. Minimum Standard for Renewability of Individual Long-Term Insurance Provision. No long-term care insurance policy issued to an individual shall contain renewal provisions less favorable to the insured than guaranteed renewable as that term is defined in §3.3807(a) of this title (relating to Policy or Certificate Definition of Guaranteed Renewable).

§3.3823. Prohibited Policy Provisions.

(a) No long-term care insurance policy may be cancelled, non-renewed, or otherwise terminated on the grounds of age or the deterioration of the mental or physical health of the insured individual or certificate holder.

(b) No long-term care insurance policy may contain a provision establishing a new waiting period in the event existing coverage is converted to, or replaced by, a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

(c) No long-term care insurance policy may provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care than coverage for lower levels of care.

824. Pre-Existing Conditions Provisions.

(a) Except for long-term care insurance policies or certificates thereunder issued to a group defined in the Insurance Code, Article 3.51-6, §1(a), no long-term care insurance policy or certificate issued thereunder shall use a definition of pre-existing condition which is more restrictive than the definition contained in subsection (b) of this section.

(b) Pre-existing condition means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within six months preceding the effective date of coverage of an insured person age 65 or over; or within 12 months preceding the effective date of coverage of an insured person under age 65 in instances where the insurer elects to use a simplified application form, with or without a question as to the applicant's health at the time of the application, but without any question covering the insured's health history or medical treatment history; or within two years, in any other instance.

(c) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in the Insurance Code, Article 3.51-6, §1(a), may exclude coverage for a loss or confinement which is the result of a pre-existing condition, unless such loss or confinement begins within six months following the effective date of coverage of an insured person age 65 or over; or within 12 months following the effective date of coverage of an insured person under age 65 in instances where the insurer elects to use a simplified application form, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history; or within two years, in any other instance.

(d) The definition of pre-existing condition does not prohibit an insurer from using an application form designed to elicit complete health history of an applicant, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a pre-existing condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subsection (c) of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions beyond the waiting period defined in subsection (c) of this section.

3825. Prior Hospitalization or Institutionalization.

(a) No long-term care insurance policy may be delivered or issued for delivery in this state which conditions the eligibility for benefits on prior hospitalization.

(b) No long-term care insurance policy may be delivered or issued for delivery in this state if such policy conditions eligibility for benefits on the receipt of a higher level of institutional care.

(c) Any long-term care insurance policy containing any limitations or conditions for eligibility other than those prohibited in subsection (a) or (b) of this section, shall clearly label in a separate paragraph of the policy or certificate, entitled "Limitations or Conditions on Eligibility for Benefits," such limitations or conditions, including any required number of days of confinement.

(1) No long-term care insurance policy containing a benefit advertised, marketed, or offered as a home care or a home health care benefit, may condition receipt of benefits on a prior institutionalization requirement.

(2) No long-term care insurance policy which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care, shall require a prior institutional stay of more than 30 days for which benefits are paid.

§3.3826. Limitations and Exclusions.

(a) No policy may be delivered or issued for delivery in this state as a long-term care insurance policy if such policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as follows:

(1) a pre-existing condition or disease, as defined in §3.3824 of this title (relating to Pre-Existing Conditions Provisions);

(2) mental or nervous disorders; however, this shall not permit exclusion or limitations of benefits on the basis of Alzheimer's disease;

(3) alcoholism and drug addiction;

(4) illness, treatment, or medical condition arising out of any of the following:

(A) war or act of war, whether declared or undeclared;

(B) participation in a felony, riot, or insurrection;

(C) service in the armed forces or units auxiliary thereto;

(D) suicide, attempted suicide, or intentionally self-inflicted injury; or

(E) aviation activity as a nonfare-paying passenger; or

(5) treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid); any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.

(b) Provisions of this section are not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

§3.3827. Extension of Benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization, if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force, may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits, and may be subject to any policy waiting period and all other applicable provisions of the policy.

§3.3828. Continuation or Conversion. An insurer or similar organization issuing a group long-term care insurance policy, shall provide a basis for continuation or conversion of coverage.

§3.3829. Required Disclosure Provisions.

(a) Individual long-term care insurance policies shall contain a renewability provision. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the coverage for which the policy is issued and for which it may be renewed.

(b) Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal, which reduce or eliminate benefits or coverage in the policy, shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate addi-

tional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy, rider, or endorsement.

(c) A long-term care insurance policy which provides for the payment of benefits on standards described as usual and customary, reasonable and customary, or words of similar import, shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

(d) If a long-term care insurance policy or certificate contains any limitations with respect to pre-existing conditions, such limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Pre-Existing Condition Limitations."

(e) Long-term care insurance applicants shall have the right to return the policy or certificate within 10 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within 10 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

§3.3830. Requirements for Replacement.

(a) Individual and direct-response-solicited long-term care insurance application forms shall include a question designed

to elicit information as to whether the proposed insurance policy is intended to replace any other accident and sickness or long-term care insurance policy presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

(b) Upon a determination that a sale will involve replacement, an insurer or its agent, if that insurer is other than one using direct-response solicitation methods, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by (Company Name) Insurance Company. Your new policy provides 10 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy:

(1) Health conditions which you may presently have (pre-existing conditions) may not be covered immediately or fully under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

(c) Insurers using direct-response solicitation methods shall deliver a notice

regarding replacement of accident and sickness or long-term care coverage to the ap-

plicant upon issuance of the policy. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by (Company Name) Insurance Company. Your new policy provides 10 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy:

(1) Health conditions which you may presently have (pre-existing conditions) may not be covered immediately or fully under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

§3.3831. Loss Ratio Standards.

(a) Long-term care insurance policies are expected to return to policyholders, in the form of aggregate benefits under the policy, as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices, at least 75% of the aggregate amount of premiums collected in the case of group policies, and at least 60% of the aggregate amount of premiums collected in the case of individual policies. For purposes of this section, long-term care policies issued as a result of solicitations of

individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(b) Prior to the use of any long-term care policy form in this state, every insurer shall submit to the commissioner an actuarial memorandum for each such policy which includes claim experience data and assumptions made thereon to sufficiently explain how the rates for such policy form are calculated.

(c) On or before June 30 of each year, a company officer and a qualified actuary shall certify and submit to the commissioner, as part of the long-term care

policy experience exhibit supplementing the insurer's annual statement, complete and accurate information regarding earned premiums, incurred claims, and claim ratios for each long-term care policy form used in this state.

§3.3832. Outline of Coverage.

(a) An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct-response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request but, regardless of request, shall make such delivery no later than at the time of policy delivery.

(b) The outline of coverage shall be in the following form;

(Company Name)
Outline of Coverage
Long-Term Care

(1) " **Read Your Policy Carefully.** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provision will control the rights and obligations of the parties to it. The policy itself sets forth in detail those rights and obligations applicable to both you and your insurance company. It is very important, therefore, that you **READ YOUR POLICY CAREFULLY**".

(2) "Long-term care insurance is designed to provide coverage in long-term care facilities for expenses incurred as a result of a covered injury or sickness, or combination of both. Coverage is provided for the benefits outlined in paragraph (3), below. The benefits described in paragraph (3) may be limited by paragraph (4), below."

(3) Describe the principal benefits and coverage provided in the policy.

(4) State the principal exclusions, reductions, and limitations contained in the policy.

(5) State the renewal provisions, including any reservation in the policy of a right to change premiums.

(6) State the total premium. In the event the amount so stated is not an exact multiple of the annual premium, then the annual premium also shall be stated. Initial policy fees shall be stated separately. This paragraph also shall include a statement of the policy grace period.

(7) State the person to whom the policy is issued is permitted to return the policy within 10 days (or more, if so provided for in the policy) of its delivery to that person, and that in the instance of such return the premium shall be fully refunded.

(8) State that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine the governing contractual provisions.

§3.3833 Group Certificates; Outline of Coverage Required. An outline of coverage is required on any group certificate issued for group long-term care insurance issued to a group as defined in the Insurance Code, Article 3.51-6, §1(a). Such outline of coverage shall include:

(1) a description of the principal benefits and coverage provided in the policy;

(2) State the principal exclusions, reductions, and limitations contained in the policy;

(3) State the renewal provisions, including any reservation in the policy of a right to change premiums; and

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted and carefully read to determine governing contractual provisions.

§3.3834. Organization of Policy Format for Readability.

(a) The text of the policy shall be organized so that it follows a logical sequence.

(b) Coverages shall be self-contained and independent.

(c) The use of provisions which refer the reader to another section shall be avoided to the extent possible.

(d) General policy provisions applying to all or several like coverages, such as defined words and terms, shall be located in a common area.

(e) Insurers may utilize a separate definition section for words used throughout the policy. If a separate definition section is used, it shall appear early in the policy format.

(f) Nonessential provisions shall be eliminated.

(g) Captions shall be of type size and style to clearly stand out.

(h) Type size and style shall be legible, and shall comply with the requirements set forth in the Insurance Code, Article 3.70-2(A)(4).

(i) Ample blank space shall separate the policy provisions.

(j) Ample blank space shall appear between the columns of printing and the border of the paper.

(k) A table of contents or index may be utilized to enable the policyholder to readily locate particular provisions.

§3.3835. Language Readability.

(a) Words shall be selected carefully with preference given to short, familiar words.

(b) Words which are generally familiar, or are common speech, shall be used to the extent possible.

(c) Use of technical or abstract words shall be avoided to the extent possible.

(d) While provisions that are more conceptually complex are more difficult to express in simplified language, sentences shall be expressed in the shortest possible manner.

(e) Complex and compound sentences shall be avoided to the extent possible.

(f) The use of prefixes and suffixes shall be avoided to the extent possible.

(g) Each insurer shall submit the readability score for the policy along with the policy when it is submitted for approval. The readability tests set forth in §3.3092(c) of this title (relating to Format, Content, and Readability for Outline of Coverage) are recommended as guides for insurers.

§3.3836. *Standards for Policy Certificates Submitted for Approval.* A certificate issued pursuant to a group long-term care insurance policy, which certificate is delivered or issued for delivery in this state, shall include:

(1) a description of the principal benefits and coverage provided in the policy;

(2) State the principal exclusions, reductions, and limitations contained in the policy;

(3) a statement that the group master policy determines governing contractual provisions; and

(4) an outline of coverage as provided for in §3.3833 of this title (relating to Group Certificates; Outline of Coverage Required).

§3.3837. *Effective Date.* The sections of this subchapter, as adopted by the board, shall become effective 20 days from the date they are filed, as adopted by the board, with the Office of the Secretary of State and shall be applicable to all long-term care insurance policies and subscriber contracts of hospital and medical service associations filed for approval on and after 30 days from such date. Policies or contracts which have been approved prior to the effective date of the sections in this subchapter and which are not in compliance with this subchapter

may be continued to be used until January 1, 1990, unless approval is specifically withdrawn as provided for in the Insurance Code, Article 3.42. All such policies or contracts delivered or issued for delivery in this state after April 1, 1990, shall be in compliance with the sections of this subchapter.

§3.3838. *Severability.* If any provision of the sections in this subchapter or its application to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of sections which can be given effect without the invalid provisions, and to this end, the provisions of each section are declared to be severable.

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, September 12, 1989.

TRD-8908427

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: October 20, 1989

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

Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §§7.28-7.30

The State Board of Insurance proposes new §§7.28-7.30, concerning the application of penalty and interest to the quarterly prepayment system and concerning taxpayer election for premium tax overpayment. These new sections are necessary to clarify the application of penalty and interest to the quarterly prepayment aspect of the premium taxation system in this state. New §7.28 provides for the application of penalty and interest on any late payment of premium tax liability during a quarterly prepayment tax period from the time payment was due until it is paid. Section 7.29 requires that, if any quarterly prepayment is less than 25% of the total premium tax liability of the previous tax year, such quarterly prepayments shall be equal to 25% of the current tax year's total premium tax liability. New §7.29 also provides for penalty and interest when there is an underpayment of the quarterly tax prepayment. New §7.30 permits a premium taxpayer to make an irrevocable election to apply any overpayment of tax to quarterly tax prepayments in the following year and provides that premium tax forms will contain instructions regarding this election.

Ken Ramoin, director of accounting and tax collection, has determined that, for the first five-year period the proposed sections are in

effect, there will be no fiscal implications for state or local government and no impact on local employment as a result of enforcing or administering the sections. For small businesses, there is no anticipated cost of compliance with the sections as proposed other than the costs associated with statutory penalty and interest provisions of the Insurance Code. On the basis of cost per dollar of premium income, there will be no difference in cost of compliance between small businesses and larger businesses.

Mr. Ramoin 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 greater flexibility in quarterly tax prepayments which more nearly approximate actual tax liability and the ability for taxpayers to apply overpayments to future tax liability. Other than the costs associated with statutory penalty and interest provisions of the Insurance Code, there is no anticipated economic cost to individuals who are required to comply with the sections as proposed. Actual cost will be dependent upon how closely a company's prepayments, based upon anticipated liability rather than past liability, approximate its actual liability as determined at year-end.

Comments on the proposal may be submitted to Nicholas Murphy, Chief Clerk, Mail Code 000-1, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 4.10, §6(c), and Article 4.11, §13(b), which authorizes the State Board of Insurance to establish such rules, regulations, minimum standards, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of the articles which relate to payment of premium tax; and under the Insurance Code, Article 4.13 and Article 4.14, which imposes interest and penalties for late payment of taxes

§7.28. *Late Payment of Premium Tax Liability During Any Quarterly Prepayment Tax Period.* In each instance involving the late payment of premium tax liability during a quarterly prepayment tax period, interest and penalty in accordance with the Insurance Code, Article 4.13 and Article 4.14, will be applied from the time the payment was due until the time it is paid;

§7.29. *Underpayment of Quarterly Premium Tax.*

(a) In any instance involving a quarterly prepayment tax period, if the amount of taxes paid is less than 25% of the total premium tax liability of the previous tax year, then such quarterly prepayments made shall be equal to 25% of the current tax year's total premium tax liability.

(b) Insurance carriers failing to satisfy the provisions of subsection (a) of this section will be assessed penalty and interest on the difference between the amount of quarterly prepayment tax liability actually paid and the amount due. The amount actually paid constitutes a percentage of the

total premium tax liability of the current tax year. The amount due is determined as constituting 25% of the total annual premium tax liability from the previous year.

§730. Taxpayer Election in Instances of Overpayment of Premium Tax Liability.

(a) Whenever an overpayment of the actual premium tax liability occurs as determined by the filing of the correctly reported annual premium tax returns, the taxpayer may elect to apply the amount of the overpayment to the first and any and all subsequent tax quarter(s) of the following tax year until such overpayment has been exhausted. Once a taxpayer has made the aforementioned election, it cannot be reversed and the Tax Collection Section of the State Board of Insurance will continue to apply the existing overpayment to meet the quarterly prepayment tax obligations until the overpayment is exhausted.

(b) Commencing with adoption of annual premium tax forms for tax year 1989, all premium tax forms will contain language and other appropriate visual indices by which a prospective taxpayer can indicate, on such forms, whether it will avail itself of this election concerning the disposition of the overpayment of annual premium tax liability.

(c) Commencing with the quarterly prepayments for premium tax year 1990, all quarterly premium tax forms will contain language and other appropriate visual indices by which a taxpayer, having previously made the election concerning the disposition of the overpayment of annual premium tax liability, may indicate that either all or a portion of a particular quarterly prepayment premium tax liability will be exhausted or reduced by the existing overpayment carried forward from the previous tax year.

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

Issued in Austin, Texas, on September 13, 1989.

TRD-8908459 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: October 20, 1989

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS
Part V. Board of Pardons and Paroles
Chapter 145. Parole

Revocation of Administrative Release (Parole, Mandatory Supervision, and Executive Clemency)

• 37 TAC §§145.50, 145.51, 145.53

The Board of Pardons and Paroles proposes amendments to §§145.50, 145.51, and 145.53, concerning administrative release preliminary hearing; administrative release revocation hearing; final board disposition. The amendments are proposed because the language was changed to comply with statute.

Harry C. Green, general counsel, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Pursuant to Senate Bill 612, Chapter 845, Mr. Green has determined that for the first five-year period the sections are in effect there will be no impact on local employment.

Mr. Green 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 not be applicable. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, P. O. Box 13401, Austin, Texas 78711.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provides the Board of Pardons and Paroles with the authority to change the language pertaining to preliminary hearing and revocation hearing.

§145.50. Administrative Release [(Revocation)] Preliminary Hearing.

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

§145.51. Administrative Release Revocation Hearing.

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

(d) Recommendations to the board for disposition may be either to:

(1) withdraw the [(prerevocation)] warrant, if any, and continue the releasee's administrative release under the same or modified terms and/or conditions, or, where the sentence has expired, release to discharge;

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

§145.53. Final Board Disposition.

(a) (No change.)

(b) The board or board panel shall review the record of the hearing, the report, and recommendation of the hearing officer together with any recommendation of the staff and dispose of the case by taking one of the following actions:

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

(3) withdraw the [(prerevocation)] warrant and continue the administrative release under the same or modified terms and/or conditions or, where the sentence of the releasee has expired, release to discharge;

(4) (No change.)

(c)-(e) (No change.)

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

Issued in Austin, Texas, on September 11, 1989.

TRD-8908419 William H. Brooks
Executive Director
Board of Pardons and Paroles

Earliest possible date of adoption: October 20, 1989

For further information, please call: (512) 459-2708

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 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 21. Student Services

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

• 19 TAC §21.59

The Texas Higher Education Coordinating Board has withdrawn from consideration for permanent adoption a proposed amendment §21.59 which appeared in the June 16, 1989, issue of the *Texas Register* (14 TexReg 2986). The effective date of this withdrawal is September 11, 1989.

Issued in Austin, Texas, on September 11, 1989

TRD-8908389

Suzanne Ortiz
Special Projects Director
Texas Higher Education
Coordinating Board

Effective date: September 11, 1989

For further information, please call: (512)
462-8420

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 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

• 22 TAC §463.6

The Texas State Board of Examiners of Psychologists adopts new §463.6, with changes to the proposed text as published in the July 28, 1989, issue of the *Texas Register* (14 TexReg 3618).

The board determined that the supervision requirements for licensure should be defined as a full time experience rather than counting the number of supervision hours received. Requirements from other rules have also been condensed into this rule so that all experience requirements are contained in one rule.

The new section will more clearly define the board's requirements for full time supervised experience needed for licensure as a psychologist. The proposed section defines full-time and half-time experience requirements, including education requirements, setting requirements, and acceptable supervisors.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4512 C, which provides the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.6. Experience. Supervision may be obtained only in a full-time or half-time setting.

(1) A year of full-time supervised experience is defined as a minimum of thirty-five hours per week employment/experience in not less than the 12 consecutive calendar months in not more than two placements.

(2) A year of half-time supervised experience is defined as a minimum of 20-hours per week employment/experience in not less than 24 consecutive calendar months in not more than two placements.

(3) A year of full-time experience may be acquired through a combina-

tion of half-time and full-time employment/experience provided that the equivalent of a full-time year of supervision experience is satisfied.

(4) One calendar year from the beginning of ten consecutive months of employment/experience in a school district constitutes one year of experience.

(5) A rotating internship organized within a doctoral program is considered to be one placement.

(6) The experience requirement must be obtained after official enrollment in a doctoral program.

(7) At least one year of experience must be received after the doctoral degree is officially conferred.

(8) All supervised experience must be received from a psychologist licensed at the time supervision is received.

(9) The supervising psychologist must be trained in the area of supervision provided to the supervisee.

(10) No experience which is obtained from a psychologist who is related within the second degree of affinity or within the second degree by consanguinity to the person may be considered for licensure or psychological associate certification.

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

Issued in Austin, Texas, on August 28, 1989.

TRD-8908431

Patti Blizell
Executive Director
Texas State Board of
Examiners of
Psychologists

Effective date: October 3, 1989

Proposal publication date: July 28, 1989

For further information, please call: (512) 835-2036

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

• 34 TAC §3.603

The Comptroller of Public Accounts adopts an amendment to §3.603, without changes to

the proposed text as published in the August 11, 1989, issue of the *Texas Register* (14 TexReg 3974).

The amendments takes into account recent legislative changes concerning the suspension or revocation of a license or registration certificate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8807(1), which provide the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Coin-Operated Services Law, Texas Civil Statutes, Articles 8801-8817.

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 September 12, 1989.

TRD-8908409

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 3, 1989

Proposal publication date: August 11, 1989

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

• 34 TAC §3.606

The Comptroller of Public Accounts adopts an amendment to §3.606, without changes to the proposed text as published in the August 11, 1989, issue of the *Texas Register* (14 TexReg 3975).

The amendment takes into account recent legislative changes concerning the period for which records must be retained and eliminating the requirement that every change of machine location be shown on the records.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8807(1), which provide the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Coin-Operated Services Law, Texas Civil Statutes, Articles 8801-8817.

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 September 12, 1989.

TRD-8908407

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 3, 1989

Proposal publication date: August 11, 1989

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

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• 34 TAC §3.607

The Comptroller of Public Accounts adopts an amendment to §3.607 without changes to the proposed text as published in the August 11, 1989, issue of the *Texas Register* (14 TexReg 3975).

The amendment takes into account a recent legislative change which states that tax permits may not be affixed to machines which have not been registered with the Comptroller of Public Accounts.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8807(1), which provide the

Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Coin-Operated Services Law, Texas Civil Statutes, Articles 8801-8817.

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 September 12, 1989.

TRD-8908408

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 3, 1989

Proposal publication date: August 11, 1989

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

◆ ◆ ◆
• 34 TAC §3.611

The Comptroller of Public Accounts adopts an amendment to §3.611, without changes to the proposed text as published in the August 11, 1989, issue of the *Texas Register* (14 TexReg 3976).

The amendment takes into account recent legislative changes concerning fees for registration certificates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8807(1), which provide the Comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Coin-Operated Services Law, Texas Civil Statutes, Articles 8801-8817.

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 September 12, 1989.

TRD-8908406

Bob Bullock
Comptroller of Public
Accounts

Effective date: October 3, 1989

Proposal publication date: August 11, 1989

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

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 Alcoholic Beverage Commission

Monday, September 25, 1989, 10:30 a.m. The Texas Alcoholic Beverage Commission will meet in Room 320, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve minutes of August 29, 1989, meeting; hear administrator's and staffs' report of agency activity; and approve affidavit of destruction of tested alcoholic beverages.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: September 12, 1989, 1:32 p.m.

TRD-8908444

Texas Commission on the Arts

Thursday, September 21, 1989, 10 a.m. The Full Texas Commission on the Arts will meet in the Dogwood Room, Hyatt Regency Hotel, 1200 Louisiana Street, Houston. According to the revised agenda summary, the commission will introduce guests; conduct a public hearing; hear items for commission consent, individual consideration, information only; and executive session.

Contact: Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: September 12, 1989, 11:23 a.m.

TRD-8908420

Child Care Development Board

Tuesday, September 19, 1989, 1:30 p.m. The Child Care Development Board will meet in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the board will receive a report from TDHS; appoint an advisory committee; hear report from State Purchasing and General Services Commission; and hear public testimony.

Contact: Lynn Levery, P.O. Box 12608, Austin, Texas 78711, (512) 463-6000.

Filed: September 12, 1989, 4:42 p.m.

TRD-8908448

Texas School for the Deaf

Tuesday, September 19, 1989, 9 a.m. The Texas School for the Deaf Governing Board Officers will meet for an emergency meeting in the Administration Board Room, 1102 South Congress, Austin. According to the agenda summary, the board will review board committee assignments; necessity of October board meeting; budget review and approval process; and mechanics of board self evaluation. The emergency status was necessary due to travel distance for officers.

Contact: Marilyn R. Stephan, P.O. Box 3538, Austin, Texas, (512) 440-5335.

Filed: September 12, 1989, 3:41 p.m.

TRD-8908445

Texas Education Agency

Thursday, September 21, 1989, 1 p.m. The Interaency Coordinating Council on Dropout Reduction of the Texas Education Agency will meet in Room 209, Texas Higher Education Coordinating Board, 200 East Riverside Drive, Austin. According to the agenda, the council will conduct a working session to develop a program of activities to be performed over the next 12 months.

Contact: Federico Miller, 1701 North Congress, Austin, Texas 78701, (512) 463-9512.

Filed: September 13, 1989, 3:49 p.m.

TRD-8908498

Advisory Commission on State Emergency Communications

Monday, September 18, 1989, 9 a.m. The

Advisory Commission on State Emergency Communications Regional Plan Committee met in Room 104, John H. Reagan Building, Austin. According to the agenda, the committee recognized guests; review and consider approval of Rio Grande Council of Governments 9-1-1 regional plan, Deep East Texas Council of Governments 9-1-1 regional plan; consider any new business; and hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway, South B-100, Austin, Texas 78746, (512) 327-191.

Filed: September 13, 1989, 1:35 p.m.

TRD-8908473

Texas Department of Health

Friday, September 22, 1989, 9 a.m. The Texas Department of Health Asbestos Advisory Committee will meet in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of previous meeting and discuss: medicine position seat on the committee and trainer's seat; revisions to Senate Bill 80; results of internal audit; use of universal medical questionnaire; accept for record proposed committee composition, size and terms of office for members, and other administrative matters affecting committee procedures; asbestos licensing program; and other business not requiring committee action.

Contact: Joel Smith, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7255.

Filed: September 12, 1989, 2:16 p.m.

TRD-8908435

Texas Health and Human Services Coordinating Council

Wednesday, September 20, 1989, 1:30 p.m. The Texas Health and Human Services Coordinating Council Interaency Committee will meet in Room T607, TDH,

1100 West 49th Street, Austin. According to the agenda summary, the committee will consider the role and function of the board; elect officers; discuss topics and informational items; and consider topics for next meeting.

Contact: Carol Kirchem Price, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: September 12, 1989, 4:45 p.m.

TRD-8908449

Wednesday, September 20, 1989, 3:45 p.m. The Texas Health and Human Services Coordinating Council Task Force on Statewide Case Management for Long Term Care will meet in Room T607, TDH, 1100 West 49th Street, Austin. According to the agenda, the council will give charge to the task force; elect chair; consider current case management initiatives: client services work group, case management and medication, and other; and discuss task force directions.

Contact: Carol Kirchem Price, 311-A East 14th Street, Austin, Texas 78701, (512) 463-2195.

Filed: September 12, 1989, 4:45 p.m.

TRD-8908450

Texas Historical Commission

Saturday, September 30, 1989, 9 a.m. The Texas Historical Commission State Board Review will meet in the Community Room, Central Christian Church, 1110 Guadalupe Street, Austin. According to the agenda summary, the board will hear announcements; approve minutes of previous meeting; and review national register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: September 13, 1989, 1:32 p.m.

TRD-8908472

Industrial Accident Board

Monday, September 18, 1989, 9 a.m. The Industrial Accident Board met in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board discussed the following: approved board minutes; public comment/discussed the following: proposed repeal of rules on attorney representation—28 TAC §§51.5, 51.7, 51.35, 51.40, 51.45, 51.50, 51.55, 51.60; proposed new rules on attorney representation—§§64.5, 64.10, 64.18, 64.20, 64.25, 64.30; proposed amendment to rule on settlement of future medical benefits—§55.35; review of death benefit claims for beneficiary eligibility including second injury; discuss and consider handling of second injury cases by attorney general; medical cost evaluation; advisory

committee nominations; executive session, personnel executive director, personnel, executive director; review of board files in closed session; and review and discussed board activities.

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

Filed: September 14, 1989, 9:25 a.m.

TRD-8908501

State Board of Insurance

Wednesday, September 20, 1989, 2 p.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda summary, the board will 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: September 12, 1989, 1:53 p.m.

TRD-8908425

Texas Department of Mental Health and Mental Retardation

Thursday, September 21, 1989, 8:30 a.m. The Texas Department of Mental Health and Mental Retardation Board of Business and Asset Management Committee will meet in the 3rd Floor Conference Room, Fonteno Building, 2850 Fannin Street, Houston. According to the agenda, the committee will hear recommendation on FY 1990 operating budget; consideration of ground lease on surplus property at the Austin State Hospital; approve selection of an engineer for cogeneration project at the Austin State Hospital; facility master plan; assessment part 1. If deaf interpreters are required, notify Ernest Fuentes, (512) 465-4585, 72 hours prior to the meeting.

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

Filed: September 12, 1989, 1:44 p.m.

TRD-8908440

Friday, September 22, 1989, 8:15 a.m. The Texas Department of Mental Health and Mental Retardation Audit Committee will meet in the 3rd Floor Conference Room, Fonteno Building, 2850 Fannin Street, Houston. According to the agenda, the committee will approve the annual workplan and budget for internal audit. If deaf interpreters are required, notify Ernest Fuentes, (512) 465-4585, 72 hours prior to the meeting.

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

Filed: September 12, 1989, 2:33 p.m.

TRD-8908439

Friday, September 22, 1989, 8:30 a.m. The Texas Department of Mental Health and Mental Retardation Planning and Policy Development Board will meet in the 3rd Floor Conference Room, Fonteno Building, 2850 Fannin Street, Houston. According to the agenda, the board will adopt amendments to rules governing licensure or private psychiatric hospitals; new subchapter governing contract management; rules governing determination of rates for support and treatment; Texas comprehensive plan for community-based MH services—PL99-660; appointments to citizens' planning advisory committee; designation of single portal authority(s); ACDD standards—age appropriateness and physicians salary augmentation. If deaf interpreters are required, notify Ernest Fuentes, (512) 465-4585, 72 hours prior to the meeting.

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

Filed: September 12, 1989, 2:36 p.m.

TRD-8908441

Friday, September 22, 1989, 11 a.m. The Texas Department of Mental Health and Mental Retardation Board will meet in the 3rd Floor Conference Room, Fonteno Building, 2850 Fannin Street, Houston. According to the agenda summary, the board will receive citizen's comments; approve minutes of September 8, 1989, meeting; and issues to be considered. If deaf interpreters are required, notify Ernest Fuentes, (512) 465-4585, 72 hours prior to the meeting.

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

Filed: September 12, 1989, 2:38 p.m.

TRD-8908442

Texas State Board of Public Accountancy

Thursday, September 22, 1989, a.m. The Executive Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will review financial matters; status of computer purchase; NASBA matters; personnel matters; hear a report on the status of sunset report; reconsider the board's position on all objective exam format; discuss changes to the exam on the rules of professional conduct; consider request for reinstatement; discuss proposed amendments to substantive rule 523.63, mandatory CE attendance; and any other matters coming before the board.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: September 13, 1989, 9:17 a.m.

TRD-8908454

Thursday, September 21, 1989, 9 a.m. The Licensee Education Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will review the exemption requests and forms which have been submitted to the committee; CE hours submitted by licensees who have received a board sanction for noncompliance with CE requirements; requests for additional credit for published articles and books; sponsor registrations; requests for CE credit from unregistered sponsors; newer statistical report concerning CE; discuss changes to §523.63, mandatory CE attendance; review proposed changes to license renewal report for FY 1990; and review dates for the next committee meeting.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: September 13, 1989, 9:35 a.m.

TRD-8908456

Thursday, September 21, 1989, 9 a.m. The Licensing Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada Austin. According to the agenda, the committee will ratify approved application for registration of partnerships and professional corporations; consider application for reinstatement of CPA certificates; ratify previously approved applications under §§12, 13, and 14, consideration of nonroutine applications under §§12, 13, and 14; informal conferences for individuals requesting appearances before the committee; review of convictions reported by licensees on their 1989 renewal notices; review of information relating to DPS criminal background investigation reports; review request for surrender of CPA certificates under §12(a) of the Act; and review plans for the November, 1989, swearing-in ceremony.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: September 13, 1989, 3:30 p.m.

TRD-8908485

Thursday, September 21, 1989, 1 p.m. and Friday, September 22, 1989, 9 a.m. The Full Board of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda summary, the board will approve minutes of the August 24-25, 1989, meeting; report of the executive meeting; review state auditor's EDP audit; report of the sponsor compliance committee; quality review committee; report of the behavioral enforcement committee; report of the licensee education committee; report of the constructive enforcement committee; report of the licensing committee; action on substantive rules; ratify board orders, consent

orders and proposals for decision; review certain board communications; and review future meeting/hearing schedules.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: September 13, 1989, 9:35 a.m.

TRD-8908457

Public Utility Commission of Texas

Monday, October 2, 1989, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearings division will conduct a hearing on Docket No. 8790-application of Southwestern Bell Telephone Company to offer an experimental optional calling plan (discounted intralata rates).

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

Filed: September 12, 1989, 1:57 p.m.

TRD-8908436

Monday, November 20, 1989, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing division will conduct a hearing on Docket No. 8994-application of Guadalupe-Blanco River Authority for approval of tariff sheets to reflect operation of the Canyon Dam Hydroelectric Project.

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

Filed: September 13, 1989, 1:57 p.m.

TRD-8908471

State Purchasing and General Services Commission

Wednesday, September 20, 1989, 9 a.m. The State Purchasing and General Services Commission will meet in Conference Room 402, Central Services Building, 1711 San Jacinto, Austin. According to the agenda, the commission will consider final adoption of amendments to §125.1 concerning persons eligible to receive services provided by the state travel management program; authorizing publication in the Texas Register of proposed amendments to §125.13 regarding events under group/meeting services of the state travel management program, and §117.37 regarding temporary parking assignments; reports: monthly 3.09, internal audit, long range planning committee, oper-

ating budget, construction project, division activity; executive session to consider the status of the potential purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b, and receive a report from counsel concerning status of all pending litigation.

Contact: John R. Neel, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: September 12, 1989, 10:02 a.m.

TRD-8908422

Texas County and District Retirement System

Wednesday, September 27, 1989, 9 a.m. The Texas County and District Retirement System Board of Trustees will meet in the Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the board will hear minutes of June 23, 1989, meeting; consider and pass on applications for service retirement and disability retirement benefits; consider escheatment of former member accounts; hear report from independent auditor on TCDRS investment performance for 1988; select auditor for 1989; review and act on reports from actuary, director, legal counsel, and investment counsel; and set the date for the December meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651

TRD-8908447

The University of Texas System

Friday, September 15, 1989 3 p.m. The University of Texas System Board of Regents met in the Regent's Meeting Room, 9th Floor, Ashbel Smith Hall, 201 West 7th, Austin. According to the agenda, the board met via telephone conference call to consider personnel matters related to the possible election and employment of a chief administrative officer for the UT at San Antonio.

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

Filed: September 12, 1989, 1:17 p.m.

TRD-8908423

University of Houston System

Friday, September 15, 1989, 8 a.m. The University of Houston System Board of Regents/Executive Committee met for emergency meeting in the Conference Room, 5th Floor, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to

the agenda, the committee met to discuss and/or approve the following: an agreement to provide student housing at the University of Houston. The emergency status was necessary because financing commitment will expire on September 15, 1989, unless the contract is approved by that date.

Contact: Peggy Cervenka, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

Filed: September 12, 1989, 11:10 a.m.

TRD-8908418

Texas Water Commission

Tuesday, September 26, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: September 12, 1989, 1:43 p.m.

TRD-8908443

Monday, October 2, 1989, 10 a.m. The Hearing Examiners of the Texas Water Commission will meet in Room 543, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the hearing examiners will conduct a public hearing on an application by Charles R. Irwin, No. 4339A—for an amendment to water use permit No. 4118.

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

Filed: September 12, 1989, 1:43 p.m.

TRD-8908437

Tuesday, December 12, 1989, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will hear Application No. 5254—City of Harlingen for a new water use permit to divert treated sewage effluent for industrial purposes in Cameron County; the effluent will be discharged into Arroyo Colorado, tributary Laguna Madre.

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

Filed: September 12, 1989, 1:43 p.m.

TRD-8908438

Texas Water Development Board

Thursday, September 21, 1989, 9 a.m. The Texas Water Development Board will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the board will consider: minutes of August 17, 1989, meeting; development fund manager's report; \$10,000,000 bond sale; extending loan commitments for South Franklin WSC and Ft. Bend MUD 13; requests for financial assistance from City of Crandall, Jefferson County drainage district no. 6, Wickson Creek Special utility district and Denver City; emergency amendment to 31 TAC 373.5; requests for proposals on ability of residents of economically distressed areas to pay for water and wastewater services; partial release of lien regarding the El Oso WSC; water supply contract between North Central Texas municipal WA and the Paint Creek WSC; agreement with TWC for support services; contract for modifications to portfolio management system; executive and open sessions for personnel items.

Contact: M. Reginald Arnold II, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

TRD-8908476

Texas Youth Commission

Thursday, September 14, 1989, 10 a.m. The Texas Youth Commission Board met for an emergency meeting in the Public Hearing Room, 4900 North Lamar Boulevard, Austin. According to the revised agenda, the board requested emergency funds from the governor to repair fire damage. The emergency status was necessary because the fire occurred at Corsicana State Home on September 7, 1989, which necessitates stabilizing the structure and requesting funds to repair the dorm.

Contact: Ron Jackson, P.O. Box 4260, 4900 North Lamar, Austin, Texas 78765, (512) 483-5001.

Filed: September 12, 1989, 10:08 a.m.

TRD-8908403

Regional Meetings

Meetings Filed September 12, 1989

The Jones County Appraisal District, Board of Directors will meet in the District Office, 1137 East Court Plaza, Anson, September 21, 1989, at 8 a.m. Information may be obtained from John Steele, 1137 East Court Plaza, Anson, Texas, (915) 823-2422.

TRD-89080500

Meetings Filed September 13, 1989

The Alamo Area Council of Governments, Area Judges of the Alamo Service Delivery will meet in Salon A & B, Rivercenter Marriott, Bowie and Commerce Street, San Antonio, September 27, 1989, at 3 p.m. Information may be obtained from A. J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Alamo Area Council of Governments, Budget and Workplan Committee will meet in the Marriott Rivercenter Hotel, Bowie and Commerce Streets, San Antonio, at 3 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Alamo Area Council of Governments, Executive Committee will meet in the Marriott Rivercenter Hotel, Bowie and Commerce Streets, San Antonio, September 27, 1989, at 4 p.m. Information may be obtained from A. J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The Ark-Tex Council of Governments, Board of Directors will meet in the Mt. Pleasant Country Club, Mt. Pleasant, September 21, 1989, at 5:30 p.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

The Bexar Appraisal District, Board of Directors met for an emergency meeting at 535 South Main, San Antonio, September 18, 1989, at 5 p.m. Information may be obtained from Walter Stoneham, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Colorado River Municipal Water District, Board of Directors will meet at 400 East 24th Street, Big Spring, September 21, 1989, at 10 a.m. Information may be obtained from O. H. Ivie, Box 869, Big Spring, Texas 79721, (915) 267-6341.

The Denton Central Appraisal District, Board of Directors will meet at 3911 Morse Street, Denton, September 21, 1989, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904.

The Golden Crescent Regional Planning Commission, General Assembly will meet in the KC Hall, Hallettsville, September 20, 1989, at 7:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Golden Crescent Regional Planning Commission, Board of Directors will meet in the KC Hall, Hallettsville, September 20, 1989, at 8:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Guadalupe-Blanco River Authority, Board of Directors will meet in the Authority Offices, 933 East Court Street, Seguin, September 21, 1989, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

The Hansford Appraisal District, Regular Board will meet at 709 West Seventh Street, Spearman, September 27, 1989, at 9 a.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

The Hays County Appraisal District, Appraisal Review Board will meet at the Municipal Building, 632 A East Hopkins, San Marcos, September 20, 1989, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 A East Hopkins, San Marcos, Texas 78666, (512) 754-7400.

The Kendall County Appraisal District, Board of Directors will meet at 207 East San Antonio Street, Boerne, September 20, 1989, at 7 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box

788, Boerne, Texas 78006, (512) 249-8012.

The Nolan County Central Appraisal District, Board of Directors will meet in Suite 317A, County Courthouse, Sweetwater, September 19, 1989, at 7 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

The Wood County Appraisal District, Appraisal Review Board met in the Conference Room, District Office, 217 North Main, Quitman, September 15, 1989, at 10 a.m. Information may be obtained from W. Carson Wages, 217 North Main, Quitman, Texas.

TRD-898451

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Meetings Filed September 14,
1989

The Houston-Galveston Area Council, Projects Review Committee will meet on the 4th Floor Board Room, 3555 Timmons Lane, Houston, September 19, 1989 at 9:15

a.m. Information may be obtained from Rowena Ballas, 3555 Timmons Lane, Houston, Texas 77027, (713) 627-3200.

The Houston-Galveston Area Council, Board of Directors will meet in the 4th Floor Conference Room, 3555 Timmons Lane, Houston, September 19, 1989, at 10 a.m. Information may be obtained from Marjorie Baker, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200.

The Region XI Education Service Center, Board of Directors will meet at 3001 North Freeway, Fort Worth, September 26, 1989, at Noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

The Wood County Appraisal District, Board of Directors will meet in the Conference Room, District Office, 217 North Main, Quitman, September 21, 1989, at 1:30 p.m. Information may be obtained from W. Carson Wages, 217 North Main, Quitman, Texas 75783.

TRD-8908500
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In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings; changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

State Banking Board Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on October 30, 1989, at 9 a.m., at 2601 North Lamar Boulevard, Austin, on the charter application for Peoples Bank and Trust, Stinnett. The application is a conversion application from the County National Bank, Stinnett, to a state-chartered bank.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

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

TRD-8908434 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: September 12, 1989

For further information, please call: (512) 479-1200.

Texas Higher Education Coordinating Board Notice of Meeting

The Joint Liaison Committee will meet on Thursday, October 12, 1989, at 2 p. m. in Room 8-101, William B. Travis Building, 1701 North Congress Avenue, Austin. For additional information please contact Dr. David W. Gardner at the Texas Higher Education Coordinating Board office. The phone number is (512) 462-6420.

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

TRD-8908433 Suzanne Ortiz
Special Projects Director
Texas Higher Education Coordinating Board

Filed: September 12, 1989

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

State Department of Highways and Public Transportation Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c, the following notice for request for proposals is filed.

Notice of Invitation. The State Department of Highways and Public Transportation (SDHPT) has been awarded a grant by the Urban Mass Transportation Administration (UMTA) to complete a statewide drug control demonstration project for rural and small urbanized public transportation systems. The goals of the project are to insure full compliance in Texas with the UMTA final rule Control of

Drug Use in Mass Transportation Operations as published in the November 21, 1988, *Federal Register* (49 Code of Federal Regulations Part 653); and develop model policies and procedures that can be used by similar transit operators in other states and by other state transportation agencies.

The consultant will be required to complete the following tasks by March 30, 1990: development of prototype local agency policies which allow for local insertions yet provide a basic framework consistent with the intent of the federal regulations, and suggested procedures for including subcontractors (i.e., those who provide safely sensitive services such as maintenance) in the policy; establishment of a statewide drug-testing capability to include identification of laboratories certified by the United States Department of Health and Human Services; location of medical review officers (MRO's) for each rural/small urbanized transit property; development of sample contracts between the transit provider and the HHS-certified laboratory; development of sampling procedures for the actual drug tests (all types); and development of standard procedures for processing the samples and securing the test results; establishment of options for employee assistance programs (EAP's) ranging from rehabilitation at the employer's expense to referrals for rehabilitation at the employee's expense (this task will include identification of community resources and development of statewide contracts as appropriate); and development and distribution of training materials and presentation of at least one statewide training session to brief transit operators on the training materials, including those currently available as well as those developed under this project.

All proposals must be signed and include the following: a technical description of the work to be provided by the consultant; a description of the consultant organization's support and experience; a detailed cost proposal; a signed copy of any amendment to this RFP; and a completed Disadvantaged Business Enterprise exhibit.

Agency Contact. Detailed information concerning the request for proposals may be obtained from Jenny Gordon, Assistant Grant Manager, Public Transportation Division, State Department of Highways and Public Transportation, 11th and Brazos, Austin, Texas 78701-2483, (512) 483-3655.

Response Date. Ten copies of each proposal must be furnished on the proposer's letterhead and must be received by Jenny Gordon, State Department of Highways and Public Transportation, 11th and Brazos, Austin, Texas 78701-2483, by 12:30 p.m., October 30, 1989.

Selection Criteria. The SDHPT, with advisory comments from representative transit providers, will evaluate all proposals on the basis of the consultant's prior experience in public transportation and substance abuse awareness programs; the structure of the proposer's firm and staff resources; the documented qualifications of staff members to be assigned to each task; and the proposer's understanding of the work to be performed as documented in the technical proposal.

Issued in Austin, Texas on September 12, 1989.

TRD-8908424

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

Filed: September 12, 1989

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

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Texas Housing Agency
Notice of Invitation for Offers of
Consulting Services: Financial Advisor

The Texas Housing Agency (agency) gives notice of its intention to engage one or more private consultants to prepare a program to restructure and enhance all or any part of the collateral supporting the agency's Single Family Mortgage Revenue Bonds, 1984 Series A and 1984 Series B. The consultant will work with the agency staff, the agency's Finance and Planning Committee and Bond Counsel to produce an in-depth analysis of the feasibility of such program and programmatic recommendations available to the agency for effectively accomplishing the agency's public purpose of assisting in the provision of decent, safe and sanitary housing for persons and families of low and moderate income in the State of Texas through the more efficient utilization of the collateral supporting such Mortgage Revenue Bonds.

The agency will consider offers to perform these consulting services from interested parties with the following qualifications: substantial experience in a financial advising capacity involving extensive familiarity with the full range of housing agency finance and funding programs, including state and federal grant, guarantee and subsidy programs, and a working knowledge of the requirements of applicable federal tax and securities law as applied to housing finance.

Any private consultant who wants to make an offer to perform the requested services may submit a written proposal (which shall include the information in the request for proposals for selection of financial advisor guideline which is available from the agency on request) to Executive Administrator, Texas Housing Agency, P.O. Box 13941, Austin, Texas 78704, or 811 Barton Springs Road, Suite 300, Austin, Texas 78704, for receipt prior to 5 p.m. on October 6, 1989.

The Finance and Planning Committee of the Board of Directors of the Texas Housing Agency will review proposals timely submitted and will select a private consultant or consultants based upon an evaluation of the proposals and, if the committee deems it necessary to its selection, personal interviews with final candidates. Offerors will be notified of the committee's selection by no later than October 31, 1989.

Issued in Austin, Texas, on September 11, 1989.

TRD-8908394

Tish Gonzalez
Deputy Executive Administrator
Texas Housing Agency

Filed: September 11, 1989

For further information, please call: (512) 474-2974

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Notice of Public Hearing

The Texas Housing Agency (the agency) hereby gives notice that it will hold a public hearing on Friday, Septem-

ber 22, 1989, at 10 a.m., in the conference room of the agency, 811 Barton Springs Road, Third Floor, Austin, with respect to its proposed issuance of the captioned bonds.

The bonds will be a new-money issue to finance an estimated 960 single family residential mortgage loans made to eligible low- and moderate-income homebuyers to finance the purchase of homes located within the State of Texas.

For purposes of the agency's mortgage loan finance programs, eligible borrowers generally will include individuals and families whose family income does not exceed, for families of three or more persons, 115% (140% in certain targeted areas) of the median area income; and for individuals and families of two persons, 100% (120% in certain targeted areas) of the median area income. In addition, substantially all of the borrowers under the programs will be required to be persons who have not owned a principal residence during the preceding three years.

Further, residence financed with loans under the programs will be subject to certain other limitations, including limits on the purchase prices of the residences being acquired. All the limitations described in this paragraph are subject to revision and adjustment from time to time by the agency pursuant to applicable federal law.

All interested persons are invited to attend this public hearing and to express their views on the proposed issuance of the bonds. Questions or requests for additional information may be directed to Scott McGuire, Chief Financial Officer, Texas Housing Agency, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974 or 1-800-792-1119. Persons who plan to attend the hearing are encouraged, in advance of the public hearing, to inform the agency either in writing or by telephone. Any interested persons who are unable to attend the public hearing may submit their views in writing to the agency prior to the date scheduled for the hearing.

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

TRD-8908448

Patricia F. Broline
General Counsel
Texas Housing Agency

Filed: September 12, 1989

For further information, please call: (512) 474-2974

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Middle Rio Grande Development
Council

Withdrawal of Request for Proposal

The Middle Rio Grande Development Council is withdrawing the request for proposal which was published in the August 25, 1989, issue of the *Texas Register* (14 TexReg 4341).

This withdrawal is filed under the provisions of Texas Civil Statutes, Article 6252-11c, until further notice.

Issued in Austin, Texas, on September 11, 1989.

TRD-8908432

Ramon S. Johnston
Deputy Director
Middle Rio Grande Development Council

Filed: September 12, 1989

For further information, please call: (512) 876-3533

Public Utility Commission of Texas Notices of Application to Amend CCN

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on August 29, 1989, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Cap Rock Telephone Company, Inc. to Amend Certificate of Convenience and Necessity within Dickens County, Docket Number 9029 before the Public Utility Commission of Texas.

The Application. In Docket Number 9029, Cap Rock Telephone Company requests approval of its application for a revision of service area boundaries to provide service outside current service area boundaries.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas on September 11, 1989.

TRD-8908429 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: September 12, 1989

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

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on August 24, 1989, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

Docket Title and Number. Application of Southwestern Bell Telephone Company, Inc. to Amend Certificate of Convenience and Necessity within Jefferson County, Docket Number 9025 before the Public Utility Commission of Texas.

The Application. In Docket Number 9025, Southwestern Bell Telephone Company requests approval of its application for a revision of service area boundaries to provide service to a single customer outside current the current service area boundaries.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, (512) 458-0227, or (512) 458-0221 for typewriter for the deaf.

Issued in Austin, Texas on September 11, 1989.

TRD-8908428 Mary Ross McDonald
Secretary of the Commission
Public Utility Commission of Texas

Filed: September 12, 1989

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

Railroad Commission of Texas Notice of Hearing

The Railroad Commission of Texas will conduct a public hearing on a proposed amendment to 16 TAC §5.33, concerning contract carriers. The issues to be considered in the hearing include, but are not limited to: how many contracts should contract carriers be allowed under a single permit; whether there should be any limit on the number of contracts; and the effect of a change in the rule on the transportation system.

The public hearing will begin at 9 a.m. on October 4, 1989. The hearing will be held in the William B. Travis State Office Building, 1701 North Congress Avenue, Austin. Refer to the bulletin board in the first floor lobby for the room assignment.

The hearing will be conducted in compliance with the General and Special Rules of Practice and Procedure before the Transportation Division. Any interested member of the public may appear and offer comments. Cross-examination of witnesses will not be allowed, although the presiding examiner may ask questions of any person testifying.

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

TRD-8908452 Cril Payne
Assistant Director-Legal Division
Railroad Commission of Texas

Filed: September 12, 1989

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

Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th-day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the Texas Department of Corrections-Ellis Unit I, SWR Number 71331 on August 31, 1989, assessing \$8,000 in administrative penalties to be deferred and waived upon contingency.

Information concerning any aspect of this order may be obtained by contacting Lisa Montgomery, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

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

TRD-8908399 Gloria A. Vasquez
Notices Coordinator
Texas Water Commission

Filed: September 11, 1989

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

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of September 4-8, 1989.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any

such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

U.S. Air Force/Laughlin Air Force Base; Laughlin; hazardous industrial solid waste management facility; on a 3,908-acre tract of land which is positioned along the southside of U.S. Highway 90, approximately 5.0 miles east of the Highway 90/San Felipe River Bridge in the City of Del Rio, Val Verde County; HW-50258, EPA ID Number TX 2571524105; new; 45-day notice.

Cecos International, Inc.; Odessa; hazardous and non-hazardous industrial solid waste storage and processing facility; on a three-acre parcel of land in an unincorporated area and is located nine tenths of a mile southeast of the intersection of U.S. Highway 80 (also known as 2nd Street) and Grandview Avenue in Odessa, Ector County; HW-50270, EPA ID Number TXD-091270017; new; 45-day notice.

Stauffer Chemical Company; Freeport; Industrial Sulfur Plant; 608 East Second Street in the City of Freeport in Brazoria County; 01518; renewal.

City of Fredericksburg; wastewater treatment facility; ap-

proximately 1/2 mile southeast of the City of Fredericksburg and immediately east of U.S. Highway 290 in Gillespie County; 10171-01; renewal.

William E. Hartzog; Spring; Lone Willow Mobile Home Park Sewage Treatment Plant; approximately 2.1 miles east of the intersection of Interstate Highway 45 and Gulf Bank Road, at 909 Gulf Bank Road, in Harris County; 12918-01; renewal.

Chasewood Water Supply Corporation; Houston; Chasewood Wastewater Treatment Facility; 20131 F.M. Road 149, immediately northwest of the point where F.M. Road 149 crosses Cypress Creek in Harris County; 12541-01; renewal.

State Department of Highways and Public Transportation; Fort Worth; Palo Pinto County Rest Area Wastewater Treatment Facility; on the northwest side of Interstate Highway 20, at a point approximately 0.25 mile west of the Parker County line in Palo Pinto County; 11311-01; renewal.

Beacon Utility Corporation; Houston; wastewater treatment facility; approximately 800 feet east of F.M. Road 359; approximately three miles north of the intersection of F.M. 359 and F.M. 1458 in Waller County; 12448-01; renewal.

First Equity Savings Association; Tomball; wastewater treatment facility; approximately 2,300 feet north of Spring Creek and 5,500 feet east of the Waller-Montgomery County line in Montgomery County; 12898-01; renewal.

City of Newton; wastewater treatment plant Number 2; north of Caney Creek, approximately 7,000 feet southeast of the intersection of McMahon Street and Davidson Road in the City of Newton, Newton County; 10233-03; renewal.

Issued in Austin, Texas, on September 11, 1989.

TRD-8906430

Brenda W. Foster
Chief Clerk
Texas Water Commission

Filed: September 12, 1989

For further information, please call: (512) 463-7908